Crime reduction policies: a co-ordinated approach?

First Report of Session 2014–15

Report, together with formal minutes and oral evidence

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The 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).

All publications of the Committee (including press notices and further details) can be found on the Committees webpages at www.parliament.uk/justicecttee.

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Summary

During this inquiry we wished to examine the nature and effectiveness of crime reduction policies over the four years since our predecessor Committee reported on the merits of justice reinvestment as a means of cutting crime. Since 2010, crime has been falling, but we found that the extent to which this can, in practice, be attributed to the success of national or local crime reduction policies is unclear. Re-offending rates which had been falling have stabilised over this period but remain relatively high, and it concerns us that last year there has been a fall in the proportion of local areas achieving a decrease in reoffending. We call on the Government to seek to recognise more explicitly where reoffending has fallen and seek to understand why. The prison population has remained high but its once inexorable growth seems to have calmed.

All parts of the criminal justice system have had to cope with significant spending cuts, yet it appears to us that the Government has shied away from using the need to make significant cuts to re-evaluate how and where money is spent. This is in contrast to the approach that we saw in Texas (and over half of US states) where they concluded that any real effort to contain spending on corrections must have as its centrepiece a plan to limit the growth of, and ultimately reduce, the prison population. The Government’s method of reform remains focused largely on the activity of the Home Office and the Ministry of Justice, which can overemphasise the significance in attempting to reduce crime of measures taken entirely within the criminal justice system. Some cross-Government initiatives have been developed, such as the Troubled Families programme, to deal with sources of crime. We welcome these yet note that the resources attached to very early intervention schemes, like Family Nurse Partnerships, are tiny in relation to the prison budget and the staggeringly high costs of crime to society. For example, we were told that it is estimated that annually violent crime, 44% of which is alcohol related, costs almost £30 billion, crime perpetrated by people who had conduct problems in childhood costs about £60 billion, and drug-related crime costs almost £14 billion.

There have been significant changes to the local partnership landscape for crime reduction since 2010, including the introduction of police and crime commissioners and the transfer of public health responsibilities to local authorities, reflecting the ongoing broader shift of power in this field from Whitehall to local communities. While this has resulted in an assortment of local accountability structures, our evidence highlights the clear benefits of collective ownership, pooled funding and joint priorities that have been facilitated by this approach, although there remains a considerable way to go before health can be considered a fully integral part of the crime reduction picture. In particular, we consider that addressing the funding of mental health services, the inadequacy of which costs the police, courts, probation, and prisons and victims of crime greatly, should be an urgent priority. Alcohol treatment similarly remains a Cinderella service.

In our view, two major elements are missing from local partnership approaches to crime reduction: courts and prisons. We believe that a prison system which effectively rehabilitates a smaller number of offenders, while other offenders are rehabilitated through robust community sentences, has the potential to bring about a bigger reduction in crime. Additionally, seeing courts as purely instrumental institutions involved solely in processing
and resolving cases, misses an opportunity for encouraging greater innovation, for example through the adoption of problem-solving approaches, which we saw in operation in Texas and in Stockport, and we believe has the potential to make broader systemic savings.

The radical and controversial changes that have been made to the probation system with the intention of providing for supervision of short-sentenced prisoners will be commissioned centrally and must be carefully managed to ensure that local crime reduction activity continues to build in strength as the resources for all concerned are further diminished.

What remains lacking also is still, as our predecessor observed, a rigorous assessment of where taxpayers’ money can most effectively be spent in cutting crime, and a government-wide approach which recognises more explicitly that the criminal justice system is only one limited part of the system through which taxpayers’ money is spent to keep people safe from crime. We do not have the right structures in place to provide a collective memory of research evidence, its relative weight, and its implications for policy-making, including the capacity to make decisions about the best direction of resources, and we call on the Government to create an independent and authoritative body to facilitate this. In addition, the Treasury should seriously question whether taxpayers’ money is used in ways most likely to reduce future crime and victimisation, and develop a longer-term strategy for the use of resources in this manner.
1 Introduction

Background to the Committee’s inquiry

1. In the previous Justice Committee’s First Report of Session 2009–10, *Cutting crime: the case for justice reinvestment*, published in January 2010, the Committee evaluated the capacity of the criminal justice system and considered whether resources and policy priorities were directed in the best possible way to improve public safety and reduce crime. Our predecessor set out the case for adopting a “justice reinvestment” approach to sentencing and penal policy. Such an approach was defined as one which channels resources on a geographically-targeted basis to reduce the incidence of crime and the factors which bring people into the criminal justice system and into prison in particular. The Committee concluded that there was an inescapable need for a longer-term rational approach to policy and the diversion of resources to prevent future expansion in the number of prison places and the size of probation caseloads.1 It believed that a more ‘prudent, rational, effective and humane’ use of resources was needed to shift the focus of expenditure away from incarceration and towards rehabilitation and prevention.2

2. In its response to the Committee’s report the then Government said that it was already investing heavily in both rehabilitative and preventative work, detailing the rise in completions of offending behaviour and drug treatment programmes and investments in education provision for offenders and prison drug treatment.3 It reaffirmed its commitment to increasing the number of prison places to deliver an overall capacity of 96,0004 by 2014, including replacement accommodation for old or inefficient places to reduce overhead costs. In response to the Committee’s recommendations that resources should be diverted away from imprisonment into community sentencing, the then Government agreed that prison was expensive and had to be reserved for the most serious, violent and persistent offenders, and that community sentences could often be a more effective use of taxpayers’ money in terms of reducing re-offending. It believed it had proven its record in using resources effectively to reduce offending and re-offending: crime was down by a third since 1997 and adult re-offending had fallen by 20.3 percent between 2000 and 2007.

Our inquiry

3. This inquiry has been conducted in the context of considering the extent to which the current Government, criminal justice agencies, and others have implemented the recommendations and principles set out in the report referred to above. It is in that spirit that we approach afresh the effectiveness of crime reduction policies. In particular, we have sought to explore:

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2 Ibid, p. 6
4 Prison Population Statistics, Standard Note SN/SG/4334, House of Commons Library, 29 July 2013. The overall prison population includes males and females held in prisons and young offender institutions.
• What is the Government’s approach to cutting crime? To what extent is the approach taken cross-departmental, and how are resources for such policies—from within and outside the criminal justice system—allocated and targeted?
• How reliable is the evidence on which these policies are based?
• What impact have recent spending reductions had on the implementation of crime reduction policies, and the way in which resources for crime reduction are channelled at local level?
• What contribution do existing sentencing, prison and probation policies make to the reduction of crime?
• How cost-effective and sustainable are the Government’s strategies for punishment and reform and their proposals for transforming rehabilitation?

We are grateful to the many individuals and organisations who contributed to our inquiry. 44 witnesses gave oral evidence including several academics, Her Majesty’s Inspectorate of Prisons, representatives of local authorities and health services, police and crime commissioners, and independent consultants. We also received 40 written submissions including from the Ministry of Justice, Magistrates’ Association, Criminal Justice Alliance, Centre for Justice Innovation, Howard League, Prison Reform Trust, Napo, A4E and other stakeholders. We undertook two visits to assist us with our inquiry. Our visit to the US State of Texas in July 2013 gave us an insight into justice reinvestment approaches that had successfully been implemented by the legislature to reduce the growth in the prison population. In Stockport in February 2014 we met with the key people involved in Greater Manchester’s crime reduction public service reforms, justice reinvestment pilot and problem-solving courts.

The Committee’s Interim Report

4. In January 2014, we published an interim report, which focused specifically on the Government’s Transforming Rehabilitation reforms. In particular, we said that the programme, which would see probation services opened up to private and third sector providers and the introduction of payment incentives for reducing re-offending, would radically change the probation system. The report stated that we would return to two particular issues in our final report: i) the potential impact of the reforms on local partnership work to reduce crime and ii) the role of resettlement prisons. The Ministry has undertaken to respond in full to the recommendations of that report in tandem with its response to this report. In place of such a response it submitted to us an update on the following issues: agreement with the unions, transition to the new model, creation of the market, and the proposed payment mechanism, which we treated as evidence in our continuing inquiry and published as such.

5 A private introductory seminar was held in June 2013.
7 Ministry of Justice (PPC0039)
Other relevant Justice Committee reports

The role of the probation service

5. In 2011, we undertook an inquiry on the role of probation service, which considered the emerging proposals for extending competition and introducing payment by results.8 We found that offender management could be more effective if trusts were given greater discretion both operationally and financially, for example to ensure that frontline staff spent more time directly engaged with offenders, and to make efficiencies in partnership with other agencies. The movement of prisoners between establishments and the inadequate priority afforded to sentence planning also undermined effective case management. We noted that basing commissioning on payment by results in reducing reoffending provided an opportunity to put the system on a sustainable footing. Nevertheless the focus on reoffending risked overlooking the importance of the rights of victims and the obligations of offenders towards them. We proposed that the mechanism should be tested. We observed that economies can also be accrued at a local level through strategic partnership approaches. We concluded that, ultimately, the responsibility for delivering the sentence of the courts should belong to a single offender management local commissioning body, linking the commissioning of prisons and probation more closely to the communities they are designed to protect.

6. On offender management, the Government said in its response to our report that it was reviewing the offender management model but it believed that in some cases it would continue to be necessary to move prisoners to other establishments, for example, “to access an appropriate offending behaviour programme, or because the prisoner’s level of risk has reduced”.9 In relation to payment by results, the Government believed that placing the focus on the outcomes that services deliver, and rewarding only those that achieve genuine success, would encourage providers to target the long-lasting rehabilitation of offenders.

Youth justice

7. Our Report, Youth Justice, published in March 2013, was our first examination of the youth justice system since the creation of the Youth Justice Board.10 We acknowledged the progress made in reducing the number of young people entering the youth justice system, but noted that more could be done. In particular, we were disappointed that the Government did not plan a significant shift in resources towards early intervention. In addition, we were concerned that the Department for Education and local children’s services departments were becoming increasingly disengaged from the youth justice agenda. We recommended more research into the contributory factors to the reductions in the number of young people entering the criminal justice system. The Government supported the Committee’s view on the critical importance of effective early intervention.11

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9 Ministry of Justice, Government Response to the Justice Committee’s Report: The role of the Probation Service, Cm 8176, October 2011
10 Justice Committee, Seventh Report of Session 2012–13, Youth Justice, HC 339
It suggested that the Department for Education remained engaged in the youth justice agenda, noting its strategic role on relation to the development of the Green Paper, Transforming Youth Custody, and the establishment of the Early Intervention Foundation which would increase overall funding for early intervention, from £2.2bn in 2011-12 to £2.5bn in 2014-15.

**Women offenders: after the Corston report**

8. We also held an inquiry to examine current strategy and practice with respect to female offenders and those at risk of offending. We concluded that the majority of female offenders posed little risk to public safety and that imprisonment was frequently an ineffective response. In relation to the Government’s proposals for Transforming Rehabilitation, we welcomed the extension of through the gate statutory support to prisoners sentenced to less than 12 months. However, we were concerned that the proposals had been designed primarily to deal with male offenders. For example, funding arrangements for provision for women appeared to be being shoehorned into the payment by results programme, creating the likelihood of a loss of funding for broader provision encompassing both women offenders and those with particular vulnerabilities that put them at risk of offending. A section was subsequently added into the Offender Rehabilitation Act 2014, placing a duty on the Secretary of State for Justice to ensure that contracts with the new probation providers consider and identify the particular needs of female offenders.

**Departmental savings**

9. The financial context, particularly in a period of austerity, is a very important driver of policy. Our predecessor Committee found that financial restraint in Finland led to a policy of reducing the demand for prison places. Under the cumulative terms of spending reviews, since 2010 the Ministry of Justice (the Ministry) is expected to reduce its spending by over £3 billion, or 34% in real terms by 2015/16. According to the Ministry’s Improvement Plan, its reform programmes covering all areas of the justice system including back office functions had reduced net spend by £1.7 billion or 19% over the four years to March 2014.

10. In 2012/13, the National Offender Management Service (NOMS), which is responsible for funding prisons and probation, spent £4.2bn, over half of which related to staffing. Of this, £617 million was spent on public and private sector prisons and £853 million on probation services, which that year supervised 225,000 offenders. NOMS’ net spend reduced in real terms by 19% over the four years to March 14, a figure set to reach 34% by 2015/16; this has included savings of £115m in probation and £90m in streamlining

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13 Offender Rehabilitation Act 2014, section 10. See also Ministry of Justice, Government response to the Justice Committee’s Second Report of Session 2013–14 Female Offenders, Cm 8279
14 Justice Committee, *Cutting crime: the case for justice reinvestment*, para 224
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headquarters. NOMS has embarked on a benchmarking exercise to reduce the cost of public sector prisons by £450 million over six years. By March 2016 it aims to have reduced the annual cost of a prison place by £2,200 compared to 2012/13. The NAO’s landscape review published in March 2014 details other savings, including £71 million savings by the end of 2013-14 through closing old and inefficient prisons, and investing in modern accommodation. This is planned to reach £211 million by 2015-16.

11. The overall trend in central Government criminal justice expenditure since 2010/11 is downwards: over £3.2bn less was spent by the Home Office and Ministry of Justice in 2012/13 compared to the two years previously. HM Courts and Tribunals Service and Offender Management (prisons, probation and the National Offender Management Service) have experienced the greatest cuts since 2010/11, declining by 29 and 18 per cent respectively. As we were concluding our inquiry the Ministry announced a programme of investment in HMCTS’ infrastructure to generate future efficiency savings, amounting to £100m a year by 2019/20. The Public Accounts Committee has questioned the achievability of the Ministry’s plans to deliver further planned savings in the forthcoming years, noting that future savings are dependent on substantial staffing cost reductions.

Prison staffing in England and Wales fell by 12.5 percent between 2010/11 and 2012/13, and probation staff levels by 9.8 percent over the same period.

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19 Ministry of Justice, Ministry of Justice Improvement Plan, April 2014
20 National Audit Office, The criminal justice system: landscape review, HC1098, March 2014
21 Garside, R., Silvestri, A. and Mills, H. UK Justice Policy Review Volume 3, 6 May 2012 to 5 May 2013, Centre for Crime and Justice Studies,
23 HM Government press release, Chris Grayling: reform of the courts and tribunals, 28 March 2014
25 UK Justice Policy Review Volume 3
**2 Trends in crime and re-offending**

*Trends in recorded crime since 2010*

12. Crime has continued to fall since 2010, as measured by both the Crime Survey for England and Wales and offences recorded by the police. The latest survey figures estimate that there were 8.0 million crimes against households and resident adults in the twelve months in the year to September 2013, down 10% compared with the previous year’s survey, and the lowest estimate over the history of the survey, which began in 1981. The reduction in crime measured by the survey was led by statistically significant decreases in both household (vehicle and property related) crime and personal (theft from the person and violent) crime, which were down 10%, and 9% respectively on the preceding year. These categories include high volume crimes such as burglary and criminal damage which make a major contribution to the overall crime rate, masking rises in some offences.

13. The recorded crime figures for the same period show that the police recorded 3.7 million offences, giving a 3% reduction over the previous twelve months. Again, there were decreases across most of the main categories of police recorded crime, but signs of increasing upward pressures in some offence types. For example, shoplifting showed a 4% increase and theft from the person increased by 7%. The number of sexual offences recorded by the police increased by 17%, which has been partly attributed to a continuation of a ‘Yewtree effect’, whereby a greater number of victims have come forward to report historical sexual offences to the police. Concern has been expressed that neither self-reported nor police recorded figures capture adequately some types of offences, including e-crime. In the year ending September 2013, 201,035 fraud offences were recorded by the police and Action Fraud, the UK’s national fraud and internet crime reporting centre, based on reports from members of the public. This represents a volume increase of 34%, and should be seen in the context of a move towards improved centralised recording of fraud by the police.

14. While our inquiry was under way, the Public Administration Select Committee took an in-depth look at crime statistics. One aspect of their inquiry was to examine the reasons for increasing divergence between the two measures: since 2004/05 the police recorded crime dataset has shown a steeper decline than the survey for comparable offences. The Committee found strong evidence that police recording data under-record crime, and therefore the rate of decrease in crime may be exaggerated, and concluded that this is due to lax police compliance with the agreed national standard of victim-focused crime.

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27 Ibid.

28 Ibid.

29 Q327 [Professor Hough]. See also, for example, *Crime expert attacks ‘deceptive’ Home Office figures showing fall in offences*, *The Observer*, 5 May 2013.

30 *Crime in England and Wales, year ending September 2013*. See also Q327 [Professor Hough].
recording. As a consequence of this inquiry, this data set lost its designation as a National Statistic.

**Trends in recorded re-offending since 2010**

15. The Government also publishes several series of data on trends in recorded re-offending. The Ministry of Justice publishes National Statistics on proven re-offending in England and Wales for both juvenile and adult offenders on a quarterly basis. The one year proven reoffending rate for adult offenders discharged from prison or commencing a court order was 35.9% for the representative cohort from July 2008 to June 2010, against a baseline of 40.9% in 2000. The most recent figures suggest that there has been little change since then, with the rate relating to the year to June 2012 being 35.4%. Less than 1% of all proven re-offences committed over the one year follow-up period were serious violent or sexual offences, with very little change in that proportion since 2000.

16. Other figures include: the impact of sentencing on proven re-offending for adult offenders in England and Wales; re-offending rates at the end of sentence; and local adult reoffending (giving data at both local authority and local probation trust level). The latest data for the first two, which relate to 2009-10, demonstrated that:

- offenders sentenced to fewer than 12 months in custody have higher reoffending rates than similar offenders receiving a community order or suspended sentence;
- offenders receiving suspended sentences had lower re-offending rates than similar offenders receiving a community order;
- offenders receiving a conditional discharge had lower re-offending rates than similar offenders receiving a community order or a fine; and
- offenders sentenced to between 1 and 4 years have lower re-offending rates than similar offenders receiving a sentence of less than 12 months.

The local adult reoffending data show that from 2007/08, the baseline for the series, to September 2013, the picture has been mixed:

- 14% of Probation Trusts (5) show an increase in reoffending and 29% (10) show a decrease, with the remainder (20) demonstrating no significant change;
- 5% of local authorities (8) show an increase in reoffending, and 20% (35) show a decrease, with the remainder demonstrating no significant change.

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32 See, for example, Ministry of Justice, Proven Reoffending Quarterly Bulletin July 2011–June 2012, England and Wales, April 2014. Proven re-offending is defined as any offence committed in a one year follow-up period and receiving a court conviction, caution, reprimand or warning in the one year follow-up. Following this one year period, a further six month waiting period is allowed for cases to progress through the courts.


35 Ministry of Justice, 2013 Compendium of re-offending statistics and analysis, July 2013. This refers to one year reconviction rates.
The progress of both probation trusts and local authorities has retreated since the year to March 2013, when 14 Trusts and 48 local authorities were demonstrating a decrease in relation to the baseline.36

17. Crime rates have continued to decline since 2010. Falls in reoffending were achieved up to 2010, but since then reoffending rates have stabilised and remained high. Local data demonstrate that efforts to reduce reoffending in local areas, by probation trust, or local authority, have had mixed results. Over the last year there has been a fall in the proportion of local authority areas and probation trust areas achieving a decrease in reoffending.

The relationship between rates of crime and re-offending and crime reduction policies

18. The range of explanations suggested by our academic witnesses illustrate that the fall in crime is an extremely complex phenomenon to explain. Professor Stephen Farrall believed that it was important also to seek explanations for why crime had risen in the period up to that time.37 Demographics, opportunity, culture and societal structure all play a role in explaining trends in different types of crime. For example, there are fewer young people, and they are drinking less and taking fewer drugs than the 1970s.38 There are fewer opportunities for car crime and burglary due to better car and home security; this is thought to explain the initial drop in crime from the mid-1990s.39 In broader structural terms, countries with lower rates of poverty and inequality and more generous social safety nets are typically safer, had lower rates of violence and lower rates of imprisonment.40 Professor Farrall’s modelling of crime trends in the UK indicated a link between property crime and levels of economic inequality, rates of unemployment and social welfare benefits.41 Limited research has been conducted on the geographical distribution of crime in England and Wales.42

19. The Centre for Crime and Justice Studies (CCJS) presented a range of research evidence to submit that the main influences on levels of harm and victimisation are social arrangements—for example rates of wealth and poverty, levels of employment and unemployment, unequal power relations—rather than the criminal justice system and its individual agencies.43 For example, they cite studies by both Professor Pridemore, University of New York, and Professor Dorling, University of Oxford, on homicide rates that each found that higher levels of homicide were associated with higher rates of poverty; the latter found that in Britain between 1979 and 1999, those living in the richest

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36 Ministry of Justice, Local Adult Reoffending 1 October 2012–30 September 2013 England and Wales, February 2014
37 Q273
39 Q272 [Professor Farrington]; Q277 [Professor Laycock]; Q342 [Professor Tseloni]
41 Q273
42 Q274 [Professor Farrall]
43 Centre for Crime and Justice Studies, (PPC0022)
neighbourhoods saw their risk of being a victim of homicide fall, whereas in the poorest
neighbourhoods the risk of being a victim of homicide went up sixfold.44 Professor Tseloni
echoed this, she suggested that “people in the most vulnerable population groups are much
worse off compared with others than before the crime drop”.45 One consequence of this is
that crime should be much easier to target.46 Recent analyses of fear of crime suggest that it
tends to reflect neighbourhood crime rates.47

20. Falling crime rates are to some extent an international trend, meaning that explanatory
factors related to the functioning of individual justice systems and other policies have
generally been assumed to have limited relevance. Having reviewed international evidence
explaining falls in official crime rates, Professor Tseloni said that the drop cannot be
explained by criminal justice changes—such as sentencing, rates of imprisonment, police
numbers, or policing strategies—within any specific jurisdiction.48 Professor McDougall
believed that the adoption of evidence-based approaches to reducing reoffending,
including offender behaviour programmes, in prisons and probation, was “bound to have
had an effect”, although she was unable to quantify this.49 Independent evaluations of
individual integrated offender management initiatives have demonstrated significant
reductions in acquisitive crime in the localities in which they have operated.50 The
doubling of rates of imprisonment is also thought to have had an impact, albeit a small
one.51

21. In a 2010 article Exploring the international decline in crime rates Professor Tseloni and
her colleagues said the consequence of the variation in explanations for the fall in crime
was that potential lessons for policy and practice may not have been learned.52 Professor
Garside considered that it was important to distinguish between various crime types in
seeking underlying causes for their trends and assessing the policy implications.53

22. Crime can be sensitive to changes in national policy agendas: these can facilitate crime,
or they can make its commission more difficult. Professor Laycock explained that just as
burglary went down because homes became more secure, removing regulations on
securing houses as part of any agenda to promote house building might mean the burglary

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44 See also Q327 [Profesor Garside]; Q330 [Professor Tseloni]
45 Q330 [Professor Tseloni]
46 See, for example, Pease, K. and Tseloni, A. (2014) Using Modeling to Predict and Prevent Victimization, Springer
47 Q348 [Professor Tseloni]; Q334 [Mr Page]
48 See also Q340 [Professor Tseloni]. In 2012 the NAO produced a briefing for our inquiry on the budget and structure
of the Ministry of Justice, Comparing International Criminal Justice Systems, in which it found ‘no consistent
correlations’ between falls in official crime rates and the numbers in prison across a range of countries. HM
Inspector of Constabulary has said that there is no simple link between police officer numbers and crime levels,
between numbers and the visibility of the police in the community, or between numbers and the quality of service
provided.
49 Q279
50 See, for example, National Policing Lead for Integrated Offender Management (PPC0008), Police And Crime
Commissioner For Avon & Somerset (PPC0019), Napo (PPC0031); Q60 [Ms Mountstevens], Qq71, 78 [Ms Bourne]
51 Q346 [Professor Hough]
Journal of Criminology
7(5) 375–394
53 Q327
figures would rise again.\textsuperscript{54} Crime can also be sensitive to socio-economic trends: there is general accord that crime rates tend to rise during periods of economic downturn, although violent crime typically drops. Yet the ongoing falls in crime rates since 2010 have confounded expectations. When we put this to Professor Hough, he said “I was one of the people who said that the recession would kick crime up at some stage. I have yet to be proved right. I suspect that different recessions have different cultural meanings, and that the ’70s and ’80s recessions meant different things to people at risk of crime, compared with now, but I have not really got much further than that to explain it.”\textsuperscript{55} The latest police recorded crime statistics indicated a 4% rise in shoplifting, but it is too soon to predict whether this is indicative of a longer-term trend.

23. Our predecessor Committee recommended that the Ministry of Justice undertake work to identify the key factors influencing changes in the rate of reoffending and crime as a priority.\textsuperscript{56} The question of causation is important as this can be used to reduce criminality amongst individuals or groups and to predict crime trends and seek to influence them. When we questioned the Minister for Crime Prevention, Norman Baker MP, about what the Government was doing in this regard he explained that he had just set up two panels, one to examine what steps could be taken now to reduce crime, and the other to look at future crime trends. He said “It is not sensible to have a Department which simply -fights the whole time. We have to anticipate where crime is going and try to head it off.”\textsuperscript{57} This is reflected in his work with the mobile phone industry to tackle the rise in mobile phone theft, and international research, in which the Government is involved, to examine the fall in use of heroin and crack cocaine and fall in crime.\textsuperscript{58}

24. Falling crime rates have continued and are welcome, but the extent to which falls in crime can, in practice, be attributed to the success of national or local crime reduction policies is unclear. What is clear is that there are multiple factors at play, and that it is difficult to attribute falls in crime directly to particular crime reduction policies or practices. Crime rates and reoffending rates are simple measures used to reflect the effectiveness, or otherwise, of an extensive and complex series of policies and processes, and offenders’ responses to them. It is concerning that some local reoffending rates appear to indicate setbacks in the progress of local areas on this agenda. Similarly, while there has been a significant fall in crime, criminal victimisation is now more concentrated on a few vulnerable population groups and the poorest neighbourhoods, providing a greater opportunity for more targeted crime reduction initiatives. The economic downturn, which some commentators suggest had potential to impact on crime rates, has not yet done so, or that impact is not yet apparent. \textit{It is only at a relatively late stage in this Parliament that Ministers appear to have taken steps to increase their understanding of crime trends. The Government should seek to recognise more explicitly where reoffending has fallen and seek to understand why.}

\textsuperscript{54} Q277
\textsuperscript{55} Q343. See also Q343 [Professor Garside]
\textsuperscript{57} Qq507, 518
\textsuperscript{58} Qq507, 509
3 Developments in crime reduction since 2010

The Government’s strategic priorities for the reduction of crime

25. We consider here the key developments in the Government’s approach to crime reduction since our predecessor Committee published its report shortly before the 2010 General Election. The Government asserts that it is taking a “comprehensive approach” to crime reduction. It is: i) addressing the drivers of crime, particularly alcohol, drugs, anti-social behaviour, violence and organised crime; ii) supporting effective policing at local and national level through the introduction of “a radical programme of reforms”; and iii) breaking the cycle of reoffending by “transforming how offenders are rehabilitated”.

26. A central part of this Government’s approach is tackling what it calls the “key drivers” of crime, with primary responsibility for doing so resting with the Ministry of Justice and the Home Office. The former’s energies are focused on the reduction of crime by those already involved in the criminal justice system, predominantly through its Transforming Rehabilitation reforms, whilst the latter has replaced a range of policing targets with a single objective of reducing crime, and has introduced a range of reforms in an effort to accomplish this, including the creation of the National Crime Agency and local Police and Crime Commissioners.

27. Much of the activity required to decrease criminality lies outside the criminal justice system, and as such responsibilities cut across a number of Government departments. Those who commit crime often face mental health or substance misuse problems—the funding for which primarily resides with the Department of Health (DoH); they may face debt problems—with the Department for Business, Innovation and Skills (BIS) holding most of the budget to tackle such issues, and they may experience unemployment—a Department for Work and Pensions (DWP) issue.

Governance arrangements to support crime reduction

28. There have been a number of noteworthy changes to national and local governance arrangements to support crime reduction since 2010.

The National Criminal Justice Board

29. A National Criminal Justice Board has been established by the Minister for Policing, Criminal Justice and Victims to “advise him on the strategy for the criminal justice system and support him in better driving cross-criminal justice system performance” with a view to looking at the ‘whole system’ rather than just the individual components of it. The Minister’s position, straddling the Home Office and Ministry of Justice, is an illustration of this intention to look across the whole system. This aspiration is supported by an action plan Transforming the criminal justice system published in June 2013, three months after

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59 Ministry of Justice (PPC0014)
60 Ibid.
61 Q500 [Norman Baker MP]
our inquiry commenced. The plan identifies crimes where there is evidence of systemic failure in how the criminal justice process tackles them, or which have a particularly devastating effect on victims, because of either the nature of the crime or the vulnerability of the victim or a witness. These crimes, which require a national response and action to improve performance, are:

- violence against women and girls and child sexual abuse;
- hate crime; and,
- gun and knife crime.

Other priority areas are digitalisation (improving technology to accelerate the flow of information and generate efficiencies), diversity and partnership working. Seven shared outcomes are specified for criminal justice agencies, which include reduced crime and reduced re-offending. Although a broader Inter-Ministerial Group on Reducing Re-offending, which drove cross-departmental work on reducing re-offending from 2004, no longer exists, a new Group has been created to focus on gangs and youth violence. In Wales many of the levers used in crime reduction such as housing, health and education fall within the remit of the Welsh Government.

**Elected Police and Crime Commissioners**

30. At a local level, elected Police and Crime Commissioners (PCCs) have been introduced into the complex landscape of individual agency and partnership commissioning activity to reduce crime and re-offending. Each PCC has published a police and crime plan in which they set out their strategic priorities for the duration of their tenure. PCCs have a role in ensuring that criminal justice agencies, local authorities and other partners, including health services, work together effectively and efficiently to reduce crime. Local criminal justice boards (LCJBs), which bring together representatives of criminal justice agencies, ceased to receive central government funding in April 2011, but continue to operate in most areas. Community safety partnerships and PCCs are required to cooperate with each other and to have regard to each other’s plans.

31. PCCs are responsible for administering a Home Office Community Safety Fund (CSF) which replaced the vast majority of existing Home Office drugs, crime and community safety funding streams. The CSF is not ring-fenced and PCCs can use it to commission services that help tackle drugs and crime, reduce re-offending, and improve community safety in their area. The allocations of the CSF were based on the existing distribution of drugs, crime and community safety grants across police forces.

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62 Ministry of Justice, *Transforming the CJS A Strategy and Action Plan to Reform the Criminal Justice System*, Cm 8658, June 2013

63 Police and Crime Commissioners are elected representatives charged with securing efficient and effective policing of police areas in England and Wales. The post was created under the Police Reform and Social Responsibility Act 2011 and the first incumbents were elected on 15 November 2012, taking office a week later. Commissioners replaced the now abolished police authorities.

Other developments

32. There have also been some relevant changes to the role of local authorities. In particular, responsibility for public health, including drug and alcohol treatment, has been transferred to them from the NHS. Health and Well-being Boards have been created to integrate better local government and health services’ approach to public health, although criminal justice representation on the board is not statutory. A national and regional approach has recently been adopted for the commissioning of some aspects of offender health, in particular in prisons, the youth custodial estate and other accommodation including police custody suites (previously the responsibility of the police) and courts.\(^{65}\)

The Government’s approach to reducing the costs of the criminal justice system

33. The Ministry of Justice is in many respects a demand-led department. Demand for prison places and probation services is fed by the criminal courts which are in turn fed by the police and prosecution services which are in turn fed by the incidence of crime. This presents particular challenges both in making spending reductions and in chanllenging resources effectively into reducing re-offending. Our predecessor Committee proposed in its report *Cutting crime: the case for justice reinvestment*, that faced with both a fiscal crisis and a seemingly growing prison population, the costs of which dominated the Ministry’s budget, the post-2010 Government should seize the opportunity to place the penal system on a more sustainable footing by seeking to reduce demand on the system, in particular prison numbers, rather than pursuing a “predict and provide” policy.\(^{66}\) As that Committee pointed out, such a “predict and provide” approach is only applied to custody and not to provision for other forms of sentence which the court may regard as likely to be effective.

The Committee was concerned that the Ministry was overly focused on how each individual service could continue to function with reduced resources rather than assessing the most effective allocation of resources across the system as a whole. They stated that efficiency savings would “undoubtedly undermine” the performance of prisons and probation services, and that this approach was therefore unsustainable.\(^{67}\)

34. NOMS and the Ministry of Justice state that they are seeking to “deliver a transformed justice system and a transformed Department which is more effective, less costly and more responsive to the public”.\(^{68}\) In seeking to achieve this, the Ministry has, broadly speaking, adopted reforms specific to each criminal justice agency, rather than adopting a truly whole system approach. For example, in relation to HM Courts and Tribunals Service, measures have included savings to the costs of administering the Service through a programme of

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\(^{65}\) The NHS Commissioning Board has published a single operating model for the commissioning of such services. From April 2013, the stated intention of the Board and its four regional teams has been to “move away from regionally and locally isolated commissioning to a clear and consistent national approach, with national standards based on the best available evidence to ensure efficient provision of care, and improved health outcomes.” The Board will move towards contracting services nationally within a set of service specifications, standards, policies and quality measures. In an effort to ensure that local decisions about services are made as close to health communities as possible, 10 area teams of the Board will take on the responsibility across England for contracting and the delivery of services for people in prison, other secure accommodation and for victims of sexual assault. See NHS Commissioning Board, *Securing Excellence in Commissioning for Offender Health*, February 2013


\(^{67}\) Ibid, para 87

\(^{68}\) Ministry of Justice (PPC0014)
court closures, and bringing offenders to justice more quickly under a package of measures designed to deliver ‘swift and sure’ justice.\(^69\)

35. Under the Transforming Rehabilitation reforms, the Government is making large-scale structural changes to the commissioning of probation services with the intention of using the savings achieved to extend the reach of probation supervision to those serving short prison sentences. The Secretary of State intends that this will improve the long-term sustainability of the system by bringing down re-offending, but he has not published any modelling of projections to support this.\(^70\) As we concluded in our interim report on this inquiry, in the absence of published projections of the likely reductions in reoffending or estimates of how this might impact on the future costs of the system, it is not possible to predict whether or not savings will be swallowed up by increased demand on the prison system together with reduced funding of existing services by statutory partners and other funders.\(^71\)

36. Rather than seeking to reduce demand on the system and hence the costly use of imprisonment, as our predecessor Committee proposed, the current Justice Secretary’s approach has been to focus on reducing the cost base rather than seeking to reduce the use of imprisonment or demand on it per se. Mr Grayling told us in November 2012:

> I do not want a criminal justice system, prison system and system of community sentences where effectively the message to the courts is, "Look, you can’t actually sentence that person to what you want to sentence him to because we don’t have the money to pay for it." That would be a disastrous position for our criminal justice system to be in. We have to do things in a smarter and more cost-effective way. If you look within the prison system, there is a huge variation in the cost of keeping people in different prisons […] I think it is about making prison cheaper and not having less prison.\(^72\)

Accordingly, the Government has embarked on a £450 million programme of efficiency savings by benchmarking provision across the public prison estate and sought to replace old and inefficient prison accommodation with new facilities yielding lower costs per prison place.

**Changes in the prison population**

37. The growth rate of the prison population has slowed since our predecessor’s report, and is currently relatively stable. The overall prison population in June 2010 was 85,400, remarkably similar to the 85,285 in custody on 4 April 2014. It should be noted that there have been fluctuations over this period, including an all-time high of 88,179 prisoners in


\(^{70}\) Qq179, 187


\(^{72}\) Oral evidence taken on 28 November 2012, HC (2012–13) 741-I, Q11
December 2011. Between 2011 and 2013, there was a 28% reduction in the use of community orders.

38. The apparent stabilising of numbers is also illustrated in prison population projections which have fallen significantly over the last four years. In August 2009, it was projected that by the end of June 2014 the demand for prison spaces would be between 83,500 and 92,400; by November 2013, the corresponding projections had been lowered to between 82,600 and 84,300. The revised projections were related to: a falling remand population, (following restrictions introduced in the Legal Aid, Sentencing and Punishment of Offenders Act 2012); a decline in the number of under 18s in custody; and falling volumes going through courts. Mid-range projections for the next five years indicate that there will be 81,800 in prison by December 2019.

39. The previous Committee wished to clarify the cause of the “seemingly inexorable” rise in the prison population, in particular the extent to which it could be ascribed to policy change. The Ministry has published detailed analysis of the growth in the prison population since 1993 which confirmed that both tougher sentencing and enforcement outcomes, and a more serious mix of offence groups coming before the courts had contributed to the rise.

40. Decisions to reverse the growth can be politically challenging, as highlighted by this example from the NAO’s Landscape Review:

In 2010, the government proposed sentencing reforms expected to result in around 6,000 fewer prison places, leading to £324 million savings. However, in June 2011, it decided not to proceed with some of the proposals. The estimated number of prison places that the Ministry could close through revised sentencing reforms reduced to 2,000, foregoing £134 million of savings from reform.

The former Secretary of State’s approach to these reforms had been to develop more “intelligent sentencing” and cease “endlessly and irresponsibly inflating prison numbers for their own sake”. One of these proposals, to offer 50% sentence discounts to offenders who submit early guilty pleas, was not well received and was abandoned. Nevertheless, the Government has taken some steps to curb the unnecessary, or unjust, use of imprisonment in particular by placing restrictions on the imposition of custodial remand where the offence carries no real prospect of imprisonment, and by abolishing the indeterminate sentence for public protection (IPP).

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73 This rise was partially, though not wholly, explained by the remanding and sentencing of people suspected of, and convicted of, being involved in the August 2011 riots. Prison Population Statistics, Standard Note SN/SG/4334, House of Commons Library, 29 July 2013. The overall prison population includes males and females held in prisons and young offender institutions.

74 Nacro (PPC0038)


76 Ibid.

77 Ministry of Justice, 2012, The story of the prison population 1993 to 2012


79 Prison Reform Trust (PPC0013)
41. On the other hand, the “cheaper not smaller” approach to reducing the costs of imprisonment discussed above has resulted in the creation of just the large scale institutions that the Committee warned against in its report. For example, almost a quarter of establishments now hold over 1,000 prisoners, with half of these holding over 1,200, and the proposed prison in Wrexham is planned to provide some 2,000 places. Some witnesses expressed concerns about the size of some prison establishments. We will consider these questions further in our new inquiry into Prisons: planning and policies.

42. The broader question posed by our predecessor Committee of whether the incapacitation benefits of putting people into prison for longer can achieve reductions in crime rates which are justified by the costs of doing so, taking into account also the sometimes counterproductive impact of imprisonment on reoffending, remains largely unanswered. Research commissioned by Civitas goes some way to developing such an answer, in particular for the crimes of burglary and fraud: a 1% increase in sentence decreased burglary by 0.08% and fraud by 0.2%. However, the researchers was unable to tease out incapacitation from deterrent effects, or distinguish between the relative merits of custodial vs. community sentences in terms of the reduction of reoffending, and they did not consider the cost-benefit implications of their findings. The incapacitation benefit appears small relative to the cost of imprisonment and would be gained by drawing on funds which could otherwise be used to tackle the causes and sources of criminal behaviour. Furthermore, Ministry of Justice data on the outcome of different sentences on re-offending shows the complexity of unpicking their relative impact. While shorter custodial sentences have higher re-offending rates than longer ones, offenders sentenced to prison sentences of less than 12 months had a higher re-offending rate by 6.8% points than similar offenders receiving a community-based court order, and offenders receiving conditional discharges re-offended at lower rates than similar offenders who received a community order or a fine.

43. Prison sentences and the different length of prison sentences applied to different crimes are seen by the public as a measure of how seriously society regards different crimes, but if custody is treated as the only means of expressing society’s disapproval, it will remain difficult to achieve effective sentencing. Wider understanding of the severity of some robust community sentences and supervision requirements is one element that will be required to change this perception.

Crime reduction initiatives

Efforts to implement payment by results

44. Early in this Parliament, the Ministry commenced a series of payment by results pilots, some of which took a justice reinvestment approach: they aimed to incentivise local statutory partners to reduce demand on courts, legal aid, prisons and probation and,
consequently, reduce the costs on the justice system. Although some of the other payment by results pilots were suspended, the justice reinvestment pilots were permitted to run to their conclusion in July 2013. We discuss the results of these in the final chapter.

Early intervention

45. The Government has acknowledged that there is strong evidence that intervening early in the lives of young people, before behaviour becomes entrenched, or when problems first begin to emerge, can present the best chance of breaking the crime cycle. It has sought to develop a series of cross-government approaches to early intervention and preventing youth crime, for example, through the Ending Gang and Youth Violence programme, the Troubled Families’ programme, and Family Nurse Partnerships, each of which is described briefly below.

Ending Gang and Youth Violence programme

46. Violence is estimated to cost the NHS £2.9 billion every year. This figure underestimates the total impact of violence on health as, for instance, exposure to violence as a child can increase risks of substance abuse, obesity and illnesses such as cancer and heart disease in later life. Thus the total costs of violence to society are estimated at £29.9 billion per year. Under the Ending Gang and Youth Violence strategy the Home Office invested £10 million to enable 33 localities with the highest levels of gang and youth violence to implement improvements to the way they responded to youth violence, in conjunction with a national team of experts. In 2013-14, the Home Office transferred community safety funding to Police and Crime Commissioners, which they can use to invest in local priorities, including youth violence. There have been falls in police recorded youth violence across the areas targeted, taken as a whole, since the programme began, although these reductions cannot be linked directly to it. This has occurred against the background of national falls in levels of violent crime.

The Troubled Families programme

47. The £448 million Troubled Families programme has been established to join up efforts to support 120,000 such families by 2015—defined by the Department for Local Government and Communities (DCLG) as those that have problems and cause problems to the community around them—by helping local authorities to drive forward family interventions through a payment by results approach. Six government departments have contributed the central funding to the scheme, which represents 40% of the average cost required, with the remaining 60% coming from local budgets. In May 2014 the

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Government stated that almost 40,000 families had been “turned around” through the initiative.87

**Family Nurse Partnerships**

48. The Family Nurse Partnership is a voluntary home visiting programme for first time young parents, aged 19 or under. A specially trained family nurse visits the young mother regularly, from early in pregnancy until the child is two. The programme is underpinned by an internationally recognised and robust evidence base, which shows such an approach can improve health, social and educational outcomes in the short, medium and long term, while also providing cost benefits. A review of thirty years of research in the United States has shown a 59% reduction in arrests and a 90% reduction in supervision orders by age 15 for the children of mothers helped by such programmes. In the light of its potential for long-term violence reduction, the Government committed to double the capacity of the programme as part of its work on gang and youth violence. We visited an example of this in Houston, Texas, where it is known as Nurse-Family Partnership.

**Efforts to improve the evidence-base**

49. The Committee in 2010 recommended an independent cross-disciplinary national crime reduction centre of excellence, akin to the National Institute for Health and Clinical Excellence (NICE).88 In its response the then Government cited examples of partnerships between the academic community and the Government in implementing a more evidence-based approach to crime and justice policy, including the Correctional Services Accreditation Panel and the Campbell Collaboration crime and justice group.89 The then Government agreed that the evidence base in crime and justice policy could be improved further and stated that it would “continue to explore whether we need to fund new national centres of research excellence to help generate and disseminate evidence on what works. This will need to take account of the potential costs involved and [ensure] that any such undertaking represents value for money.”90

50. Since then there have been some related developments. The What Works Centre for Crime Reduction has been established, hosted by the College of Policing, and supported by

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87 Prime Minister welcomes Troubled Families progress. The measure of success relates to self-declaration by the local authority concerned of 1) the number of families achieving crime/anti-social behaviour/education result as at the end of March 2014 defined as each child in the family having had fewer than 3 fixed exclusions and less than 15% of unauthorised absences in the last 3 school terms; and a 60% reduction in anti-social behaviour across the family in the last 6 months; and the offending rate by all minors in the family reduced by at least 33% in the last 6 months and 2) the number of families achieving continuous employment result defined as at least one adult in the family having moved off out-of-work benefits into continuous employment in the last 6 months (and is not on the European Social Fund Provision or Work Programme to avoid double-payment).https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11469/2117840.pdf


89 Ministry of Justice, Government response to the Justice Committee’s Report: Cutting crime: the case for justice reinvestment, Cm 7819, March 2010. The Correctional Services Accreditation Panel helps the Ministry of Justice and NOMS to develop and implement high quality offender behaviour programmes and promotes excellence in programme design. Its main work is to use an evidence based approach to accredit programmes designed to reduce re-offending. Applications are assessed against a set of accreditation criteria derived from the lessons learnt from international research about what works in reducing re-offending. The Campbell Collaboration crime and justice group is an international network of researchers that prepares and disseminates systematic reviews of high-quality research on methods to reduce crime and delinquency and improve the quality of justice.

90 Ibid.
a group of academic institutions. This is a three-year programme, which started in September 2013, that will review research on practices and interventions to reduce crime; label the evidence base in terms of quality, cost and impact; and provide Police and Crime Commissioners (PCCs) and other crime reduction stakeholders with the knowledge, tools and guidance to help them target their resources more effectively. The Government explained the College’s role: “It will equip [the police] with the skills they need to continue to reduce crime and protect the public. The College will build close links with academia and establish an effective evidence base for policing effectiveness and, in its role as a designated What Works Centre, understanding crime and how best it can be reduced.”

51. There are other initiatives which are seeking to bring together research and develop professional expertise. As part of the Transforming Rehabilitation programme the Ministry is seeking to open up and disseminate the data which providers need to ensure their approaches have the greatest impact on reducing reoffending. For example, it has produced a series of rapid evidence assessments which set out the strengths and weaknesses of the current evidence base, and established the Justice Data Lab, a pilot initiative which provides organisations working with offenders with the opportunity to evidence how effective their work is at reducing reoffending.92 Nevertheless, in many cases the Lab has found insufficient evidence to draw any conclusion about the impact of the work in question on reoffending.93 The Ministry has also agreed to provide some initial financial support to the Probation Institute—a joint initiative of the Probation Association, Probation Chiefs Association, Napo and UNISON which was established in March 2014 to “safeguard professional standards and act as a centre of excellence”. In terms of the latter aim it is intended that the Institute will apply “rigorous standards to the assessment of research and other evidence and its implications for the delivery of services that protect the public and rehabilitate offenders.”94 Jeremy Wright conceded that while much is known about the factors that are relevant to determining the likelihood of reoffending, there is a need to draw together the evidence on what is most effective when these are applied in practice.95 In relation to the question of whether there is a need for a single centre of excellence, Mr Wright believed that the first step was to ensure that there was a centre focused on rehabilitation, to complement that related to policing.96

91 Ministry of Justice (PPC0014)
92 Qs516-517
93 See, for example, Justice Data Lab Pilot Statistics, accessed 12 June 2014
94 Probation Institute brochure, Probation Institute: Promoting excellence throughout the offender rehabilitation sector, accessed 12 June 2014
95 Q516
96 Q518
4 The coherence of crime reduction policies

52. Reflecting the broad terms of our inquiry we sought our witnesses’ views on the overall coherence of crime reduction policies. The National Audit Office has summarised the implications of the fact that there was no single governance mechanism for the criminal justice system as follows:

Under the current constitution and structure of government, there can be no single ‘owner’ of the System. This helps to provide essential safeguards for citizens and independence from political control for elements such as the judiciary and the police. However, it can also bring costs, arising from the need for careful coordination and consultation across the System. And it can create multiple points of failure where problems arise in one part of the System that affect partners elsewhere.  

We discuss here the benefits and limitations of there being no single owner at national and local level in developing co-ordinated approaches to crime reduction.

Crime as a cross-departmental issue

53. The clear focus of both the Home Office and Ministry of Justice on cutting crime was viewed positively by our witnesses. On the other hand, there is a risk that activity on crime reduction is seen primarily as the domain of these two Departments and their corresponding local agencies. The Howard League stated that “[c]rime reduction focuses on reducing reoffending and the harm caused by those already in the criminal justice system. […] If we are to continue to see crime levels fall, a wider approach must be taken that also looks to crime prevention and seeks to tackle the underlying causes of crime and make communities safer.” Others agreed that current arrangements might neglect the benefits of a wider approach. For example, Nacro noted that community sentences such as unpaid work are not sufficiently rooted in local communities:

*Even though orders like community payback do take place within the heart of these neighbourhoods, there is a danger that they are administered in a vacuum and thereby the potential for a ‘golden thread’ – which starts with unpaid work and then may lead on to work placements, volunteering opportunities and ultimately a paid job – is lost. […] For this to be achieved, community sentences need to be rooted firmly in many spheres of community life and to be characterised by strong and positive peer relationships which motivate and challenge offenders to take responsibility for change, keep them active within programmes through to completion, and support them to gain new insights, try out new things, and to stop falling back on familiar, negative and ultimately unsuccessful behaviour.*  

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98 See for example PPC0017; Q59 [Ms Bourne]; Q414 [Ms Crook];
99 Local Government Association (PPC0011)
100 The Howard League for Penal Reform (PPC0016)
101 Nacro (PPC0038)
Martyn Underhill, PCC for Dorset took a similar view:

Magistrates know only too well that lower-level crime and criminal activity seriously affects communities and undermines confidence in the CJS. Crimes perpetrated at the lower order of seriousness are often committed by people with extraordinarily complex issues. These ‘issues’ cannot be wished away by a bit of Community Payback or RJ. They go to the root of this demographic of people and cover a whole range of issues including social exclusion, poor parenting, health, education, job prospects and self-esteem.102

The Magistrates’ Association itself was stronger in its assertion that Government policy on crime reduction can be simplistic and unrealistic:

Crime and anti-social behaviour (particularly at the lower level) has its roots deep in society, parts of which are dysfunctional through the impoverishment of opportunities, housing, education and meaningful employment. There needs to be a wider ownership and responsibility from individual government departments, where currently there are gaps. Crime is a journey for perpetrators, victims, those that investigate, prosecute, adjudicate and deal with post-sentence issues. Government departments (apart from the Treasury, Home Office and Ministry of Justice) such as Health, Education and Work & Pensions all have a role to play in this journey. Of concern is that different departments have seemingly different priorities, funding issues and direction.103

This is evident to some extent in the Government’s depiction in its strategic priorities of the ‘drivers of crime’—alcohol, drugs, anti-social behaviour, violence and organised crime—which primarily relate to symptoms rather than causes.

54. The perpetual change that the criminal justice system undergoes can also hinder a coherent approach, both in terms of piecemeal structural reforms to particular components of the system, and the disruptive process of implementing waves of new legislation relating to its functioning. The Coalition Agreement expressed a desire to prevent the proliferation of unnecessary new criminal offences.104 This Government has continued in the vein of its predecessors in bringing forward eight major pieces of crime and criminal justice legislation in quick succession, making ongoing changes to the sentencing framework and the structures, powers and responsibilities of related agencies. The Magistrates’ Association made the following observation of the impact of this:

…the criminal justice system (CJS) does not need constant change according to the latest fad, but instead be given time to operate cohesively across all agencies with better communication between those who make the laws, those who investigate crime and protect the public and those who administer the law under due process.105

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102 Martyn Underhill (PPC0023)
103 Magistrates’ Association (PPC0017)
104 HM Government The Coalition Agreement: our programme for government, p. 11
105 Magistrates’ Association (PPC0017)
55. One example of legislation criticised by London Councils as potentially counter-productive was the Anti-Social Behaviour, Crime and Policing Bill, which has now received Royal Assent. They said that while the proposed changes would potentially simplify approaches to tackling anti-social behaviour, the relevant provisions focused on enforcement and policing, rather than early intervention and preventative measures and might serve to dilute local government’s role in facilitating such activity. Changes in policy can also have a disruptive impact on existing activities that are still embedding. In our report Women offenders: after the Corston report we highlighted the funding of women’s community centres for offenders and those with particular vulnerabilities that put them at risk of offending, as a particular example of the limitations of the existing siloed approach to funding, despite evidence of the benefits of the centres’ work.

The breadth and depth of cross-Government activity

56. The Local Government Association spoke of the value of the cross-Whitehall work that has been undertaken to reduce crime, though regretted that it tends to be restricted to thematic approaches, for example, to violence against women and girls, gangs, or so-called troubled families. Additionally, in the LGA’s experience, the Department of Health is not as a matter of course involved in crime reduction, even though health services and health spending can have a considerable impact on crime. Dr Alison Frater of NHS England and Dr O’ Moore of Public Health England were optimistic that there would be better integration between health and crime agendas following the structural reforms described in chapter three. For example, Public Health England have been engaged in developing a greater understanding of some of the health-related drivers of criminogenic behaviour that can inform policies and programmes both across Government and for local directors of public health within local authorities. Community-based drug treatment for offenders is an example of what can be achieved.

57. Jeremy Wright acknowledged that change of Government tends to result in policy change but noted that there was a political consensus about the need to intervene early to interrupt the “conveyor belt to crime” and that this was likely to lead to better results downstream. Nevertheless, he felt that the efforts of the Ministry of Justice and, to a lesser extent, the Home Office, were inevitably focused at the end of the criminal justice process and that wider cross-Government work was essential to “get to grips” with crime, and re-offending. He and Norman Baker agreed that close work with the Department of Health, Department for Communities and Local Government and the Department for Education was of particular importance. One example of this was work by the Home

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106 London Councils (PPC0005)
108 Local Government Association (PPC0011). See also Q454 [Mr Bowen]
109 Local Government Association (PPC0011)
110 Qq82, 88
111 Q515
112 Ibid.
Office and Department of Education to address the Deputy Children Commissioner’s findings about the misogyny experienced by girls in gangs.113

58. The Home Office and the Ministry of Justice have been strong in their focus on cutting crime. We note the intention expressed in the Coalition Agreement to limit the proliferation of new criminal offences, but observe that this has not stemmed the flow of legislative initiatives affecting the criminal justice system. This, alongside administrative changes and the pressure for both central and local government to achieve financial savings can obscure the clarity of Government messages on crime reduction and diminish the propensity for them to translate into the desired action.

**Early intervention**

59. The NAO concluded in its landscape review of the criminal justice system that by intervening early and at the right time, reactive public spending can be reduced while improving outcomes. In youth justice, there is evidence that the earlier the successful intervention, the higher the return. For example, in 2010, the NAO estimated that the cost of youth crime in 2009 may have been between £8.5 billion and £11 billion. Between them the Home Office and the Ministry of Justice spent around £200 million on specific early action programmes in 2011-12: about 1 per cent of their total combined spending.114 Despite the clear financial imperative to do so, the NAO acknowledged that there were considerable political and practical challenges to implementing early action.

60. There are some signs that the Government has begun to acknowledge the benefits of early intervention in practice, rather than simply in principle. Part of the Government’s motivation for developing the Troubled Families programme is that an estimated £9 billion is spent annually on those it targets, an average of £75,000 per family each year. Of this, just £1 billion is spent on efforts to solve and prevent the problems experienced by these families in the long-term, with the remainder being spent on reacting to the problems experienced and caused by them. Nevertheless, despite having helped 40,000 families to “turn their lives around”, and the cross-departmental financial contribution to the scheme, the Public Accounts Committee considered that it was insufficiently integrated with the Department for Work and Pensions’ Families with Multiple Problems programme.115 We heard several examples of the Troubled Families initiative stimulating wider discussion among local partnerships about the value of intervening early to prevent the inter-generational aspects of offending.116 Martyn Underhill’s observations illustrate this:

> I liken it to a house fire. By time you are a labelled a Troubled Family, the house is on fire, and all the authorities can do is attend to put the fire out. If you intervene early, and put in a smoke detector, you stop the fire. You stop the chaos taking hold. Pro-active early intervention must be better than reactively putting out a fire. And along

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113 Q515 [Mr Baker]
116 See for example Q68 [Ms Bourne], Q85 [Councillor Spicer]; PPC0023 [Mr Underhill]
One area of potential prevention activity that appears to be neglected relates to children whose parents are involved in the criminal justice system, which is not a criterion for inclusion in the Troubled Families programme. Recent research by children’s charity Barnardo’s estimates that 200,000 children are affected by parental imprisonment each year across England and Wales, yet no official record exists of them.118

61. There is some indication that cross-Government approaches are not backed up by sufficient resources. The annual budget for prisons and probation amounts to £4 billion, while that for the Troubled Families programme is £448 million. When it comes to preventive investment further upstream, the amounts of funding involved are relatively small. For example, only £17.5 million has been dedicated to extending Family Nurse Partnerships, £10 million was given to enhance support to local authorities to tackle gang violence, and extension of the liaison and diversion scheme is costing £25 million.119 Research by the Centre for Mental Health indicates that parenting programmes that help parents to manage children’s behaviour can reduce the risk of a child getting involved in offending later in life; they also improve the mental health of parents and children alike. The total cost of crime attributable to people who had conduct problems in childhood is estimated at about £60 billion a year in England and Wales, equivalent to about £225,000 per person.120 Evidence-based parenting programmes, by contrast, cost about £1,200 per child.

62. Official explanations of drivers of crime, which underpin the national crime action plan, for example, can at times be overly simplistic. For example, while the misuse of both alcohol and drugs can be causes of crime, their manifestations typically have other root causes. The Government’s approach, which remains focused largely on the activity of the Home Office and the Ministry of Justice, can also overemphasise the significance in attempting to reduce crime of measures taken entirely within the criminal justice system.

63. The Government has developed several cross-departmental programmes which are expected to bear down on crime rates over the medium and longer-term, and this is welcome. However, these programmes have tended to concentrate on crisis management where there might be faster financial gains. As a result, only a minor proportion of funding is attached to very early intervention programmes, which could lead to longer term benefits, like Family Nurse Partnerships. The staggering costs to both the criminal justice system and wider society associated with the failure to intervene sufficiently early to address known risks in childhood, for example related to parenting and mental health, highlight the need for a greater proportion of resources to be devoted to reducing these risks. Parental involvement in the criminal justice system,

117 Martyn Underhill (PPC0023)
118 Barnardo’s children of prisoners campaign launched at Westminster event, 30 May 2014
119 Family Nurse Partnership programme to be extended, 4 April 2013, Department of Health; Q415 [Mr Day]
120 Centre for Mental Health (PPC0018)
and parents serving custodial sentences in particular, should be recognised more explicitly as an avenue for early intervention.

**Governance at national level**

64. We found that people with key roles in the system were unaware of the existence and role of the National Criminal Justice Board. The President of the Prison Governors Association and the Chief Inspector of Prisons had not heard of it, and neither had anyone in the Prison Service to whom the latter had made enquiries. Knowledge of the Board amongst Police and Crime Commissioners was mixed, although there was evidence that the themes outlined in the strategy had permeated into their policing and crime plans. Jeremy Wright, Parliamentary Under-Secretary of State for Justice, spoke of the value of the Board in co-ordinating collective ownership of the system by the various parties that run it, and was disappointed that there was not more awareness of it.

65. This Board is comprised of Ministers and operational leaders across the criminal justice system only. Some witnesses were of the view that cross-departmental governance should be strengthened. In the absence of an obvious framework for centrally driving activity on crime reduction, Joanna Spicer of the Local Government Association called for a ministerial level crime reduction board which she felt would provide a “proper challenge” to new proposals and on-going work, and seek to ensure better co-ordination between departments. Alternatively, Councillor Spicer noted that it is a statutory requirement on local government (under section 17 of the Crime and Disorder Act 1988) to consider the effect of any policy at all on crime reduction. This policy could be applied to all Government departments. None of our witnesses mentioned the role of the Minister for Crime Prevention, established in September 2012. Sarah Salmon of the Criminal Justice Alliance proposed that in order to reflect the fact that the answers to crime do not lie exclusively in the criminal justice system, there should be an inter-departmental Government strategy on crime reduction. Norman Baker MP, the Minister for Crime Prevention, believed that the combination of his role, the Minister for Policing and Criminal Justice with a foot in both the Ministry and the Home Office, the various inter-ministerial groups and cross-government accords, provided both recognition of the need...
for different departments “with different levers to pull” and sufficient co-ordination. The National Criminal Justice Board does not appear to have entered the consciousness of many key actors in the system, which concerns us. Nevertheless, we are not persuaded of the need for a broader National Crime Reduction Board. We consider rather that there is a need for a higher profile for the Minister for Crime Prevention, whose wide-ranging portfolio should be pivotal in providing strong cross-departmental oversight of crime reduction policies, and other policies that might influence crime. The Transforming the Criminal Justice System action plan commendably includes cross-government initiatives to reduce crime, but in our opinion what is really needed is a much broader approach, extending beyond the confines of the criminal justice system, and distinguishing clearly these activities from those that are properly owned by the criminal justice system.

Governance at local level

66. The three PCCs, Alun Michael (South Wales), Katy Bourne (Sussex) and Sue Mountstevens (Avon and Somerset) who gave oral evidence to us all thought the essential ingredient of successful crime reduction was to operate at local rather than national level. The role of police and crime commissioners

67. Perhaps not surprisingly, all three spoke positively about the potential of their role and the value of their local police and crime plans in galvanising local partnerships. Policing and crime plans provide a common focus for agreeing activities that should take precedence at local level, including how best to implement national priorities. Their plans each set out objectives related to crime reduction and shared several similarities in their approach. For example, the focus was commonly on drugs, alcohol, mental health and other shared priorities such as integrated offender management, youth offending, and restorative justice; as well as anti-social behaviour and violence against women and girls, replicating national priorities at local level. There was also a common desire to afford victims’ needs a higher priority in the criminal justice system. Alun Michael had explicitly called his plan a police and crime reduction plan. The plans also highlight the range of partnerships and agencies that PCCs sought to be engaged with and the approach they wished to take in so doing. These included health and well-being boards; NHS; community safety partnerships; local authorities; local criminal justice boards; drug and alcohol action teams; and youth offending services.

68. PCCs saw themselves as co-ordinators or facilitators, exercising leadership to bring people together to identify a common purpose. For example, in Sussex, the plan had been used to agree shared frameworks for determining successful crime reduction activities and budget-setting, and a joint commitment to these activities being driven by evidence-based practice. This had been challenging in terms of varying political priorities and...
geographical boundaries, but in most instances means have been found to overcome these.135

69. This was echoed by our witnesses, who were generally impressed by the ‘and crime’ mantle PCCs had taken on in relation to courts and community safety partnerships.136 Those PCCs that we heard from, and about, appear to have provided additional co-ordination to the array of local crime responsibilities and activities, and have worked to address some structural barriers. For example, Rob Allen noted examples of police and crime commissioners setting up boards of local stakeholders from the health service, probation and all the other agencies and saying, “Look, we have some people here who are coming to the abshe attention of the police over and over again. What can we do to tackle their alcohol problem, their drug problem or whatever?”137 Nevertheless, we were reminded by Councillor Spicer that it was early days to be confident about the results of their introduction.138

Integration between public health and crime agendas

70. Our witnesses were hopeful that health system reorganisation presented an opportunity for health, local authority and criminal justice partners to work together more effectively.139 It was thought that the preventive approach to the promotion of good health taken by health and well-being boards could intersect well with crime prevention, for example, preventing childhood obesity, which can lead to mental health and drug and alcohol problems, and potentially, in turn, to crime.140 Nevertheless, the involvement of criminal justice agencies is wholly discretionary on the part of Boards.141 Witnesses pointed to good examples of co-ordination, such as the inclusion of a health strategy in the Mayor of London’s police and crime plan, work undertaken by health bodies together with probation trusts to enable provision of better support to young offenders in developing mental health liaison and diversion schemes, and multi-agency work with troubled families undertaken by health and wellbeing boards which was able to look holistically at the issues experienced by such families, such as mental health, general health, reoffending, and truancy.142 There is a risk that these changes in infrastructure might have confused organisational responsibility for reducing crime and re-offending. For example, Rob Allen suggested that health and education reforms have reduced the incentives for involvement by those agencies in crime reduction activities.143

71. There have been significant changes to the local partnership landscape for crime reduction since 2010 reflecting the ongoing broader shift of power in this field from

135 Qq63, 78 [Ms Bourne; Q66 [Ms Mountstevens; Mr Michael]; [PPC0023] [Mr Underhill]; PPC0030 [Police and Crime Commissioner for South Wales]
136 Q87 [Councillor Kober; Councillor Spicer]; Q422 [Mr Allen]; Q423 [Ms Crook]; [PPC0010]
137 Q422
138 Q87
139 DrugScope (PPC0012); Martyn Underhill (PPC0023)
140 Q 94 [Councillor Spicer]
141 Probation Chiefs Association (PPC0007); DrugScope (PPC0012)
142 Qq84, 106 [Ms Frater]
143 Rob Allen (PPC0020)
Whitehall to local communities. While this has resulted in an assortment of local accountability structures, our evidence highlights the clear benefits of collective ownership, pooled funding and joint priorities for crime reduction that have been facilitated by this approach. The introduction of police and crime commissioners may have had a consolidating rather than destabilising effect, galvanising and sharpening the shared endeavours of local stakeholders to seek to make ongoing savings in dealing with residual local crime problems.

72. The new health commissioning structures provide an opportunity to address the need for stronger links between health promotion and crime reduction which has long been lacking. Nevertheless, there remains a considerable way to go before health can be considered a fully integral part of the crime reduction picture. It would be short-sighted of health and well-being boards not to facilitate access to criminal justice agencies, including police and crime commissioners (PCCs) and providers of probation services. These partnerships are still embedding and will undoubtedly have to undergo further adjustment following the Transforming Rehabilitation reforms. We recommend that the Government reviews whether PCCs and providers of probation services ought to be statutory partners on health and well-being boards.

Tensions between national and local priorities

73. Our witnesses identified some areas in which it was felt there should be greater national direction, and others where greater local discretion was required. The key example highlighted was the apparently divergent approaches of the Home Office and the Ministry of Justice: the former is making the transition from centrally-funded programmes to reduce crime to a system where funding is determined locally by elected PCCs, who are seen as “best placed” to understand the needs of their communities and hold to account community safety partnerships; the latter is nationalising probation services for higher risk offenders and developing centralised commissioning arrangements for medium and low risk offenders across contract areas which do not align well with existing criminal justice geographical boundaries. The MoJ’s approach appears also to be against the grain of other departments’ public service reforms. We discuss the implications of this more fully later in this chapter.

74. The three Police and Crime Commissioners had differing views on the role that national strategies should play in shaping this activity. Mr Michael said: “…I think, by and large, what happens at a national level is something that is in the background. The important work is very much local among the police, the Police and Crime Commissioner, local authorities and other organisations, including the agencies of central Government, like the prisons that are operating on your patch.” In Sue Mountstevens’s experience, national initiatives had informed the priorities of her local criminal justice board. On the other hand, Martyn Underhill, PCC for Dorset, cited the examples of mental health and education as areas where there was a disconnection between Departmental priorities and

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144 Q454 [Mr Bowen]
145 Qq 58-66
146 Q58
147 Q62
the localism agenda, and where stronger national direction was required. In relation to mental health he said:

Policing as a service and crime in general, is fed by incidents caused by people suffering from mental health issues. One in four people will have issues at some stage in their life. Research has shown that such people will become victims more easily, and will re-offend more as offenders. The re-offending is because they are not treated, or diverted. Tackle mental health issues nationally, and we can cut crime, and reduce the amount of people suffering from mental health who will become victims. There are other obvious benefits of a co-ordinated approach to this problem. However the issue of mental health care fails spectacularly because of a disjointed approach by numerous departments. This poor join up of objectives and budgets means that there is a “disconnect” between departments such as NHS England, Clinical Commissioning Groups (CCG’s), Local Authority Public Health and Mental Health Teams. The police service, as an aside, then becomes the “service of last resort”. Police pick up Health Department issues such as people in crisis in public and private places, people in crisis in custody suites, and transportation of such people. All of these issues detract from the police objective of cutting crime.  

We consider mental health provision later in this chapter.

**The impact of Transforming Rehabilitation reforms**

75. We discuss here some opportunities and challenges related to partnership working following the probation reforms, and the possible post-election climate for PCCs. The Prison Reform Trust, London Councils and the Local Government Association amongst other respondents expressed concerns that the national commissioning function applied to the Transforming Rehabilitation reforms could militate against an effective cross-government approach and the efficient pooling of resources at local level.  

NAPO explained more fully its fears:

> Relationships between probation, police, local authorities, children’s services, the NHS and the third sector have been built up over many years with service level agreements and information sharing protocols. These arrangements take time to evolve and the [Transforming Rehabilitation] plans pose a risk which needs safeguarding against.  

76. As we note above, the focus of resources is predominately on more serious offenders, who are sentenced to prisons and probation, and there is a risk that the Transforming Rehabilitation reforms will further reinforce this. Mr Richard Monkhouse, Chair of the Magistrates’ Association, highlighted that the concentration of activity to reduce reoffending is on what he referred to as the ‘top end’ i.e. the 4% and 25% of offenders in the magistrates’ courts that are sentenced to prison and probation respectively. He said “…the rest of them, many of whom have significant problems, are dealt with purely by fine and

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148 Martyn Underhill (PPC0023)
149 Prison Reform Trust (PPC0013); Local Government Association (PPC0011)
150 Napo (PPC0031)
Crime reduction policies: a co-ordinated approach?

77. In recognition of the complexity and value of local partnerships in reducing crime, in our interim report we made the following recommendation:

Probation is the lead agency in a range of local partnerships. In future there will be two probation services (the new National Probation Service and the contracted provider) in every locality delivering similar services side by side and sometimes via one another. Each will have to form working relationships with other local organisations, bodies and services for the delivery of the joint or complementary services which characterise effective local work with offenders. Ministers should recognise that there is a potential risk that this will lead to inefficient use of resources, and confuse accountability at local level. The Government proposes to give new providers accountability for reducing offending within community safety partnerships by mandating this in contracts and asking prospective providers for clarification of how they will preserve and develop existing partnerships: that is to be welcomed. It is important that Ministers put in place appropriate safeguards to ensure that new providers in the private sector appreciate the importance of working with existing local partnerships to reduce reoffending.153

As we note also in that report, the Ministry has been conscious of the need to integrate new providers with existing local structures and has published guidance in its Target Operating Model on how it intends this to be achieved, both through the use of contractual obligations and monitoring of engagement.154

78. We received further evidence during the course of this broader inquiry on the potential implications of bringing in new providers for the stability and effectiveness of different partnerships. Joanna Spicer explained the impact from local authorities’ perspective: “[Local authorities] have been commissioning jointly with partners in all sorts of areas. The trouble is, when partners change their names, and sometimes the faces at the table, we have occasionally to take a few steps back and start again.”155 PCCs will be required to re-align their partnership boundaries to accommodate the Transforming Rehabilitation reforms which is creating several contract packages covering multiple criminal justice areas and hence PCCs’ patches; some had begun to do so in preparation for implementation.156 Alison Frater acknowledged that the range of actors that have a role to play in crime reduction can represent a challenge: “…it is tricky at the moment, is it not? There are a lot

151 Qq450–460
152 Q7; Clinks (PPC0027)
154 Ministry of Justice, Target Operating Model: Rehabilitation Programme, September 2013
155 Q104
156 Q77 [Ms Mountstevens; Ms Bourne]
more players on the pitch in terms of who has the money…but there is a willingness to work together.”  

Frances Crook, Director of the Howard League, was concerned that the promising work of PCCs could be lost because it is embedded in individuals rather than systems:

> It relies entirely on one official—not an elected committee, council, or board, but one person. If that person stands down or is not elected, it will all disappear. The new person coming in will start all over again with a new plan, a new system, new structures, so we will have constant flux and change over the period. That is very destabilising. It also gives the message to local authorities, health authorities and the police themselves—everybody else—that we will not put that much effort into this…because they will be here for only a couple of years and it will all change.  

79. The bulk of Government policy on the reduction of crime acknowledges that a multi-agency, largely locally determined, approach is essential to enable local priorities to be addressed effectively at local level. Nationally-commissioned rehabilitative services seemed to some of our witnesses to be out of kilter with the Government’s stated commitment to local, responsive services, and could disrupt the progress that has been made in developing these.

80. The current situation where all local agencies are accountable but there is no single statutory leader risks confusion and abdication of responsibility but seems broadly to work through the goodwill of all involved. The collective ownership approach is continuing to develop in strength as police and crime commissioners find their feet, and local authorities and health commissioners get to grips with their new priorities. The new probation providers introduced by the Transforming Rehabilitation reforms, and the new National Probation Service, need to support this approach and to avoid undermining it. There is scope for truly integrated localised approaches, but there is a danger that their development will be inhibited by the extent to which national management remains a feature of the criminal justice system.

81. New providers will need to build relationships with a complex range of partners. Their priorities will impact considerably on the work of prison governors, police and crime commissioners, and local authorities, yet will have accountability to none of them. We are encouraged that we encountered a willingness on behalf of police and crime commissioners, local authorities and health commissioners, to work with the new probation providers to continue to pursue local crime reduction initiatives. The successful integration of these new players will be determined by them seeking to ensure there is sufficient flexibility and funding in their model to enable them to build on the strengths of local partnerships and seek to further develop them, rather than simply recognising their existence. This should be a crucial component of the Ministry’s scrutiny of prospective providers.

157 Q102
158 Q423
Progress on key crime reduction initiatives

82. Our predecessor Committee identified key points where contact with the criminal justice system should be used as an opportunity to direct people into appropriate services or initiatives ensuring greater social justice outcomes that were unrealised. These included: expanding liaison and diversion schemes for people with mental health problems and learning disabilities; greater use of some rehabilitative requirements that could be attached to a community order, including alcohol treatment and mental health treatment, which appeared to be under-utilised by the courts in relation to need; the wider availability of restorative justice schemes. It also highlighted three groups on which immediate priority should be placed to achieve swift progress: young adults aged 18-25; women; and short-sentenced prisoners.

Restorative justice

83. Witnesses welcomed the Government’s efforts to integrate better restorative justice into the criminal justice system.159 For example, the Prison Reform Trust referred to the creation of a legislative framework for restorative justice in the Crime and Courts Act 2013 as a “significant development”.160 Although it has received greater prominence, Adam Pemberton, Victim Support, emphasised the importance of ensuring that whilst victims should be offered restorative justice in all circumstances, it works best for victims when it is centred upon them and their interests are treated equally in the process as those of the offender, which has not been the case in the past.161

Access to mental health treatment

84. The absence of mental health support for the “large proportion” of offenders with mental health issues that come before the courts is a particular frustration for the Magistrates’ Association: “magistrates often have no option but to deal with [this group] in the same way as other offenders. This helps no one.”162 PCCs Sue Mountstevens and Martyn Underhill, and the President of the Prison Governors’ Association made similar observations of the police and prisons.163 The former said: “If we could find better co-ordination with the NHS…then that would free up a lot of police time to do more crime prevention. At the moment, it is estimated that over 20% of their work is involved in working with people that are mentally ill.164 A Crisis Care Concordat has since been agreed to improve the treatment of people who need immediate mental health support at times of emergency.165

159 Q454 [Mr Bowen]; Criminal Justice Alliance PPC0006; Prison Reform Trust PPC0013; The Howard Leage for Penal Reform PPC0016
160 Prison Reform Trust PPC0013
161 Q462
162 Magistrates’ Association PPC0017
163 Q400 [Mr McLennan-Murray]
164 Q71
165 HM Government, Mental Health Crisis Care Concordat-Improving outcomes for people experiencing mental health crisis, 18 February 2014,
85. Dr O’Moore stated that health is a key part of any consideration of the coherence of approaches to crime reduction because it is “part of the problem and part of the solution.” For example, he felt that the “health potential” of a person’s contact with probation services is “underexploited.” Public Health England is working with NOMS to ensure that probation services undertake effective health needs assessments, which Dr O’Moore saw as the start of the journey of ensuring that those on probation are appropriately referred. One option that has proven effective is the use of mental health treatment requirements which allow sentencers to deal with the situation where individuals have committed offences that do not require a prison sentence, but who need mental health treatment as part of their rehabilitation. The Centre for Mental Health believed that there is unfulfilled potential in the use of such requirements: just 1% of community sentences include one, despite estimates that at least 39% of offenders supervised by probation services have mental health problems. While this might be addressed partially by the recent introduction of greater flexibility in their operation, knowledge and confidence about them is low among sentencers, probation services, and health and social care services.

86. In April 2009, Lord Bradley made 82 recommendations to tackle the over-representation of people with mental health problems in the criminal justice system in England, nearly all of which the Government accepted in full or in principle. This Committee has repeatedly criticised both the former and the current Governments for slow progress in implementing them, in particular in relation to the promised network of liaison and diversion schemes to identify mental health problems at police stations and in courts, which was due to be in place by this year. The Prison Reform Trust (PRT), which has been involved in the Care not Custody Coalition to promote this, called on us to “satisfy [ourselves] that the government commitment to establish liaison and diversion services across England by 2014, funded by the Department of Health, will be honoured.” The Government has subsequently announced £25m funding to extend the liaison and diversion trial sites. These services will be evaluated and if successful, extended to the rest of the country by 2017. Whilst the PRT welcomes this, they note that this represents less substantive funding, and a much later deadline, than was previously promised by the Department of Health.

87. In assuming responsibility for commissioning offender health in police custody suites and courts the NHS Commissioning Board will be accountable for adhering to the Government’s commitment. When we asked her why there had been such a delay Dr Alison Frater explained that there were multiple explanations for the poor capacity of mental health services to address the needs of those who commit crime, including lack of

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166 Q82
167 Q107
168 Ibid.
169 Centre for Mental Health
170 Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system, April 2009
171 Prison Reform Trust
understanding about effective models of care and the necessity of focusing limited resources on crisis intervention for those with severe and enduring mental illness.172

88. It is a paradox that the criminal justice system continues to be used so often as a gateway to mental health, drug, or alcohol treatment—which must be regarded as a chronic failure of mainstream treatment services—and yet there is evidently much more that could be done to support those people who are in the system to address health problems that are associated with their offending. It is not clear to us quite why such slow progress has been made in building the nationwide network of liaison and diversion schemes as advocated by Lord Bradley in 2009. **Addressing the funding of mental health services, the inadequacy of which costs the police, courts, probation, and prisons and victims of crime greatly, should be an urgent cross-departmental priority of the Government as part of its national crime action plan. The Ministry of Justice and Department of Health should encourage greater and more effective use of mental health treatment as part of probation orders. Bids to operate Community Rehabilitation Companies should be evaluated for the extent to which they provide for access to mental health treatment.**

**Access to drug and alcohol misuse treatment**

89. Robust evidence points to the significant role of drug and alcohol treatment in cutting crime, in particular, acquisitive crimes like shoplifting and other forms of theft.173 It is estimated that drug treatment prevented 4.9 million offences in 2010-11, saving approximately £960 million, against an annual cost of drug-related crime of £13.9 billion.174 Levels of drug use are also falling.175 The criminal justice system is a chief gateway for substance-misuse treatment: a third of all treatment referrals were by this route in 2011-12.176 The Magistrates’ Association did not view this in a positive light. They observed: “[i]t has always been an issue that an offender who wishes to rid themselves of a substance abuse habit (which often leads to offending) views the CJS as their best way to a course of treatment.”177

90. DrugsScope described the Drug Interventions Programme (DIP) which has been running since 2003, the funding for which has now been pooled into the community safety fund, as “the principal policy vehicle bringing together criminal justice and drug treatment services”. Through the programme offenders were offered treatment and support, delivered in partnership using integrated teams, from the point of arrest, throughout their sentence and beyond. DrugsScope questioned the likely survival of such interventions under the new commissioning arrangements, particularly following the removal of ring-fenced funding for the DIP. Drug and alcohol services are one of 17 areas of commissioning responsibility for Directors of Public Health in local authorities and Police and Crime

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172 Q108
173 DrugScope [PPC0012]
174 Q112 [Dr O’Moore]
176 Q105 [Dr O’Moore]
177 Magistrates’ Association [PPC0017]
Commissioners are able to use the community safety fund, into which DIP funding has been subsumed, as they wish.

91. We raised this question with the PCC and local authority representatives that we spoke to. The PCC for Avon and Somerset, Ms Mountstevens, gave us an example of pooled commissioning to develop a single service for arrest referral in Avon and Somerset, through the PCC and local drug and alcohol action teams. 178 Councillor Joanna Spicer believed that bringing some responsibility for mainstream drug and alcohol services into public health would bring efficiencies. 179 Dr Alison Frater used the example of integrating substance misuse workers with mental health liaison and diversion schemes as a promising joint venture. 180

92. Improvements have also been made in prison-based drug services, which have led to a reduction in drug-related deaths, but these have not translated necessarily into a reduction in drug-related crime. 181 NOMS’ Surveying Prisoners Crime Reduction Survey (a longitudinal cohort study of prisoners sentenced in England and Wales to between one month and four years in 2005 and 2006) was unable to identify significant associations between drug and alcohol interventions in prison and reoffending on release. However, Class A drug use after release from prison was directly linked to increased chances of reoffending, confirming the need for effective community based strategies to tackle drug use amongst offenders. 182 The Department of Health and Ministry of Justice have recognised this in their aspiration to create “through the gate” drug and alcohol treatment as part of their Transforming Rehabilitation agenda.

93. The picture is not quite so rosy for alcohol treatment. Charity Addaction’s Alcohol and Crime Commission, which recently surveyed serving prisoners, found that 70% admitted they had been drinking when they committed the crime for which they were jailed. Despite this, only half of those who made the admission recognised their drinking as a problem, and only 40% had been informed about support available to help them on their release. Professor John Podmore, the Commission’s chair, described alcohol treatment as the ‘Cinderella’ service to drug treatment and suggested that alcohol use as an underlying factor in offending needs to be better understood, and a proper evidence base established, if existing resources are to be targeted more effectively. He wished to see alcohol-related crime being placed higher up the national and local government agenda. 183 Professor Laycock cited alcohol policy as an area in which the Government had “totally ignored” research literature on how to create an environment in which crime related to its misuse would be less likely. 184

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178 Police and Crime Commissioner for Avon and Somerset (PPC0019)
179 Q104
180 Q106
181 Ibid.
182 Ministry of Justice, The factors associated with proven re-offending following release from prison: findings from Waves 1 to 3 of SPCR Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners), February 2014
183 Addaction, Alcohol and Crime Commission report, p.6
184 Q281
94. Norman Baker accepted that the problems of alcohol misuse are underestimated and should be viewed as seriously as problems with drugs, if not more so, though he noted that alcohol problems are, for the most part, decreasing.\textsuperscript{185} The Home Office has estimated that the costs of abuse amount to £21 billion a year, including £11 billion in anti-social behaviour and £3.5 billion to the health service, whereas the costs from drugs are about half that. The Government’s alcohol strategy, which relates primarily to controlling the sale and supply of alcohol, estimates that almost a million (44%) violent crimes are alcohol-related.\textsuperscript{186} Broader Government initiatives include payment by results pilots for drug and alcohol dependent offenders, encouraging all hospitals to share information on alcohol-related injuries with the police, providing valuable intelligence on policing priorities, and urging the alcohol industry to take greater responsibility for better regulating the sale of its products.\textsuperscript{187} The effective use of data in the context of crime reduction activity is discussed in chapter five.

95. There is much to commend in the progress that has been made in bringing agencies together in collective efforts to prevent offending and reoffending, but there remain substantial fault-lines in the coherence of cross-Government activity, in particular in relation to mental health and alcohol policy. The joint work to tackle drug misuse between the various actors in the criminal justice system and health services is an example of the savings that can be achieved when a cross-departmental commitment is made to tackle crime as a public health problem.

**Courts and prisons: missing links?**

96. According to our witnesses there are two major elements missing from local partnership approaches to crime reduction: courts and prisons.

**The role of courts in crime reduction**

97. The Magistrates’ Association called for better relationships between their members and others within the local and national criminal justice system. They observe that there is no magistrate on the Board of HMCTS, despite the fact that magistrates are prime users of the courts system.\textsuperscript{188} The Senior Presiding Judge does however sit as an observer on the National Criminal Justice Board.\textsuperscript{189} Alun Michael was of the view that one of the missing links in the system for ensuring a coherent approach to crime reduction is the need to ensure that the courts have a duty to pay full attention to "what works" in reducing the likelihood and the seriousness of re-offending.\textsuperscript{190} There is a view that judges have regard to the reduction of crime through their consideration of the statutory purposes of sentencing including by deterrence, reform and rehabilitation, protection of the public, and reparation to those affected. On the other hand, crime prevention as such is not a direct part of the

\textsuperscript{185} Qq510–513
\textsuperscript{186} The Government’s alcohol strategy, March 2012, Cm 8336. See also Q511
\textsuperscript{187} Ibid, p 15 See also Q511
\textsuperscript{188} Magistrates’ Association (PPC0017)
\textsuperscript{189} Q503 [Mr Wright]
\textsuperscript{190} Police and Crime Commissioner for South Wales (PPC0030)
judges’ function. Penelope Gibbs, who has herself been a magistrate, suggested that some basic reforms are required, for example, to magistrates’ training. This should cover how people desist from crime and the effectiveness of sentences. Magistrates should receive more systematic feedback about their cases. We discuss the latter point, and the potential for a greater role for problem-solving courts, later in this chapter.

The role of prisons in crime reduction

98. Nick Hardwick, Chief Inspector of Prisons, believed that prisons are a particular example of the “silo” operation of the various parts of the system:

Inevitably, the agenda for an individual prison is often constrained by their walls. They do not think much about what is happening outside the walls that might bring somebody in who needs addressing and what is happening outside the walls when somebody leaves. Often, their connections with the other statutory agencies that might have an impact on the rehabilitation of the prisoners they are holding are quite limited.

99. The Government is seeking to address this and other weaknesses through the creation of resettlement prisons, the idea of which several our witnesses embraced in principle. Mr Hardwick welcomed this notion, but exercised caution about how it could work, in terms of placing people in the establishment closest to their home, when the system is almost full to capacity. He considered that if this is not addressed, “there is a real danger that in the resettlement and rehabilitation services, which are organised geographically through contracts that governors will not be able to control, there will be a mismatch between service provision and where the prisoners who need those services are.”

NACRO was concerned that targeted interventions cannot be left to the last three months of the sentence because it may not leave enough time to stabilise the offender to the requisite level and stop them reoffending on release. Mr McLennan Murray and Mr Hardwick explained the difficulties faced by prison governors in not having direct control of the budgets, rendering them powerless to change things that impact on the prisoners for which they are responsible. Similarly, CRCs, paid by their ability to reduce reoffending, will need to work with education and training providers, commissioned under contract through BIS, to ensure the learning in prison is preparing prisoners towards desistance. However these providers currently have no incentive to consider whether the learning and curriculum they provide contributes to desistance. Resettlement prisons offer the potential for well-integrated connections with outside agencies through Community Rehabilitation Companies, which would help to achieve an objective we set in our 2011 report on the probation service. Nevertheless in order for these reforms to work in practice, insofar as they relate to prisons, the Government should specify how it plans to

191 Q464
192 Q380
193 Rob Allen (PPCD0020); Professor Shepherd (PPCD0037)
194 Q398
195 Professor Shepherd (PPCD0037)
196 Qq406-407 [Mr Hardwick, Mr McLennan-Murray]
197 Prisoners Education Trust (PPCD0029)
tackle the high level of overcrowding in the prison estate so that prisoners can be held in the establishment closest to their homes. In a nutshell, the impact of Transforming Rehabilitation on improving outcomes will depend crucially on how the changes are implemented and the relationships between the new and existing structures. Uncoordinated or poorly thought-through implementation would risk deterioration in outcomes. For example, it will be important to clarify how prison governors relate to Community Rehabilitation Companies, over whose contracts they do not have control.

The impact of spending reductions on local partnerships

100. The Magistrates Association observed that reductions in spending, both from the government directly and through local authorities, were placing locally driven initiatives which provide valuable support to those likely to offend or reoffend under enormous pressure. Cuts had also led to a weakening of systems for co-ordination between different parts of the criminal justice system.198

101. Mr Michael observed that the fiscal climate had not undermined partnership work in Wales. In his view quite the opposite had occurred:

I have been around in public service long enough to have seen previous recessions when organisations have drawn back to their core services and said, “We can’t afford the luxury of doing things with others.” There is something different, certainly in Wales, on this occasion, where—in local government, Welsh Government and other services—instead, people are far more saying, “We have to do more together. There has got to be more collaboration when the going gets tough.”199

Councillor Kober agreed that partnerships were being maintained, and in London, being strengthened, in recognition of the scale of the budget reductions required and in the face of increases in demand.200 Nevertheless, both the Local Government Association and London Councils point to a longer-term reduction in the resources that are available to drive down crime. London Councils estimated that existing cuts, along with further predicted reductions, and an increase in demand, will create an overall funding gap of up to 24% by 2020. The LGA suggested that the need for austerity creates a greater incentive to invest in preventative measures in an effort to reduce demand for services but acknowledges that partners will not necessarily benefit equally from any resulting reductions in crime and disorder. Our evidence suggests that local partnerships, and their component agencies, recognise the mutual advantage of collective endeavours to reduce crime and are conscious of the risks of retreating to their own priorities in the face of financial constraints.

Prison safety and rehabilitative effectiveness

102. There was less confidence about the impact of spending cuts on prisons. In relation to safety, the Chief Inspector of Prisons had some concerns that there were fewer prison staff

198 Q467
199 Q72. See also Police and Crime Commissioner for South Wales (PPC0030).
200 Q96. See also Police and Crime Commissioner for South Wales (PPC0030).
in contact with prisoners, and that recent increases in self-inflicted deaths and assaults were symptomatic of “a system under real strain”; at this time the prison system was operating at 10.2% over capacity.\textsuperscript{201} Mr McLennan Murray suggested that the combination of larger prisons and fewer resources risked prisoners feeling anonymous, which in turn had a psychological impact that could change the culture of the prisons, and make them inherently more risky.\textsuperscript{202}

103. The potential impact on rehabilitative outcomes was also raised. The Prisons Inspectorate drew the following conclusions in relation to levels of purposeful activity in the establishments they visited in 2012-13: activity outcomes were poor and falling; too many prisoners spent too long locked in their cells, and evening association was increasingly curtailed; there were too few activity places, and low take-up of what was available, often disrupted by poor attendance and punctuality, prison routines and other activities.\textsuperscript{203} The Prisoner Learning Alliance’s discussions with prison governors led them to conclude that budget cuts were making it harder to achieve rehabilitation outcomes in custody. They observed: “although the MoJ may be making initial savings in the prison estate, if this makes it harder to achieve rehabilitation and desistance outcomes, then the predicted savings as a result of reduced reoffending will not be achieved.”\textsuperscript{204} The Alliance also noted the rapidity of policy change in prisons whilst cumulative cost savings are being made, drawing our attention to the introduction of new Offender Learning and Skills contracts which are still bedding in, closely followed by announcements of the creation of resettlement prisons, Community Rehabilitation Companies, and secure colleges. It was Martyn Underhill’s perception that decisions about the designation of resettlement prisons and the prison closures programme were disconnected from each other.\textsuperscript{205}

104. A recent joint Inspectorate report about the quality of offender management of prisoners found that there are too few structured programmes available within prisons designed to challenge offending behaviour and promote rehabilitation. Some prisons offered a reasonable range of accredited and non-accredited programmes for their population; others offered no programmes at or were in the process of running down their provision. According to the Inspectorates, the lack of programmes was not sufficiently compensated for by prisoners being transferred to prisons where such programmes could be accessed.\textsuperscript{206} Mr Wright submitted that it was not possible to generalise in terms of the impact of savings in the prison estate on access to offender behaviour programme and too soon for any impact to have been made on reoffending rates, but acknowledged that there was a particular issue with serious assaults on staff.\textsuperscript{207} Nonetheless, he said “I do not believe that anything is being done, in terms of any economic rationalisation, which is putting at

\begin{itemize}
\item[201] Q392
\item[202] Q395
\item[203] HM Chief Inspector of Prisons for England and Wales, \textit{Annual Report 2012-2013}, HC 682, 23 October 2013
\item[204] Established by Prisoners’ Education Trust in November 2012 to bring together diverse non-statutory stakeholders with senior cross-departmental officials, to “provide expertise and strategic vision to inform future priorities, policies and practices relating to prison education, learning and skills.” (PPC0029)
\item[205] Martyn Underhill (PPC0023)
\item[206] See also Rob Allen (PPC0020)
\item[207] Q527
\end{itemize}
risk the rehabilitation of prisoners, much less public safety.”

We plan to consider these matters more fully in our new inquiry on Prisons: planning and policies.

105. When resources are scarce, it does not make sense to over-use the prison system without providing effective rehabilitation, because the result is likely to be higher re-offending. A prison system which effectively rehabilitates a smaller number of offenders, while other offenders are rehabilitated through robust community sentences, has the potential to bring about a bigger reduction in crime.

**Innovation in courts: a casualty of the cuts?**

106. The Magistrates’ Association suggested that decision-making in relation to court efficiencies had been similarly disjointed. They said: “In one breath a comprehensive review of the court estate is being announced in order to develop a planned approach to the provision of justice (and not before time). Days later a consultation is launched to close another eighty courts in the interests of saving money.”

107. The Centre for Court Innovation was of the view that the Government’s court reform programme had been geared toward court efficiency rather than recognising the contribution that courts could make to reducing crime more effectively, for example, through the adoption of procedural justice and problem-solving approaches. The extension of community courts was a priority for the previous Government, which had established pilots of specialist drug courts, mental health courts and domestic violence courts, and planned to extend problem-solving approaches to all magistrates’ courts.

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208 Ibid.
209 Magistrates’ Association (PPC0017)
210 Centre for Justice Innovation (PPC0010)
Success through addiction recovery (Star) Court, Houston, Texas

Drug users, known as clients, spend between one and two years on the programme, which is followed by a period of after-care. The court contracts directly with inpatient and outpatient treatment providers and transitional housing providers enabling clients to access secure accommodation for 60-90 days. Clients are also obliged to comply with other directions made by the judge at each weekly hearing. Clients are subject to random drug testing at least twice a week. Members observed the “staffing” meeting during which decisions were made about the approach that would be taken with respect to each client when the court is in session based on intelligence from treatment providers about developments over the previous week. Each client is then called before the judge, in the presence of all the other clients, and discusses their progress or otherwise. Clients can request a hearing if they disagree with the judge’s decision. Consistency across the four drug courts is important as attendees of all courts are in treatment together. The central co-ordinator has oversight of all cases. Additionally, sanctions, which are applied for various issues including missing treatment, negative tests, and lack of compliance with housing provider rules, are taken from a grid, including 8 hours community service for example. Positive reinforcement for good progress includes monthly sobriety chips and a weekly “shining star” award. The programme has a very low reoffending rate (less than 8% three years after completion).

Stockport Problem-Solving Court

In 2010 the Clerk to the Justices’ steering group discussed the possibility of a problem-solving court in Greater Manchester and visited Sefton Magistrates Court in Merseyside court (which had different criteria and framework to the court that was subsequently established in Stockport). Problem-solving courts fit into Greater Manchester’s demand management agenda as they take a preventative partnership approach to managing offenders sentenced in the court (and their victims), rather than focusing on crisis management. Sentence planning meetings are attended by all relevant agencies, chaired by probation. Cases are diverted to the court at pre-sentence stage if plead guilty, or found guilty and magistrates identify multiple or complex needs, for example, homelessness, mental health, drugs and/or alcohol misuse. The Court has a dedicated Bench and dedicated legal advisers. There is a focus on continuity of the Bench for each case, including following breach. Cases are sentenced within mainstream sentencing provisions, which can include custodial sentences. The offender is tracked through the sentence by both the probation officer and the sentencing bench; the latter provide 5-weekly reviews. Partners include employment, housing, DWP and social services. The post-pilot evaluation, which is currently in its second year, identified a cost of £63,000 to the community safety partnership, GMPT and other partners and calculated a £3.49 return for each £1 spent. It was estimated that £219,000 were accrued in savings to the prison service over 13 months for those cases that met the threshold for a custodial sentence. There were also savings to health services: for example, 47 of those offenders sentenced in the court had attempted suicide in the year before, and only 1 did so after. Despite the fact that the sentence reviews are voluntary, unless there is a drug treatment requirement, there is a compliance rate of 78%. The court has been mainstreamed since 2012 and the approach is now being rolled-out across Greater Manchester.

108. The Centre for Justice Innovation and Criminal Justice Alliance pointed to a growing evidence base about the value of problem-solving courts, particularly from the US. This does not appear to have amounted to anything in England and Wales, despite the success of some of the pilots and the support of magistrates. The Magistrates’ Association attributed this to funding. Mr Monkhouse explained that this is the case even in drug treatment cases where the principle is long-established: “[Drug case reviews] are not used as much as they used to be. It is an efficiency problem. “Is this going to mean another hearing? Is this going to mean another sitting? Well, let’s not do it, because it is going to cost money.” Justice is more important than that. Again, you have to strike that balance

212 Centre for Justice Innovation (PPC010)
213 Qq481–483
between economy and justice. Penelope Gibbs concluded that the centralisation of the administration of magistrates’ courts had hampered court innovation:

‘…innovation can happen if organised centrally, but the evidence from centralisation of the court system is that it has not fostered innovation. In fact, the innovative things that have happened have mainly been closed down by the centre. Maybe the problem with them was that they started in the centre in the first place rather than being an idea that came up from the bottom […] it would be easier to get innovation if people did not have to go through a huge hierarchy if they have an idea at the bottom. The evidence from the staff survey of HMCTS is that people don’t think it is very easy to get new ideas through.’

109. Phillip Bowen, Director of the Centre for Justice Innovation, which was set up in the UK by the US Centre for Court Innovation, believed that these approaches could be adopted relatively simply, and within existing resources. For example, the use of systematic sentencer reviews, which—in addition to improving the effectiveness of individual sentences due to the greater responsibilities placed on the offender to progress and the sentencers direct oversight of this—can help sentencers to recognise gaps in service provision. In the US, this has enabled them to become proponents of system reform; indeed some problem-solving courts grew out of a desire on the part of the judiciary to do just that. In England and Wales, despite support for this in principle, the thorny question of how far the judiciary can, within the confines of its independence, work with executive agencies in the interests of crime reduction, appears to have thwarted the widespread adoption of such efforts.

110. At a recent public “Conversation with the Lord Chief Justice” event, the Lord Chief Justice, Lord Thomas of Cwmgiedd, was asked about his views on judge-led initiatives like problem-solving courts. His response did not appear to preclude such activity. He said that he was keen to encourage new initiatives provided this did not result in there being localised differences in the system of justice. If this were to happen he wished there to be “complete agreement on it being taken forward by those who (a) hold the purse strings and, b) who are going to be providing information to the court and c) those who are going to be carrying out what the court does. A judge acting on his own will really get nowhere, but he can play an important part in leadership.” Nevertheless, Jeremy Wright confirmed that while the Government had not closed the door on the idea, it had no current plans to give sentencers the powers to review cases, explaining that recent changes to the sentencing framework gave greater flexibility to the delivery of sentences, and that he was not convinced that these reviews had any meaningful purpose.

214 Qq463, Q481
215 Q471. See also Penelope Gibbs, Managing magistrates’ courts - has central control reduced local accountability?, May 2013
216 Qq456–7, 464
217 Qq469, 473
218 Qq465, 468–469
219 Better Courts: The Lord Chief Justice, in conversation, 2 January 2014
220 QS36
111. Another means of applying a problem-solving approach more widely, which would also address the Magistrates’ Association’s observations about the balance of priorities, would be the extension of neighbourhood justice panels, volunteer-led community resolution panels that hear low level crime and anti-social behaviour cases. The Centre for Justice Innovation said:

This panel, and other approaches like it, offer a glimpse of how our court system could combine swiftness with procedural fairness by finding a way to resolve issues before they need to escalate to court which is not as perfunctory as the dispensation of out of court disposals by the police.

Mr Bowen explained that while the panels have high rates of satisfaction for victims, they hear only a relatively small volume of cases, in relation to the numbers receiving fines and discharges in magistrates’ courts to which they could be an alternative. Jeremy Wright indicated that there were plans to give magistrates responsibility for monitoring youth diversionary programmes. The absence of court representation on local community safety partnerships (in part because of sensitivities about judicial independence) and the centralisation of the courts service, have together resulted in a situation where there are few champions for court innovation at local level. HMCTS has prioritised efficiency savings, seeing courts as purely instrumental institutions involved solely in processing and resolving cases. As a result an opportunity has been missed for encouraging greater innovation, which could have the potential to make broader systemic savings by improving the effectiveness of the whole criminal justice system to reduce crime. If as our evidence suggests, efficiency savings have shelved the wider adoption of problem-solving approaches in courts, this is greatly to be regretted. However, there is much that can be achieved within the confines of the existing sentencing framework which need not require additional resources. We consider that the judiciary and HM Courts and Tribunals Service should see crime reduction as an intrinsic part of their role.

The evidence-base for crime reduction policy-making

112. As resources are increasingly devolved to local decision-makers, the Government has an important role in encouraging and publicising best practice. Some initiatives are piloted carefully to develop a robust business case, while others are implemented before completion and robust evaluation, the delays in implementing mental health liaison and diversion schemes and the early decision regarding the direction of the Transforming Rehabilitation reforms being prime examples.

The relationship between research and policy-making

113. We took evidence from a number of eminent academics about the relationship between academia and Government in relation to the development of crime reduction policy. Professor Gloria Laycock explained: “research is only one of umpteen things that

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221 In these panels, offenders and victims get a chance to explain their views on the incident, using restorative justice conferencing. The community, represented by a panel, asks the respondents to develop a way to resolve the case satisfactorily, brokered between the two sides.

222 Centre for Justice Innovation (PPC0010). See also Q476

223 Rt Hon Damian Green MP speech to Policy Exchange, Modernising the Magistracy, 24 March 2014. See also Q536.
influence policy. I don’t blame the Prime Minister for wanting to be re-elected for example. That is what politicians seem to want. It is perfectly rational. I don’t say it critically, but research, precedent, cost, politics, the media—all those things—influence policy. She further observed that every time there is a change of Government there seems to be a change of criminal justice policy, unlike a matter like terrorism, on which there is more consistent policy across administrations.

114. All these witnesses wished to see research higher on the Government agenda, but acknowledged that just as Ministers and civil servants need to engage better with researchers, academics have a role to play in presenting their research more clearly and accessibly. The latter is also complicated by the multiplicity of approaches that could contribute to more enlightened crime reduction policy making. Professor McDougall said:

[Academics] really need to make it clearer where we are coming from, because we have sociological approaches, economic approaches, psychological approaches, and longitudinal approaches. They all go together, but the way they are communicated, it sounds as if they don’t. We have lots of ideas and good theories but that is not the same as research evidence.

There was some disagreement among our academic witnesses about the meaning of academic rigour, reflecting divisions in the wider academic criminology community. There was greater accord on the need for better funding by the Government of primary research. Professor McDougall was positive about the research that NOMS had conducted, but considered it limited in scope, and concluded that new policies were being implemented all the time and were not evaluated. We received evidence of two areas of research in particular that should have a greater bearing on approaches to reducing crime: procedural justice and trust which suggests that the way people are treated by the system is as important as the outcome, and the processes by which people desist from crime. Jeremy Wright believed that there were good links between Government and the academic community, though this was not necessarily through MoJ or Home Office funded research.

115. An open information culture will be important in the development of payment by results. The Criminal Justice Alliance argued that “[d]ata must be openly available, and not retained by individual providers, and research and assessment on what works must also be openly available to allow providers to learn from each other.” This is all the more crucial as the monitoring expectations required of new providers to provide evidence of their outcomes should provide a wealth of data to inform the collective understanding of

224 Q281
225 Q291
226 Q281, 287 [Professor Laycock]; Q284 [Professor McDougall]; Q285 [Professor Farrall]; Q293 [Professor Farrington]. See also Professor Shepherd (PPC0037)
227 Q285
228 Professor Mike Hough and Colleagues (PPC0081); Criminal Justice Alliance (PPC006); Centre for Justice Innovation (PPC0010); The Howard League for Penal Reform (PPC0016); Professor Stephen Farrall (PPC0036); See Hough, M. Bradford, B, Jackson, J. and Roberts, J.V. (2013) Attitudes to sentencing and trust in justice: exploring trends from the crime survey for England and Wales. Ministry of Justice Analytical Series. London, UK: Ministry of Justice.
229 Q517
230 Criminal Justice Alliance (PPC006)
effective practice in reducing reoffending. The Ministry needs to make clear how the Transforming Rehabilitation reforms will be evaluated, and how the evidence of success or failure of differing approaches will be used to inform policy.

116. In this context, some witnesses suggested that our predecessor Committee’s proposals for an independent equivalent to the National Institute for Health and Care Excellence for criminal justice should be re-examined. Professor McDougall proposed that this would have the benefit that decisions about the evidence base are taken unbiased by political opinion, but believed that this prospect was a “long way off”. She argued rather that research in criminal justice is a “disposable commodity”. Professor Jonathan Shepherd, Cardiff University, felt that there was insufficient integration between academic research and criminal justice services and practitioners. He cited the greater integration of practitioners and academics in fields such as medicine as an example that could be followed in criminal justice.

**Washington State Institute for Public Policy**

117. One example of what could be achieved if such an approach were taken is another promising US initiative cited in our predecessor Committee’s report: Washington State Institute for Public Policy’s work with the State Legislature to identify on the basis of cost-benefit analyses, how best to invest money to save crime. There has since been a decline in both crime and imprisonment. The Youth Justice Board is now seeking to adopt such an approach: Dartington Social Research Unit has been contracted to work with the Institute to assess the costs and benefits of youth justice programmes and apply to them to the direction of youth justice spending. Professor Farrington advocated wider adoption of such an approach to carefully calculate the costs and benefits of all sorts of different ways of reducing crime, and to “make recommendations about where to get the best bang for the buck.” None of the various developments in improving the relationship between evidence and practice described in chapter three fulfil this function. The What Works Centre for Crime Reduction, as promising as it sounds, is currently centred predominantly on policing. The Probation Institute is in its infancy, and has a focus on probation practice.

118. We agree with our witnesses that there should be an independent and authoritative body to evaluate evidence on the effectiveness of crime reduction policies. Ultimate decisions on those policies would of course rest with elected politicians. Whilst there have been some positive developments, including the creation of the What Works Centre for Policing and the Probation Institute, we do not have the right structures in place to provide a collective memory of research evidence, its relative weight, and its implications for policy-making, including the capacity to make decisions about the best direction of

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231 Qq284, 291
232 Professor Shepherd (PPC0037)
234 Q283 [Professor Farrington]
235 Ibid.
236 Ibid.
resources. The Government should also consider how it can promote better integration between criminal justice practitioners and academic research. The large scale reforms to rehabilitative services provide an opportunity to collate and spread knowledge about effective practice in reducing re-offending that must be capitalised on by the Government. This will require clear ownership of the data, consistency in monitoring systems, and robust evaluation, matters on which the Department has been quiet. We expect the Ministry to explain how it will seek to achieve this in its response.

The potential of technology in targeting crime reduction activity

119. The Cutting Crime report highlighted the potential of taking a more epidemiological approach to the reduction of crime, both at national and local level.237 Witnesses agreed that this continued to be the case, and that limited progress had been made, despite the plethora of information now recorded electronically by various agencies, and the potential of technology to join that up and make it more accessible. Several examples illustrates the difficulties experienced by our witnesses. The LGA cited the length of time it has taken to implement the Government’s commitment to the sharing of data from accident and emergency departments for the purposes of reducing alcohol-related violence—which was advocated by our predecessor—as an example of the difficulties faced in cross-departmental co-ordination of cross-cutting issues.238 A recent audit found that only one third of A&E departments had shared this information.239 Dr Eamonn O’Moore explained that Public Health England now has a wealth of data, for example, about those accessing drug services, and violence indicators, to enable local authorities and clinical commissioning groups to better understand the needs of their local population. Dr Alison Frater had been frustrated in efforts to share information by data protection obligations, for example, it has only recently become possible to track people accessing NHS services on the prison estate, post-release.240 Similarly, London Councils found that lack of access to personalised data undermined their ability to judge the effectiveness of locally delivered crime reduction projects and raised concerns that structural changes within the Metropolitan police service, may jeopardise the ability of local authorities to intelligently direct resources in the future.241

120. Martyn Underhill saw potential in cloud-based software being used by all agencies in relation to the management of risk and harm.242 Unilink expounded various means of utilising biometric technology in developing efficiencies in the prison system and through-the-gate case management.243 On the other hand, Big Brother Watch, a civil liberties and privacy campaign group, urged attention to be given to protecting privacy in the use of personal data gathered through digital surveillance, for example CCTV.244

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238 Local Government Association (PPC0011)
239 Ibid. See also Violent crime in England and Wales falls again, A&E data shows, BBC News, accessed 16 July 14
240 Q103
241 London Councils (PPC0005)
242 Martyn Underhill (PPC0023)
243 Unilink Software Ltd (PPC0004)
244 Big Brother Watch (PPC0015)
Government does not appear to have taken a data-driven approach to the cost-effective application of resources in the face of the requirement to make cost savings. Knowledge of levels of victimisation and repeat victimisation amongst certain geographical areas, communities or sectors of the population does not adequately inform policy on crime reduction.
5 Revisiting a justice reinvestment approach?

121. One of the central conclusions of the Committee’s report on justice reinvestment was that effective crime reduction policies should enable reduced spending on the prison system and make it possible to achieve better return on investment in efforts to reduce crime and re-offending over several spending cycles.\textsuperscript{245} The Committee proposed that the Government should therefore develop incentives for longer-term planning nationally, regionally and locally. The Committee believed that there needed to be a direct financial incentive for local agencies to spend money in ways which would reduce prison numbers, and that this incentive would not exist as long as the costs of imprisonment were borne at national level. The key question that they sought to answer was how best to facilitate this. They advocated a whole systems approach, which applies the best available research evidence to determine the most appropriate allocation of resources between prisons, and probation, and measures outside the criminal justice system to address the causes and social origins of crime. They argued that organisation and funding should explicitly recognise the correlation between offending and social exclusion in the places where crime most occurs, using geographical mapping to target resources. They suggested making a business case to the Treasury for spending a significant part of resources which were earmarked for new prison building on the creation of a central justice reinvestment fund. Over the longer term they recommended exploring the devolution of custodial budgets to local level. The then Government’s response asserted that “the Government cannot set a clear direction to reduce the use of custody as an end in itself” which would be “simplistic and does not take account of the complexity of the issues at stake”; they also believed that the Committee overestimated “the benefits which might accrue from moving towards a justice reinvestment-style approach.”\textsuperscript{246}

122. We consider here whether there is evidence to support the benefits of adopting justice reinvestment approaches as espoused by our predecessor and we consider the extent to which the Government’s Transforming Rehabilitation reforms and wider crime reduction measures constitute such an approach. First we examine how the application of justice reinvestment has been developing in the US, where the concept was first developed.

Developments in the implementation of justice reinvestment approaches in the US

123. Half of US states have now implemented justice reinvestment approaches, often with bipartisan backing.\textsuperscript{247} Some of these initiatives have been supported by the US Department of Justice, which has recently increased its financial commitment towards them. In July 2013, we visited Houston and Austin in Texas, one of the first states to adopt the approach,
to speak to the proponents of reform and see some of the programmes that have been adopted.

**Texas case study**

Texas has long been regarded as a state with some of the "toughest" criminal justice policies in the US. In 2007, its prison population was projected to grow by more than 14,000 people over a five-year period, costing taxpayers an additional $523 million for the construction and operation of new prison facilities. With bipartisan leadership, policymakers identified and enacted alternative strategies in an attempt both to increase public safety and avert the projected growth in the prison population at a net saving to the state as they would cost only $240m. These included investing in parole and probation policies; expanding the capacity of community-based treatment programmes and residential drug and alcohol treatment facilities; expanding drug courts and other specialist courts to place offenders who committed minor crimes in treatment programmes; and expanding the nurse-family partnerships programme (an evidence-based, community maternal health initiative, referred to in the UK as family nurse partnerships, that serves low-income women pregnant with their first child) using savings generated by reductions in prison expenditure with a view to improving outcomes for low-income children and families. At the same time funding was authorised for the construction of three new prisons which could proceed only if the new policies and programs were not effective. This has not been necessary. Furthermore, one prison has since been closed and the legislature has authorised the closure of two more. Texas now has the lowest crime rate since 1968.

124. During our visit we spoke with the architects of the reforms and visited several of the various alternative programmes that had been adopted. In Harris County, Houston, one of the largest counties in the US, and the area that reportedly contributed the most prisoners to the state prison population, we met representatives from the nurse-family partnership programme, which has been running in Texas for 5 years and is mostly state-funded; and the Success through addiction recovery (STAR) court, which provides weekly judicial oversight over a programme of treatment for non-violent, repeat drug offenders. In Austin, we visited the downtown community court which takes as a problem solving, rehabilitative approach to sentencing public order offences, many of which are committed by a small number of defendants who cycle through the criminal justice system at a high cost to all community services; the Kyle Substance Abuse Felony Punishment facility, which provides prison-based drug therapy, followed by mandatory aftercare. We also met representatives from: the Texas Department of Criminal Justice which manages offenders in state prisons, jails and private correctional facilities and provides funding and some oversight of probation supervision; the Council on at Risk Youth, which works with young people who have been suspended from or removed from schools to divert them away from later entry into the criminal justice system; the Council for State Governments Justice Center, which conducted much of the data analysis to identify the likely efficacy of the alternative approaches adopted; and two think tanks, the Texas Public Policy Foundation which generates conservative ideas on criminal justice and manages the Right on Crime project, and the Texas Criminal Justice Coalition, which seeks to promote smart justice policies for non-violent, non-sexually based offences.

125. During our visit we were particularly interested in the way in which a political consensus had been created around a new justice reinvestment approach. Jerry Madden, the former Republican Chair of the Corrections Committee, told us that when he became Chair he sought to build a coalition of people who knew about criminal justice, including Democrat State Senator Whitmire on the Finance Committee, and discussed how to break the cycle of offending, which was leading to a continuous need for more prison capacity. Using his engineering background, he thought about how to get around such a blockage:
you either let people out (which was politically impossible) or you tried to slow down the numbers coming in. He characterised the previous politically polarised approach as either having to be soft on crime or stupid. He believed that the Texas legislature were now unlikely to retreat from the new political consensus as the rhetoric regarding saving money has been usurped by an understanding that it is the right approach in principle: it is not only cheaper but making the public safer and victims are receiving more restitution. Senator Whitmire believed that the changes were made possible in part because of a series of lucky breaks: it was easier for a Republican politician to make the decision not to build further prisons; he shared this view and was influential on the Finance Committee; Texas ran out of prison capacity; and the Sunset Committee, which reviews public sector agencies, decided to review the prison service in 2006, and concluded that it was very inefficient.

Developments in the implementation of justice reinvestment approaches in England and Wales

126. Several of our witnesses were supportive of our predecessor’s work on justice reinvestment and shared an ambition to see more widespread application of such principles to criminal justice reform.248 The justice reinvestment pilots—which tested the application of a financial incentive to the reduction of demand—were therefore welcomed by many of our witnesses who wished to see the Government further considering the merits of such an approach.249 Some regretted that they did not appear to be proposing to do so.250

127. According to the independent evaluation by Sheffield Hallam University, the Manchester and London justice reinvestment pilots, which ran until June 2013, delivered strong results in reducing demand and making associated savings which supports our predecessor Committee’s assumption that this was likely to be the case.251 The aim was to give participating local partnerships a financial incentive—representing half of the estimated savings to the Department—to reduce the overall demand on the criminal justice system by working together more effectively at the local level. In four boroughs in London, savings downstream meant just over £3 million could be ploughed back upstream, to spend on further initiatives to reduce reoffending. In Greater Manchester this amounted to just under £5 million.252 A fifth London borough, Croydon received no payment having been unable to reduce demand. This area aside, reductions in demand over the two year period amounted to between 15 and 27% in the adult system, and between 42 and 55% in the youth justice system. It was a condition of the incentive payments that funding was reinvested in initiatives to reduce reoffending, rather than broader crime reduction projects.

248 Criminal Justice Alliance (PPC0006)
249 Criminal Justice Alliance (PPC0006); Prison Reform Trust (PPC0013); Howard League for Penal Reform (PPC0016)
250 Howard League for Penal Reform (PPC0016); Q58 [Mr Michael]
252 Ibid.
Crime reduction policies: a co-ordinated approach?

Table 1: Results for year 2 of Local Justice Reinvestment pilot, and equivalent figures for Greater London and England & Wales

<table>
<thead>
<tr>
<th>Local area</th>
<th>Change in demand (adult) (%)</th>
<th>Change in demand (youth) (%)</th>
<th>Payment due (£000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater Manchester*</td>
<td>-14.9</td>
<td>-42.1</td>
<td>£4,986</td>
</tr>
<tr>
<td>Southwark</td>
<td>-26.7</td>
<td>-50.0</td>
<td>£844</td>
</tr>
<tr>
<td>Lewisham</td>
<td>-18.1</td>
<td>-53.1</td>
<td>£792</td>
</tr>
<tr>
<td>Hackney</td>
<td>-20.1</td>
<td>n/a</td>
<td>£659</td>
</tr>
<tr>
<td>Croydon</td>
<td>-0.9</td>
<td>6.7</td>
<td>£0</td>
</tr>
<tr>
<td>Lambeth</td>
<td>-17.7</td>
<td>-45.9</td>
<td>£737</td>
</tr>
<tr>
<td>Total LJR payment</td>
<td></td>
<td></td>
<td>£8,019</td>
</tr>
<tr>
<td>England &amp; Wales</td>
<td>-10.5</td>
<td>-36.8</td>
<td></td>
</tr>
<tr>
<td>Greater London</td>
<td>-13.4</td>
<td>-28.3</td>
<td></td>
</tr>
</tbody>
</table>

*Note that Greater Manchester is by far the largest of the local areas, which partly explains why it receives the largest payment.

128. The full evaluation report of the pilots will be published later this year, but evaluators concluded after the first year that the projects were most successful when there was co-terminosity between local authorities and criminal justice agencies and where the pilots were able to integrate with other government initiatives, particularly whole place community budgets. 253 This was the case in Greater Manchester which we visited in February 2014.

253 Ministry of Justice, *The development and Year One Implementation of the Local Justice Reinvestment Pilot*, 2013
Greater Manchester Justice Reinvestment case study

Greater Manchester has one of the highest levels of offending and reoffending in the country, representing a high cost to victims, communities and the economy due to the resulting drain on public services. The crime reduction agenda was therefore set in the context of a desire to reform public services with a view to generating growth: it currently draws £5bn more from the country’s economy than it contributes. Under the pilot a range of metrics were used to measure reduction in demand across the criminal justice system, including short-prison sentences, court and community orders. The payment mechanism required no risk transfer to local partners. Nevertheless, it had been challenging to balance cost-reduction with “doing the right thing” as demand reduction could lead to perverse behaviour. The metrics were susceptible to spikes, such as followed the summer riots, and general sentencing trends.254 The sentencing trend in Greater Manchester had been upward, so the reductions in demand were achieved against the flow.

The justice reinvestment pilot ran alongside a community budget pilot, with the “transforming justice” agenda being identified as one of 4 key workstreams, alongside Troubled Families, Health and Social Care and Early Years. This work aimed to reduce reoffending, numbers of victims and demand across criminal justice agencies, health, housing and local authorities, through the generation of evidence-based new delivery models for point of arrest, point of sentence and point of release. The work included: upscaling effective projects such as Intensive Community Orders and the North West Resettlement Consortium for young offenders being released from prison; the design of a whole-system approach for women offenders; and increasing the use of police custody triage. Reductions in convictions were also driven to some extent by the use of restorative justice, which also offered benefits to victims, and engaging the public.255

One challenge of the model was that cashable benefits require cashable savings which are difficult to achieve, particularly with regard to short-term custodial sentences. In addition, those left in the system tend to have more entrenched behaviours and problems, requiring a greater intensity of resources; any savings made would need to address this, as well as fund preventative work. Although the pilot had ceased the work continued underpinned by investment agreements. A Justice and Rehabilitation Executive Board has been established, chaired by the Police and Crime Commissioner, to drive strategic reform to continue to link Public Service Reform with the implementation of Transforming Rehabilitation, and to co-commission services. The Board has shared expectations of would-be new providers of probation.

Transforming Rehabilitation and justice reinvestment

129. In the 2010 Breaking the Cycle consultation paper, in which the Ministry signalled its intention to pay probation providers by results in reducing reoffending, it was suggested that such a payment mechanism would make “the concept of justice reinvestment real by allowing providers to invest money in the activity that will prevent offending rather than spending money on dealing with the consequences.”256 We proposed in our 2011 report on the probation service which considered these proposals that a fully integrated local model should be adopted for commissioning prisons and probation places. The Government subsequently took the decision to integrate the commissioning of rehabilitative services across prisons and probation under its Transforming Rehabilitation reforms on a national basis. This differs from what we envisaged in some important respects and we consider here whether their approach would therefore preclude justice reinvestment being pursued.

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254 A decision was taken not to exclude those offences responsible for the summer riots spike.

255 Restorative is used in various ways: alongside Intensive Community Orders (re-offending after restorative justice fell to 12% between 2010 and 2012 for the intensive alternatives to custody programme); in Neighbourhood Justice Panels where the focus is on co-production i.e. police working with victims and communities and building social capital to respond to crime and anti-social behaviour (the lowest reoffending rate is 2.6%); to prevent young people from entering the criminal justice system (there has been a 30-40% reduction in entrants and evidence suggests entrance is prevented rather than simply being delayed); and increasingly at various stages of the sentencing process, including the emerging use of deferred sentencing to enable RJ to take place.

256 Ministry of Justice, Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders, December 2010 p 38
Crime reduction policies: a co-ordinated approach?

130. Rob Allen, who was a specialist adviser to our predecessor Committee on its justice reinvestment inquiry, observed that there are three key elements which all need to be present in genuine justice reinvestment: i) an overarching and explicit policy goal of reducing the numbers of people being prosecuted, convicted and imprisoned; ii) a method of financing criminal justice institutions and processes which incentivises the transfer of resources away from prison places and into community based measures for rehabilitating offenders and preventing crime; and iii) devolution of responsibility for criminal justice to a more local level where a range of relevant organisations can devise the most appropriate approaches to reducing crime, incorporating the views of people most affected by it.\(^{257}\) Fox et al have characterised justice reinvestment approaches as a continuum, with purer social justice models at one end, and criminal justice centred approaches at the other.\(^{258}\) We consider in the remainder of this chapter the extent to which the Government’s reforms preclude or support a journey towards a system underpinned by justice reinvestment principles.

**Freeing resources to invest in crime prevention**

131. The Prisons Minister Jeremy Wright told us that while there was potential to reduce demand on the system through the reduction of reoffending, the potential savings that might be accrued as a result had not been included in the consideration of the affordability of the reforms.\(^{259}\) At one stage it appeared that savings from the benchmarking programme in public sector prisons would be ‘reinvested’ to fund the Transforming Rehabilitation reform programme, but these have now been subsumed into overall efficiency savings. As we noted in our interim report, there is no estimate of how much the Ministry would additionally need to save to afford the cost of implementing its programme, including the structural reform required, or how quickly savings will be realised to fund the extension of twelve month’s post-release statutory support to all prisoners.\(^{260}\)

132. Mr Allen believed that the Government had missed an opportunity to reduce the size of the prison population and reinvest savings into the community along the lines recommended in the Committee’s report:

> Just as enforced contraction provides a positive opportunity to reappraise what the police should be doing, so it does for the criminal justice system as a whole. In straitened times we should be looking to develop a narrower approach to the use of prison and with it a broader approach to community justice.\(^{261}\)

133. The Centre for Crime and Justice Studies similarly saw considerable scope for a reduction in criminal justice spending, if this reduction is complemented by a comparable reduction in the size and scope of the criminal justice agencies affected. They suggested

\(^{257}\) Allen, R. *Justice reinvestment: empty slogan or sustainable future for penal policy?* Transform Justice, February 2014


\(^{259}\) Q557


that the question of the rates of harm and victimisation in society and the question of the size and scope of the criminal justice system need to be separated, reflecting the research evidence cited above which indicates that levels of victimisation are related to underlying social arrangements, rather than the interventions of criminal justice agencies.\textsuperscript{262} As the Centre for Justice Innovation observed, courts are the key decision maker in the justice system, whose decisions determine resources:

It is courts that make decisions about the use of custody, about what offenders have to complete on their community sentences and who gets fined and who gets discharged. These decisions largely determine where costs are absorbed across the justice system. There is a risk is that in seeing the courts as separate from offender management services and from crime reduction, the Government reforms may miss out on opportunities to allocate resources more efficiently across the justice system. For example, there may be more efficient ways for courts to allocate resources between custody and community supervision, and community supervision and fines, which Government reforms may miss because they are not looking at justice from a systems perspective.\textsuperscript{263}

Nevertheless, according to Phillip Bowen, one of the reasons why Governments do not commit to reducing the prison population is that the financial incentive on the Treasury is relatively weak in terms of the proportion of budgets spent on imprisonment, compared to some US states, for example.\textsuperscript{264}

134. Some crime reduction initiatives have taken what could be described as a justice reinvestment approach in enabling national funding to be targeted to meet local needs. Under the gangs, troubled families, and violence against women and girls programmes central government has provided guidance and direction, with local areas free to utilise the national expertise and resources available to meet their own needs. Additionally, in relation to the civil justice system, the Government has made an explicit commitment to use courts as the last resort on the grounds both of their costs and of the limits in their effectiveness.\textsuperscript{265} We heard other examples of decisions by central government that could have lent themselves to the application of justice reinvestment principles. For example, funding for victims services has been devolved to PCCs on a per capita basis, rather than on a more targeted basis in relation to the corresponding level of crime or victimisation.\textsuperscript{266} Responding to public concern that cautioning is not being applied in the right cases, the Government commissioned a review of out of court disposals.\textsuperscript{267} A broader review could have examined also the cost-base of the system, i.e. whether the right types of offences are being tackled in the most cost-effective and just way. Some witnesses expressed concerns that the Transforming Rehabilitation reforms could, perversely, lead to an increase in the

\footnotesize{\textsuperscript{262} Centre for Crime and Justice Studies (PPC0022)}
\footnotesize{\textsuperscript{263} Centre for Justice Innovation (PPCD010)}
\footnotesize{\textsuperscript{264} Q492}
\footnotesize{\textsuperscript{265} https://www.gov.uk/government/news/lord-faulks-court-should-be-the-last-resort}
\footnotesize{\textsuperscript{266} Q98}
\footnotesize{\textsuperscript{267} Qq519–520}
use of short custodial sentences because they will also provide a route to supervision and rehabilitation. 268

135. Accountability for reducing crime and reoffending cannot be limited to the Ministry of Justice and Home Office. The creation of the kind of support framework that will get to the heart of the deep-seated challenges of reducing crime, and reducing levels of victimisation accordingly, remains a long way from being realised. If we are to lower significantly the risk of harm and victimisation from crime, then more fundamental changes to the governance and funding of preventative initiatives are required, which would require strong national leadership, and a redirection of resources away from the criminal justice system. It is unclear whether the Ministry and the Treasury undertook an exercise to consider the case for spending some of the resources earmarked for new prison building on the development of justice reinvestment approaches, as advocated by our predecessor. We would like the Treasury and the Ministry of Justice to clarify this in the Government’s response to this report. The Treasury should seriously question whether taxpayers’ money is used in ways most likely to reduce future crime and victimisation, including evaluating that spent on custodial sentencing, and develop a longer-term strategy for the use of resources in this manner.

**The nature of the financial incentive**

136. The payment by results model adopted by the Ministry is to be applied to each single provider, or consortium of providers, which will be rewarded financially for reducing reoffending. The payment by results element will initially represent a small part of the payment, and this proportion will rise incrementally over time. Mr Wright said that a “sensible provider” would have sufficient incentive to work with other agencies, for example, to resolve a heroin addiction or serious alcohol problem. 269 As we discussed in our interim report, his confidence was not universally shared, and there is a risk that the “by results” element will not be sufficiently weighty to incentivise investment in reducing reoffending. 270 For example, one of our witnesses, Richard Johnson was sceptical that the model adopted would deliver a broader social impact, due to the primary focus of the reforms being the reduction of costs through competition. He proposed that a broader impact would require funding to be attached directly to an individual, rather than to probation, prisons, police, health, employment and housing. 271 A4E similarly proposed that new providers of rehabilitative services should have access to a pooled budget spanning a range of Government departments so that they could ‘design-in’ the requirement for cooperation by ensuring that the risks and rewards associated with tackling reoffending were shared. 272

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269 Q539


271 Q59. See also A4E (PPC0003)

272 A4E (PPC0003)
137. In the programme’s current incarnation, the Government intends that PCCs and other local commissioners will be able to pay rehabilitation providers to deliver additional services, although it has indicated that it remains “open” to PCCs taking on a greater commissioning role for community providers of probation in the future.273

**Future devolution of custodial resources to local communities?**

138. Several of our witnesses believed that there needs to be a direct financial incentive for local agencies to spend money in ways that will reduce the prison population.274 The fact that funding for rehabilitative services would not be available to use in this way was a matter of some regret. For example, Councillor Joanna Spicer, vice-chair of the Safer and Stronger Communities Board of the Local Government Association, said:

> If we could have influence over the local commissioning for rehabilitation services, that is yet another tool that we could use to make local money go further—through a pooled budget, a joined-up approach or a joint action plan [...] the drivers for efficiency should not just be a commissioning model but they need to be all the way down the line.275

Our evidence suggests that this can be achieved to some extent without such incentives. Between them local authorities and police and crime commissioners now have much of the mandate and resources for crime reduction, with the exception of the prisons and probation budget, and could be encouraged to adopt justice reinvestment approaches on the mutual understanding that any savings would be ploughed back into preventive initiatives. As we noted above, the devolution of community safety budgets to PCCs has provided some scope for them to commission early intervention schemes.276 For example, in recognition of the value of work that might be more beneficial to other agencies than the police, the PCC for South Wales has created a partnership fund.277 Roz Hamilton, then Chief Executive of Greater Manchester Probation Trust, told us that she had used our predecessor’s report on justice reinvestment as the “defining concept” for the delivery of probation services; she now seeks to develop only integrated, evidence-based, services.

139. On the other hand, reliance on goodwill alone might not prove sustainable.278 Several witnesses argued that success in reducing crime and reoffending is undermined by the absence of a structure of incentives across Government, designed to encourage agencies and bodies outside the justice system to help and support those people who are in it, or at risk of getting into it.279 The idea of devolving resources to enable local areas to assume greater responsibility for crime reduction remained attractive, the premise being that if the same authority that is responsible for crime prevention is also responsible for some part of...
prison costs, they would be more likely to focus on prevention and cheaper, community-based alternatives.\textsuperscript{280} Nevertheless, and notwithstanding the now potentially defunct model used in the pilots, no clear approach has emerged for doing so, particularly one that would fit with the direction of travel of the Transforming Rehabilitation reforms. As is evident from Mr Michael’s comment that financial incentives are “very often in the “too difficult” box", finding an appropriate incentive, in which there is certainty about the behavioural implications, is complex.\textsuperscript{281} Dr Alison Frater spoke of the importance of ensuring that financial frameworks can facilitate the agreement of priorities for investment as well as fund them. In the case of Public Health England, for example, the resource is not in cash, rather in kind.\textsuperscript{282} During our inquiry on youth justice we heard about the promising results of the Youth Justice Board’s work towards devolving the youth remand budget to local authorities. Local authorities now pay the Board for remand provision. The reduction of the use of custody is one of three explicit aims of youth offending teams, alongside the need to reduce reoffending and reducing first-time entrants to the system. The Criminal Justice Alliance (CJA) suggested that a starting point for the adult system would be for local authorities and/or police and crime commissioners to assume greater budgetary responsibility for short-term prison places and remand prison places, for example, women on remand.\textsuperscript{283} Nevertheless, there are questions over whether PCCs have the democratic mandate, expertise, or even the desire to broaden their remit. Some of the partnership models stemming from the Transforming Rehabilitation reforms might have the potential to develop such a mechanism, in particular those that comprise partnerships including local authorities and probation mutuals.

140. One inherent difficulty of the application of justice reinvestment in England and Wales, which was apparent in Greater Manchester, is that potential savings were not immediately cashable.\textsuperscript{284} The same appears to be true of the Transforming Rehabilitation programme the contracts for which are to be let over a period of 10 years to enable providers to realise the savings required to develop better rehabilitative services.

141. The sustainable allocation of resources also relies on effective data capture and sharing across organisations to understand what agencies are doing and the benefit derived from it.\textsuperscript{285} Our predecessor Committee observed that a considerable amount of management information about offenders was held locally by prisons, probation areas and other providers which, if captured centrally, would provide a wealth of material to support the case for cross-departmental reform. As we noted in chapter four, the savings that could be made from moving away from a crisis management approach are considerable, yet there continue to be difficulties in bringing these data together to facilitate the kinds of front-loaded investment decisions taken in US states, for example. If financial modelling in other jurisdictions can take into account these issues, it should be possible in England and Wales.

\textsuperscript{280} See for example Criminal Justice Alliance (PPC0006); Rob Allen (PPC0020)
\textsuperscript{281} Q80. See also Q293 [Mr Bowen]
\textsuperscript{282} Q83
\textsuperscript{283} Criminal Justice Alliance (PPC0006)
\textsuperscript{284} Q493 [Mr Bowen]
\textsuperscript{285} Q83
142. In several areas of Government, and in civil justice, the Government has used the need to make significant cuts to re-evaluate how and where money is spent. The Government has shied away from doing so in the criminal justice system, and this is in contrast to the approach that has been taken in over half of US states which have concluded that any real effort to contain spending on corrections must have as its centrepiece a plan to limit the growth of, and ultimately reduce, the prison population. In this respect the Government may have missed an opportunity to have looked at criminal justice reform from a broader systems perspective. We believe justice reinvestment approaches continue to have resonance because the ongoing pressures on all local budgets means it will be critical for local partnerships to further align and coordinate their resources in order to achieve better crime reduction outcomes and better value for money. Nevertheless, there remains no clear model for taking forward in England and Wales. In the absence of a central Government stimulus, the best prospect of its possibility continuing to be pursued appears to be a bottom-up approach. The justice reinvestment pilots demonstrate that there is potential to incentivise local partnerships to make their spending both more efficient and more effective in reducing demand on the system over a relatively short period of time. The tactic adopted in Greater Manchester, linking crime reduction to the promotion of economic growth, offers an attractive driver for local partnerships to apply a community budgeting approach. This might be possible without direct financial incentives through tacit agreement between partners, including local authorities and police and crime commissioners.

143. In justice reinvestment terms, one of the limitations of the model adopted by the Ministry is that where it is successful these savings are to be paid out in profits to providers over a period of 10 years, rather than reinvested into early intervention, or criminal justice initiatives further upstream. In contrast, the justice reinvestment and community budget pilots directly facilitated local intervention earlier and further upstream in those who may ultimately be of high cost to the public purse. Through such models there is a partnership commitment between participating agencies that savings are reinvested, no matter where the benefits accrue. Whatever the relative merits of either model it is important that the Transforming Rehabilitation reforms do not frustrate partnership approaches to reducing crime and that any such impact is counteracted. Providers need to be incentivised to reinvest part of any cost savings that might be achieved into further reoffending reduction initiatives, and to consolidate the partnership commitment to reducing crime more broadly.

144. Our witnesses highlighted the value of a cross-departmental approach to crime reduction, but exposed limitations in the current de facto lead residing in the Ministry of Justice and the Home Office. This results in an imbalanced focus on enforcement and crisis management, rather than prevention and early intervention. One consequence of this is that there appears to be limited prospect of making cross-cutting savings by examining the system as a whole under current governance arrangements. The Government should keep under review the potential benefits of making an explicit political commitment to reducing the unnecessary use of imprisonment in favour of releasing resources for early intervention, and community-based approaches to reducing crime. The rapid reductions in imprisonment that have occurred in the youth justice estate illustrate the potential of the approach and the Government should give serious
consideration in its response to this report to the lessons from this initiative that can be applied to the wider system.

A note on political rhetoric

145. Our previous Committee considered in detail the interaction between political rhetoric, public opinion and the media, which influence Governments’ commitment to reducing the prison population. They proposed that means must be found for encouraging and informing sensible, thoughtful and rational public debate and policy development on the appropriate balance and focus of resources and the use of imprisonment. While some attempt has been made to do this, it has proved challenging in practice as the example of the early guilty plea discussed in chapter three illustrates. Nacro, among others, was of the view that there continued to be a ‘hard versus soft’ policy debate surrounding the use of imprisonment and community sentences as crime prevention measures. The Prison Reform Trust agreed stating: “Politicians are wary of anything that could lay them open to accusations of going soft on crime. It is not unusual to find sensible, humane policies presented in an ‘acid wrap’ of punitive language by whichever party is in power.”

146. Public opinion would appear to support the more rational approach to crime reduction and criminal justice policies suggested by a justice reinvestment approach. Consecutive polls continue to indicate that concern about crime is reducing amongst the public, including as an election priority; that they do not see crime prevention as primarily the work of criminal justice related agencies; and that prison building is not a high priority when it comes to the best means of preventing crime. Ben Page of Ipsos Mori highlighted the crux of the issue: “[People] like strong sentences and locking people up, but they genuinely don’t seem to think it actually reduces crime. Obviously it is the punishment part of it that they like.” However, he believed that the current focus of public anxiety on immigration, the economy and the cost of living could provide political space to have a “more dispassionate argument” about crime reduction. Professor Hough believed that this space would grow the more people become used to the idea that crime is not out of control. Our discussions with the political proponents of justice reinvestment in Texas, both Republican and Democrat, highlighted the fact that they were able to develop a consensus about reducing imprisonment and developing more effective means of achieving public safety stimulated by a fiscal crisis.

147. The language used by politicians when talking about crime has to recognise the seriousness with which the public rightly treats crime, but they also need to bear in

287 Professor Shepherd (PPC0037); Magistrates Council (PPC0017). See also Q490 [Ms Gibbs]
288 Prison Reform Trust (PPC0013)
289 Criminal Justice Alliance (PPC0006); Prison Reform Trust (PPC0013); Q360 [Ben Page]. A recent poll indicated that crime was rated 8th in the most important issues facing Britain, Economist/Ipsos MORI April 2014 Issues Index, 29 April 2014
290 Criminal Justice Alliance (PPC0006)
291 Q378
292 Q377
mind that if there is a gulf between hard line rhetoric and the practical policies they are pursuing to cut crime, they can create unrealistic expectations, conceal the value of programmes that are more effective, influence sentencers inappropriately and demoralise or discourage those working to achieve rehabilitation and cut offending. The media also have a role to play in promoting a more rational debate on criminal justice and the way public money is used to enhance public safety.

148. In the four years since our predecessor Committee reported on the merits of justice reinvestment as a means of cutting crime, crime has been falling, a great deal of local partnership effort has gone into crime prevention and rehabilitation, radical and controversial changes have been made to the probation system with the intention of providing for supervision of short-sentenced prisoners, the prison population has remained high but relatively stable, some initiatives have been developed, such as the Troubled Families programme, to deal with sources of crime, and all parts of the criminal justice system have had to cope with significant spending cuts. What remains lacking is still, as our predecessor observed, a rigorous assessment of where taxpayers’ money can most effectively be spent in cutting crime, and a government-wide approach which recognises that the criminal justice system is only one limited part of the system through which taxpayers’ money is spent to keep people safe from crime.
Conclusions and recommendations

[N.B. Recommendations are in italicised text]

Trends in recorded re-offending since 2010

1. Crime rates have continued to decline since 2010. Falls in reoffending were achieved up to 2010, but since then reoffending rates have stabilised and remained high. Local data demonstrate that efforts to reduce reoffending in local areas, by probation trust, or local authority, have had mixed results. Over the last year there has been a fall in the proportion of local authority areas and probation trust areas achieving a decrease in reoffending. (Paragraph 17)

The relationship between rates of crime and re-offending and crime reduction policies

2. Falling crime rates have continued and are welcome, but the extent to which falls in crime can, in practice, be attributed to the success of national or local crime reduction policies is unclear. What is clear is that there are multiple factors at play, and that it is difficult to attribute falls in crime directly to particular crime reduction policies or practices. Crime rates and reoffending rates are simple measures used to reflect the effectiveness, or otherwise, of an extensive and complex series of policies and processes, and offenders’ responses to them. It is concerning that some local reoffending rates appear to indicate setbacks in the progress of local areas on this agenda. Similarly, while there has been a significant fall in crime, criminal victimisation is now more concentrated on a few vulnerable population groups and the poorest neighbourhoods, providing a greater opportunity for more targeted crime reduction initiatives. The economic downturn, which some commentators suggest had potential to impact on crime rates, has not yet done so, or that impact is not yet apparent. *It is only at a relatively late stage in this Parliament that Ministers appear to have taken steps to increase their understanding of crime trends. The Government should seek to recognise more explicitly where reoffending has fallen and seek to understand why.* (Paragraph 24)

The Government’s approach to reducing the costs of the criminal justice system

3. The broader question posed by our predecessor Committee of whether the incapacitation benefits of putting people into prison for longer can achieve reductions in crime rates which are justified by the costs of doing so, taking into account also the sometimes counterproductive impact of imprisonment on reoffending, remains largely unanswered. (Paragraph 42)

4. Prison sentences and the different length of prison sentences applied to different crimes are seen by the public as a measure of how seriously society regards different crimes, but if custody is treated as the only means of expressing society’s disapproval, it will remain difficult to achieve effective sentencing. Wider understanding of the
severity of some robust community sentences and supervision requirements is one element that will be required to change this perception. (Paragraph 43)

The breadth and depth of cross-Government activity

5. The Home Office and the Ministry of Justice have been strong in their focus on cutting crime. We note the intention expressed in the Coalition Agreement to limit the proliferation of new criminal offences, but observe that this has not stemmed the flow of legislative initiatives affecting the criminal justice system. This, alongside administrative changes and the pressure for both central and local government to achieve financial savings can obscure the clarity of Government messages on crime reduction and diminish the propensity for them to translate into the desired action. (Paragraph 58)

6. Official explanations of drivers of crime, which underpin the national crime action plan, for example, can at times be overly simplistic. For example, while the misuse of both alcohol and drugs can be causes of crime, their manifestations typically have other root causes. The Government’s approach, which remains focused largely on the activity of the Home Office and the Ministry of Justice, can also overemphasise the significance in attempting to reduce crime of measures taken entirely within the criminal justice system. (Paragraph 62)

7. The Government has developed several cross-departmental programmes which are expected to bear down on crime rates over the medium and longer-term, and this is welcome. However, these programmes have tended to concentrate on crisis management where there might be faster financial gains. As a result, only a minor proportion of funding is attached to very early intervention programmes, which could lead to longer term benefits, like Family Nurse Partnerships. The staggering costs to both the criminal justice system and wider society associated with the failure to intervene sufficiently early to address known risks in childhood, for example related to parenting and mental health, highlight the need for a greater proportion of resources to be devoted to reducing these risks. Parental involvement in the criminal justice system, and parents serving custodial sentences in particular, should be recognised more explicitly as an avenue for early intervention. (Paragraph 63)

Governance at national level

8. The National Criminal Justice Board does not appear to have entered the consciousness of many key actors in the system, which concerns us. Nevertheless, we are not persuaded of the need for a broader National Crime Reduction Board. We consider rather that there is a need for a higher profile for the Minister for Crime Prevention, whose wide-ranging portfolio should be pivotal in providing strong cross-departmental oversight of crime reduction policies, and other policies that might influence crime. The Transforming the Criminal Justice System action plan commendably includes cross-government initiatives to reduce crime, but in our opinion what is really needed is a much broader approach, extending beyond the confines of the criminal justice system, and distinguishing clearly these activities from those that are properly owned by the criminal justice system. (Paragraph 65)
Governance at local level

9. There have been significant changes to the local partnership landscape for crime reduction since 2010 reflecting the ongoing broader shift of power in this field from Whitehall to local communities. While this has resulted in an assortment of local accountability structures, our evidence highlights the clear benefits of collective ownership, pooled funding and joint priorities for crime reduction that have been facilitated by this approach. The introduction of police and crime commissioners may have had a consolidating rather than destabilising effect, galvanising and sharpening the shared endeavours of local stakeholders to seek to make ongoing savings in dealing with residual local crime problems. (Paragraph 71)

10. The new health commissioning structures provide an opportunity to address the need for stronger links between health promotion and crime reduction which has long been lacking. Nevertheless, there remains a considerable way to go before health can be considered a fully integral part of the crime reduction picture. It would be short-sighted of health and well-being boards not to facilitate access to criminal justice agencies, including police and crime commissioners (PCCs) and providers of probation services. These partnerships are still embedding and will undoubtedly have to undergo further adjustment following the Transforming Rehabilitation reforms. We recommend that the Government reviews whether PCCs and providers of probation services ought to be statutory partners on health and well-being boards. (Paragraph 72)

Tensions between national and local priorities

11. We received further evidence during the course of this broader inquiry on the potential implications of bringing in new providers for the stability and effectiveness of different partnerships. (Paragraph 78)

12. The bulk of Government policy on the reduction of crime acknowledges that a multi-agency, largely locally determined, approach is essential to enable local priorities to be addressed effectively at local level. Nationally-commissioned rehabilitative services seemed to some of our witnesses to be out of kilter with the Government’s stated commitment to local, responsive services, and could disrupt the progress that has been made in developing these. (Paragraph 79)

13. The current situation where all local agencies are accountable but there is no single statutory leader risks confusion and abdication of responsibility but seems broadly to work through the goodwill of all involved. The collective ownership approach is continuing to develop in strength as police and crime commissioners find their feet, and local authorities and health commissioners get to grips with their new priorities. The new probation providers introduced by the Transforming Rehabilitation reforms, and the new National Probation Service, need to support this approach and to avoid undermining it. There is scope for truly integrated localised approaches, but there is a danger that their development will be inhibited by the extent to which national management remains a feature of the criminal justice system. (Paragraph 80)
14. New providers will need to build relationships with a complex range of partners. Their priorities will impact considerably on the work of prison governors, police and crime commissioners, and local authorities, yet will have accountability to none of them. We are encouraged that we encountered a willingness on behalf of police and crime commissioners, local authorities and health commissioners, to work with the new probation providers to continue to pursue local crime reduction initiatives. The successful integration of these new players will be determined by them seeking to ensure there is sufficient flexibility and funding in their model to enable them to build on the strengths of local partnerships and seek to further develop them, rather than simply recognising their existence. This should be a crucial component of the Ministry’s scrutiny of prospective providers. (Paragraph 81)

Progress on key crime reduction initiatives

15. It is a paradox that the criminal justice system continues to be used so often as a gateway to mental health, drug, or alcohol treatment—which must be regarded as a chronic failure of mainstream treatment services—and yet there is evidently much more that could be done to support those people who are in the system to address health problems that are associated with their offending. It is not clear to us quite why such slow progress has been made in building the nationwide network of liaison and diversion schemes as advocated by Lord Bradley in 2009. Addressing the funding of mental health services, the inadequacy of which costs the police, courts, probation, and prisons and victims of crime greatly, should be an urgent cross-departmental priority of the Government as part of its national crime action plan. The Ministry of Justice and Department of Health should encourage greater and more effective use of mental health treatment as part of probation orders. Bids to operate Community Rehabilitation Companies should be evaluated for the extent to which they provide for access to mental health treatment. (Paragraph 88)

16. There is much to commend in the progress that has been made in bringing agencies together in collective efforts to prevent offending and reoffending, but there remain substantial fault-lines in the coherence of cross-Government activity, in particular in relation to mental health and alcohol policy. The joint work to tackle drug misuse between the various actors in the criminal justice system and health services is an example of the savings that can be achieved when a cross-departmental commitment is made to tackle crime as a public health problem. (Paragraph 95)

Courts and prisons: missing links?

17. Resettlement prisons offer the potential for well-integrated connections with outside agencies through Community Rehabilitation Companies, which would help to achieve an objective we set in our 2011 report on the probation service. Nevertheless in order for these reforms to work in practice, insofar as they relate to prisons, the Government should specify how it plans to tackle the high level of overcrowding in the prison estate so that prisoners can be held in the establishment closest to their homes. In a nutshell, the impact of Transforming Rehabilitation on improving outcomes will depend crucially on how the changes are implemented and the relationships between the new and existing structures. Uncoordinated or poorly thought-through implementation
would risk deterioration in outcomes. For example, it will be important to clarify how prison governors relate to Community Rehabilitation Companies, over whose contracts they do not have control. (Paragraph 99)

The impact of spending reductions on local partnerships

18. Our evidence suggests that local partnerships, and their component agencies, recognise the mutual advantage of collective endeavours to reduce crime and are conscious of the risks of retreating to their own priorities in the face of financial constraints. (Paragraph 101)

Prison safety and rehabilitative effectiveness

19. When resources are scarce, it does not make sense to over-use the prison system without providing effective rehabilitation, because the result is likely to be higher re-offending. A prison system which effectively rehabilitates a smaller number of offenders, while other offenders are rehabilitated through robust community sentences, has the potential to bring about a bigger reduction in crime. (Paragraph 105)

Innovation in courts: a casualty of the cuts?

20. The absence of court representation on local community safety partnerships (in part because of sensitivities about judicial independence) and the centralisation of the courts service, have together resulted in a situation where there are few champions for court innovation at local level. HMCTS has prioritised efficiency savings, seeing courts as purely instrumental institutions involved solely in processing and resolving cases. As a result an opportunity has been missed for encouraging greater innovation, which could have the potential to make broader systemic savings by improving the effectiveness of the whole criminal justice system to reduce crime. If as our evidence suggests, efficiency savings have shelved the wider adoption of problem-solving approaches in courts, this is greatly to be regretted. However, there is much that can be achieved within the confines of the existing sentencing framework which need not require additional resources. We consider that the judiciary and HM Courts and Tribunals Service should see crime reduction as an intrinsic part of their role. (Paragraph 111)

The evidence-base for crime reduction policy-making

21. The Ministry needs to make clear how the Transforming Rehabilitation reforms will be evaluated, and how the evidence of success or failure of differing approaches will be used to inform policy. (Paragraph 115)

22. We agree with our witnesses that there should be an independent and authoritative body to evaluate evidence on the effectiveness of crime reduction policies. Ultimate decisions on those policies would of course rest with elected politicians. Whilst there have been some positive developments, including the creation of the What Works Centre for Policing and the Probation Institute, we do not have the right structures in
place to provide a collective memory of research evidence, its relative weight, and its implications for policy-making, including the capacity to make decisions about the best direction of resources. The Government should also consider how it can promote better integration between criminal justice practitioners and academic research. The large scale reforms to rehabilitative services provide an opportunity to collate and spread knowledge about effective practice in reducing re-offending that must be capitalised on by the Government. This will require clear ownership of the data, consistency in monitoring systems, and robust evaluation, matters on which the Department has been quiet. We expect the Ministry to explain how it will seek to achieve this in its response. (Paragraph 118)

The potential of technology in targeting crime reduction activity

23. The Government does not appear to have taken a data-driven approach to the cost-effective application of resources in the face of the requirement to make cost savings. Knowledge of levels of victimisation and repeat victimisation amongst certain geographical areas, communities or sectors of the population does not adequately inform policy on crime reduction. (Paragraph 120)

Developments in the implementation of justice reinvestment approaches in England and Wales

24. Accountability for reducing crime and reoffending cannot be limited to the Ministry of Justice and Home Office. The creation of the kind of support framework that will get to the heart of the deep-seated challenges of reducing crime, and reducing levels of victimisation accordingly, remains a long way from being realised. If we are to lower significantly the risk of harm and victimisation from crime, then more fundamental changes to the governance and of preventative initiatives are required, which would require strong national leadership, and a redirection of resources away from the criminal justice system. It is unclear whether the Ministry and the Treasury undertook an exercise to consider the case for spending some of the resources earmarked for new prison building on the development of justice reinvestment approaches, as advocated by our predecessor. We would like the Treasury and the Ministry of Justice to clarify this in the Government’s response to this report. The Treasury should seriously question whether taxpayers’ money is used in ways most likely to reduce future crime and victimisation, including evaluating that spent on custodial sentencing, and develop a longer-term strategy for the use of resources in this manner. (Paragraph 135)

25. In several areas of Government, and in civil justice, the Government has used the need to make significant cuts to re-evaluate how and where money is spent. The Government has shied away from doing so in the criminal justice system, and this is in contrast to the approach that has been taken in over half of US states which have concluded that any real to contain spending on corrections must have as its centrepiece a plan to limit the growth of, and ultimately reduce, the prison population. In this respect the Government may have missed an opportunity to have looked at criminal justice reform from a broader systems perspective. We believe justice reinvestment approaches continue to have resonance because the ongoing
pressures on all local budgets means it will be critical for local partnerships to further align and coordinate their resources in order to achieve better crime reduction outcomes and better value for money. Nevertheless, there remains no clear model for taking forward in England and Wales. In the absence of a central Government stimulus, the best prospect of its possibility continuing to be pursued appears to be a bottom-up approach. The justice reinvestment pilots demonstrate that there is potential to incentivise local partnerships to make their spending both more efficient and more effective in reducing demand on the system over a relatively short period of time. The tactic adopted in Greater Manchester, linking crime reduction to the promotion of economic growth, offers an attractive driver for local partnerships to apply a community budgeting approach. This might be possible without direct financial incentives through tacit agreement between partners, including local authorities and police and crime commissioners. (Paragraph 142)

In justice reinvestment terms, one of the limitations of the model adopted by the Ministry is that where it is successful these savings are to be paid out in profits to providers over a period of 10 years, rather than reinvested into early intervention, or criminal justice initiatives further upstream. In contrast, the justice reinvestment and community budget pilots directly facilitated local intervention earlier and further upstream in those who may ultimately be of high cost to the public purse. Through such models there is a partnership commitment between participating agencies that savings are reinvested, no matter where the benefits accrue. Whatever the relative merits of either model it is important that the Transforming Rehabilitation reforms do not frustrate partnership approaches to reducing crime and that any such impact is counteracted. Providers need to be incentivised to reinvest part of any cost savings that might be achieved into further reoffending reduction initiatives, and to consolidate the partnership commitment to reducing crime more broadly. (Paragraph 143)

Our witnesses highlighted the value of a cross-departmental approach to crime reduction, but exposed limitations in the current de facto lead residing in the Ministry of Justice and the Home Office. This results in an imbalanced focus on enforcement and crisis management, rather than prevention and early intervention. One consequence of this is that there appears to be limited prospect of making cross-cutting savings by examining the system as a whole under current governance arrangements. The Government should keep under review the potential benefits of making an explicit political commitment to reducing the unnecessary use of imprisonment in favour of releasing resources for early intervention, and community-based approaches to reducing crime. The rapid reductions in imprisonment that have occurred in the youth justice estate illustrate the potential of the approach and the Government should give serious consideration in its response to this report to the lessons from this initiative that can be applied to the wider system. (Paragraph 144)

A note on political rhetoric

The language used by politicians when talking about crime has to recognise the seriousness with which the public rightly treats crime, but they also need to bear in mind that if there is a gulf between hard line rhetoric and the practical policies they are pursuing to cut crime, they can create unrealistic expectations, conceal the
value of programmes that are more effective, influence sentencers inappropriately and demoralise or discourage those working to achieve rehabilitation and cut offending. The media also have a role to play in promoting a more rational debate on criminal justice and the way public money is used to enhance public safety. (Paragraph 147)

29. In the four years since our predecessor Committee reported on the merits of justice reinvestment as a means of cutting crime has been falling, a great deal of local partnership effort has gone into crime prevention and rehabilitation, radical and controversial changes have been made to the probation system with the intention of providing for supervision of short-sentenced prisoners, the prison population has remained high but relatively stable, some initiatives have been developed, such as the Troubled Families programme, to deal with sources of crime, and all parts of the criminal justice system have had to cope with significant spending cuts. What remains lacking is still, as our predecessor observed, a rigorous assessment of where taxpayers’ money can most effectively be spent in cutting crime, and a government-wide approach which recognises that the criminal justice system is only one limited part of the system through which taxpayers’ money is spent to keep people safe from crime. (Paragraph 148)
Draft Report (*Crime reduction policies: a co-ordinated approach*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 148 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the First 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, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 17 June at 9.15am.]
Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee’s inquiry page [Link]

**Tuesday 2 July 2013**

Savas Hadjipavlou, Business Director, Probation Chiefs Association, Ian Lawrence, General, Secretary, NAPO, Richard Monkhouse, Deputy Chairman, Magistrates Association, Martyn Oliver, Chief, Executive, 3SC, and Richard Johnson, independent consultant

**Wednesday 11 September 2013**


**Tuesday 12 November**

Ian Mulheirn, Associate Director, Oxford Economics, Toby Eccles, Founder and Development Director, Social Finance, Tom Gash, Director of Research, Institute for Government, and Max Chambers, Head of Crime and Justice, Policy Exchange

Sue Hall, Chair, Probation Chiefs Association, Sebert Cox, Chair, Probation Association, and Oliver Henman, Head of Partnerships, National Council for Voluntary Organisations

**Wednesday 4 December 2013**

Rt Hon Chris Grayling MP, Lord Chancellor and Secretary of State for Justice, and Jeremy Wright MP, Parliamentary Under-Secretary of State for Justice, Minister of State for Prisons and Rehabilitation, Ministry of Justice

**Tuesday 21 January 2014**

Professor Cynthia McDougall, Professor of Forensic Psychology, University of York, Professor Gloria Laycock, Department of Security and Crime Science, University College London, Professor David Farrington, Emeritus Professor of Psychological Criminology and Leverhulme Trust Emeritus Fellow, Institute of Criminology, Cambridge University, and Professor Stephen Farrall, Professor of Criminology, University of Sheffield

**Tuesday 28 January 2014**

Richard Garside, Director, Centre for Crime and Justice Studies, Ben Page, Chief Executive, Ipsos MORI, Professor Andromachi Tseloni, Professor of Criminology, Loughborough University, and Professor Mike Hough, Professor of Criminal Policy and Associate Director, Institute for Criminal Policy Research, Birkbeck, University of London
Tuesday 4 February 2014

Nick Hardwick, HM Chief Inspector of Prisons, and Eoin McLennan-Murray, President, Prison Governors Association  
Rob Allen, Independent Consultant, Mark Day, Prison Reform Trust, Sarah Salmon, Criminal Justice Alliance, and Frances Crook, Chief Executive, Howard League

Tuesday 25 February

Richard Monkhouse, Chair, Magistrates’ Association, Phillip Bowen, Director, Centre for Justice Innovation, Adam Pemberton, Assistant Chief Executive, Victim Support, and Penelope Gibbs, Director, Transform Justice

Wednesday 26 March 2014

Jeremy Wright MP, Parliamentary Under-Secretary of State for Justice, Minister for Prisons and Rehabilitation, Ministry of Justice and Norman Baker MP, Minister of State for Crime Prevention, Home Office
Published written evidence

The following written evidence was received and can be viewed on the Committee’s inquiry web page [Link]

PPC numbers are generated by the evidence processing system and so may not be complete.
1. A4e (PPC0003)
2. Big Brother Watch (PPC0015)
3. Centre for Crime and Justice Studies (PPC0022)
4. Centre for Justice Innovation (PPC0010)
5. Centre for Mental Health (PPC0018)
6. Christine Lawrie (PPC0028)
7. Clinks (PPC0027)
8. Criminal Justice Alliance (PPC0006)
9. DrugScope (PPC0012)
10. Gillian Riley, Northumbria Probation Trust (PPC0025)
11. It’s Mine Technology (PPC0024)
12. Local Government Association (PPC0011)
13. London Councils (PPC0005)
14. London Councils (PPC0021)
15. Magistrates Association (PPC0017)
16. Martyn Underhill (PPC0023)
17. Ministry of Justice (PPC0014)
18. Ministry of Justice (PPC0032)
19. Ministry of Justice (PPC0033)
20. Ministry of Justice (PPC0035)
21. Ministry of Justice (PPC0039)
22. Ministry of Justice (PPC0040)
23. Ministry of Justice (PPC0041)
24. Nacro (PPC0038)
25. Napo (PPC0031)
27. National Policing Lead for Integrated Offender Management (PPC0008)
28. Police and Crime Commissioner for Avon & Somerset (PPC0019)
29. Police and Crime Commissioner for South Wales (PPC0030)
30. Prison Reform Trust (PPC0013)
31. Prisoners Education Trust (PPC0029)
32. Probation Chiefs Association (PPC0007)
33. Professor Jonathan Shepherd CBE FMedSci (PPC0037)
34. Professor Mike Hough and colleagues (PPC0001)
35. Professor Stephen Farrall (PPC0036)
36. Richard Lomax (PPC0009)
37. Rob Allen (PPC0020)
38. The Howard League for Penal Reform (PPC0016)
39. Unilink Software Ltd (PPC0004)
## List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee’s website at www.parliament.uk/justicetctee.

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

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Oral evidence

Taken before the Justice Committee
on Tuesday 2 July 2013

Members present:
Sir Alan Beith (Chair)
Steve Brine
Jeremy Corbyn
Gareth Johnson
Mr Elfyn Llwyd
Seema Malhotra
Andy McDonald
Graham Stringer
Mike Weatherley

Examination of Witnesses

Witnesses: Savas Hadjipavlou, Business Director, Probation Chiefs Association, Ian Lawrence, General Secretary, NAPO, Richard Monkhouse, Deputy Chairman, Magistrates Association, Martyn Oliver, Chief Executive, 3SC, and Richard Johnson, independent consultant, gave evidence.

Q1 Chair: Welcome to all our witnesses. We have quite a crowded witness bench today, but I am very pleased to welcome you all. We have with us Savas Hadjipavlou, who we know well from previous occasions, from the Probation Chief's Association, Ian Lawrence from the National Association of Probation Officers, Richard Monkhouse, deputy chairman of the Magistrates Association, and Martyn Oliver, chief executive of 3SC. I suppose 3SC does not stand for anything these days, does it?

Martyn Oliver: It is Third Sector Consortium Management LLP.
Chair: So it has a real meaning. Thanks very much. Finally, we have with us Richard Johnson, who is a consultant in this field.
I am going to ask Mr Brine to open the questioning. What we are doing, of course, is to some extent revisiting the work that we did some years ago with our Justice Reinvestment report and looking, in this case, at the implications of the Government's "Transforming Rehabilitation" proposals.

Q2 Steve Brine: Thank you very much, Chairman. Good morning, everybody; it is all chaps together this morning. Thank you very much for coming; I will start with Mr Oliver. What do you see as the benefits of the "Transforming Rehabilitation" document and reforms—I am sure you have read them—and to what extent do you agree with the assertion of the Lord Chancellor that the reforms are evolution and not revolution?

Martyn Oliver: The benefits clearly are the inclusion of the cohort for which there is no existing statutory provision—the offenders who have served less than 12 months. They have perhaps the worst reoffending rates of all the cohorts of offenders, so putting those in is an enormous benefit. There are benefits in terms of the national procurement, setting up perhaps a black box approach to service delivery. It enables organisations on the ground to get on with doing what they do best, and as long as contract holders and primes adhere to that very important principle, it will be a clear benefit. I also think perhaps we will find efficiencies in delivery; there are clear opportunities for that in this procurement, and for the incentivising of what works. There is a whole lot wrapped up in that particular statement. It involves clear diagnostics, clear and accountable pathways for offenders, and IT systems that can record and report on what works.

Steve Brine: We will come on to the IT systems.

Martyn Oliver: In terms of evolution rather than revolution, I will break that up into two parts. An evolution needs a bit of a kick-start, and these reforms seem relatively revolutionary, but the evolution will come over the period of the contract, where the sort of things I have been talking about in terms of the benefits will become clearer. That will enable deliveries to bespoke services far better as we go through the contract period. That is where the evolutionary aspect of this is.

Q3 Steve Brine: Mr Lawrence, bespoke services, bringing in people who have been in custody for under 12 months: what is wrong with that?

Ian Lawrence: NAPO is committed to engaging with the under-12-month custodial community. We made that clear from the start, so there is common ground between us and the Minister on that one. As for the rest of the proposals, I am afraid the best I can say is that they are a recipe for disaster. They pose a massive risk to public safety, and are untried, untested and in our view ideologically flawed. Chair, the result of the House of Lords debate last week was quite telling, in terms of the amendment that was carried, which forced the Minister to bring these proposals back to both Houses, so we are not in favour of the vast majority of what is intended.

Q4 Steve Brine: You say “untried and untested.” You say you are happy to engage with the under-12-month category; why wouldn’t we? I am pleased to hear you say that, but why have NAPO not then pressed Government to engage with the under-12-month category?

Ian Lawrence: Traditionally, we have. It is a community we do not see. It is not common knowledge among the public, but we do not engage with many of that current group, bar a few thousand young offenders. It is right to say that reoffending is quite high in that area. We would like to engage. We
believe that there are huge amounts of public money wasted currently—£107 million a year on electronic monitoring, which, in our view, makes no discernible difference to long-term reoffending rates. We have been pressing for some of that resource to be targeted back into structured rehabilitation programmes, where our experts can work with this new community. That is what our plea is to the Minister.

Q5 Steve Brine: Just turning to the Probation Chiefs Association, do you have any confidence in the Ministry of Justice’s ability to deliver these reforms?

Savas Hadjipavlou: I have to qualify my response. The first thing to say is that we welcome the general proposals, in terms of their aims and objectives, particularly as regards bringing the under-12-months into supervision. However, we have some serious concerns about the architecture of what is proposed in terms of the detail of it. We do not really think that the programme arrangements, in regard to the time allowed for such a radical change, are enough. We do not think that the division of the case load between high risk and low risk will work. There is, as yet, no operating model that shows how that will work in practice. We think there are serious risks in relation to the work with partner agencies, which are crucial to reducing reoffending. The justice component—the probation component—is only a fraction of what needs to be done in bringing together relevant services to rehabilitate offenders.

Q6 Steve Brine: With regard to partners like Mr Oliver’s organisation, two down from you, what are the risks of involving Mr Oliver in your work? Why is he bad?

Savas Hadjipavlou: We are not opposed to the involvement of the private sector; we are not opposed to the involvement of the voluntary sector in the right things. Indeed, we have suggested that there is a strong case for their involvement in interventions, which are rather more designed connected with rehabilitation outcomes. That is not the way the new structure is being delivered at the moment; it has been designed in a way to enable a substantial proportion of the services to be outsourced.

Q7 Steve Brine: Mr Monkhouse from the Magistrates Association, welcome back. You have served on a number of working parties with the MOJ over the years. What do you see as the main risks arising from either the pace of implementation or from the proposals themselves?

Richard Monkhouse: The main risk is one of trust and confidence. Sentencers, who deal with 95% of all cases that come into a courtroom, need to build up a relationship—which we have done with the Probation Service—both inside and outside court, and that does not happen overnight. One of the dangers is that where you are dealing with offenders who pass the custody threshold, magistrates have been managing to keep a lot of those out. Our custody imposition has come down significantly over the last 10 years because alternatives have been present. We do not want to see those alternatives go, and many of those alternatives are at local level, with local voluntary organisations.

We also cannot forget the number of people who do not reach the level of seriousness for a community penalty, and that is 70% of those whom we see. Those are people who live strange lives by our standards but also need help. One of the problems that we think may happen—we will try our best to make it not happen—is the demise of the local voluntary organisations that are there for those people who have not reached the level where we would pass them on to the Probation Service. That is a real worry.

Q8 Mr Llwyd: If I may, can I go back to the questioning about the under-12-month cohort? What are your thoughts on the Government’s intentions to reduce reoffending? Are you concerned that the targets that they set will not be met in terms of turning these people around?

Richard Monkhouse: I am not so sure whether the targets will be met. One of the problems is that some of the pilots that were going to be put in place were not put in place. That would have given us evidence that this or that particular route might work. We have no evidence that anything will work. We are quite happy about giving those who come out after short-term custodial sentences supervision. We are not so sure that it needs to reach down as far as those who have been in for, say, under 28 days, because a number of those are in prison because of non-compliance. They are not in prison because of their behaviour; it is simply non-compliance. I am not so sure that that is all that is necessary. However, we will deal with what we will deal with. People who are on short-term custodial sentences need that help because they lead dysfunctional lives; they have accommodation, health and family problems; and simply leaving them at the prison door is not assisting any of that, so we are quite happy that that is happening.

Q9 Mr Llwyd: Yes, in principle I am sure you are. Thinking of sentencers now, are they not in fact hampered by the long-standing problems with availability of drug rehabilitation, housing, dealing with mental health problems and so on? These still exist out there. Then this new scheme comes in; it seems to me that if we do not bring those things up to speed, people will still be hampered.

Richard Monkhouse: Bringing them up to speed, but also making them available everywhere.

Mr Llwyd: Yes.

Richard Monkhouse: I know that one of the problems in the area where I sit is that we deal with a lot of domestic violence cases, and yet in our area there are no alcohol abuse programmes. There are in the next adjoining area, but there are not, or were not, where we sit. That is a real issue because a lot of domestic violence cases are caused by alcohol. If there is not that treatment programme that follows or is within whatever sentence we give, the problems that are causing offending are not being addressed at all. We need to make sure that all of these programmes are available nationally at the same sort of level.
Q10 Mr Llwyd: Mr Lawrence has already commented on tagging—the new provision of so-called punitive elements within every order. Do you have a view on the efficacy of tagging, because the Department’s own assessment says it will be neutral in terms of reoffending?

Richard Monkhouse: I do not think we really do. We need to see what is going to happen. We have very good relationships, as I say, with the Probation Service. In those areas where we still have probation liaison committees, which are now non-statutory—more’s the pity—we build up that relationship, and we try to communicate with probation. We need to make sure that communication still exists in the new scenario. That is probably going to be more difficult than it is at the moment. It is through that conversation that we get to the organisations that are supplying the offender programmes. It is the relationship that is crucial.

Q11 Mr Llwyd: Yes, and they take time to develop.

Richard Monkhouse: They do take time to develop.

Q12 Mr Llwyd: I ask this on behalf of the probation chiefs. The integrated offender management schemes have already been set up in some areas. It seems to me they deal with the most prolific offenders, many of whom are short-sentenced prisoners. What is your assessment of the current or, should I say, existing coverage of these schemes?

Savas Hadjipavlou: They vary across the country. You are absolutely right to say that they do include among their catchment, as it were, some prolific, priority, short-sentenced offenders. Indeed, that is one of the things that people see add great value to them. They are almost universal, I would say, at the moment across the country in terms of particular partnerships. They are particularly valued by probation services because they provide a framework for bringing together the police and other agencies—a mechanism for those necessary conversations to take place at the local level. We would be very sorry to see them denuded or diluted, potentially, as a consequence of these changes. The Government have acknowledged that they are important to keep, but how that happens obviously is not at all clear at the moment.

Q13 Mr Llwyd: This may be a rather broad question, but to what extent can reductions in reoffending be attributed to a particular intervention or set of interventions?

Savas Hadjipavlou: It is rather broad.

Mr Llwyd: If you have all day—Chair: We haven’t.

Mr Llwyd: No, we haven’t.

Savas Hadjipavlou: It is a very general question. The first thing to say is that much of what is done by way of evaluation and assessment in this field does not meet the higher scientific standards, if I can put it in those terms. There are a few randomised control trials that allow for potential influence of different uncontrolled factors. None the less, there is a substantial body of knowledge that is emerging that suggests strongly that cognitive skills-type interventions—behavioural thinking skills interventions—do work, and I will comment in a moment on how much of that effect we might expect to see. The opposite is that punishment-focused interventions do not, on the whole, work—militaristic training camps, that kind of thing. The evidence suggests that they do not work. The essence of it is really trying to deal with the deficits that particular offenders present, in terms of mental health, drug addiction and so forth, but also teaching them pro-social skills, if you like.

Q14 Mr Llwyd: How prevalent are those schemes?

Savas Hadjipavlou: There are quite a few such schemes around. They work for the right group. There is an issue about making sure that you put the right offenders in the right scheme; and, therefore, assessment of need is critically important. Do we have enough? Almost certainly not, given that lots of people do not get access to them.

Richard Johnson: In terms of reoffending, there is fairly unequivocal evidence that loss of family, loss of home and loss of job are massive contributory factors in reoffending behaviour, never mind cognitive behaviour therapy.

Q15 Mike Weatherley: I have a follow-up question. You mentioned homelessness, mental health and so on, but what part of the reoffending is due to the drug addiction or the drug dependency? I know in my constituency more than half the crimes committed are drug-related, and I just wonder if that focus is missed. Maybe it does not need to be. I just wondered if there is a handle on percentage of reoffending.

Savas Hadjipavlou: I do not think it is missed. Certainly, every effort is being made to provide for these services. It has been a problem in the past, and to a degree now, that there is a discontinuity between people leaving prison and going into the community, and maintaining their access particularly to drug addiction services and alcohol services. A major issue is making sure that these services are available, as was suggested earlier on, in a consistent way, through health and well-being commissioning.

Q16 Mike Weatherley: My question was: is drugs the majority driver of this?

Savas Hadjipavlou: Drugs are certainly a very significant driver, yes.

Ian Lawrence: It is a major factor, Chairman.

Q17 Andy McDonald: Can I turn our attention to the introduction of new providers into this field? Perhaps these are questions for Mr Johnson and Mr Oliver. The MOJ started off with 16 large geographical areas, and I think we have moved to 21. The aim was to have these contracts delivered by a wide range of lead providers, including partnerships between voluntary sector organisations or voluntary sector and private organisations. What do you think might hinder private and voluntary sector organisations’ willingness to bid as lead providers?

Richard Johnson: I suppose, in this context, my area of expertise is in the design of the contracts that would be utilised to outsource these services. As for the straw man that the Ministry of Justice has set up, with
regard to the design of those contracts, it appears that a large proportion of these services are going to be procured on the basis of price. This is an outsourcing of probation services with price competition. In that regard, the organisations that are most likely to be successful in securing these contracts will be the large private sector outsourcing organisations. There are possibly two—maybe three—voluntary sector organisations or consortia that are potentially going to offer viable bids. Ultimately—and I hope it is “ultimately”—what might hinder them bidding is that this would compromise their mission as third-sector organisations, because as the contracts are currently designed, this is not a rehabilitation revolution. You must be clear about that. This is about the outsourcing of probation services for the delivery of court orders at the cheapest possible price. In the delivery of that, third-sector organisations delivering the sort of services that you have been discussing will, I am afraid, be squeezed out, or at least take a side line.

Q18 Andy McDonald: Do I take it from that that you think there is a risk that VCS organisations will not be able to compete with the investment required or the delay in payment?

Richard Johnson: The investment is not an issue. The investment is not a big question in these contracts, actually. The big cost is going to be in terms of downsizing the probation services that you inherit— the cost of redundancies, essentially. The amount of investment required for the rehabilitative side—the recidivism-focused services—is going to be minimal, because it will be a minimal activity within the contracts as it is currently suggested that they be configured.

Q19 Chair: Can I clarify why you would have to downsize when you took on the role? I understand why you might find pay and conditions issues difficult. Why would you have to downsize, given that the requirements on the organisation are actually increasing the under-12-months? Why is it necessary to downsize at that point?

Richard Johnson: It is a key question. The answer is that the Ministry has made it clear that it is looking for a cost saving of around 30% through this procurement. If we take, for example, a typical probation area that is being outsourced in this way, they currently spend about £30 million on their services as defined by the court orders. The Ministry is looking for somebody to bid at around £20 million for delivery of those services, including the addition of the under-12-month supervision orders—still within the £20 million window. The organisation that is successful in securing the contract will be the one that bids cheapest. Whether they are then able to continue to deliver the service is a moot point. Actually, all they have to do is demonstrate no increase in reoffending to continue to receive their £20 million. Any PBR element related to a reduction in reoffending is over and above that and, as I say, is likely to be a minimal part of this.

Q20 Andy McDonald: Clinks recommended that the third parties engaged in this process receive their delivery costs up front. Do you think that is in any way realistic?

Richard Johnson: The proposal is for something similar to that anyway, in that the core funding, which will represent about 80% of the costs—the delivery of the court orders—is going to be paid as a monthly service fee. The PBR element—the payment-by-results, outcome-based recidivism element—will also be paid on a monthly basis and clawed back if there is no impact on reoffending. As I say, the investment cost up front is minimal and will be related to the transformation, which ultimately comes down to a 30% reduction in cost, which is an expensive thing to deliver.

Q21 Andy McDonald: We have heard, in the context of this conversation throughout, that there is a potential for the smaller voluntary sector organisations to be used as bid candy by the lead providers. Do you think that is a real risk?

Richard Johnson: It is a very real risk, and it comes down to the ability of the Ministry of Justice to evaluate these tenders and identify where and when that is happening. It is very possible for them to mitigate it, to check that organisations cited have signed indicative terms and conditions with the prime contractors, and then to follow that through to delivery and to check that they are delivering, but unfortunately, Government outsourcers rarely do that. The Merlin standard that DWP introduced has no teeth and was not utilised during the procurement process, and so was not able to mitigate bid candy.

Q22 Chair: Does Mr Oliver have a view on that?

Martyn Oliver: In terms of what hinders VCS organisations in bidding, it boils down to risk, in my view. I agree that the payment mechanisms that are being proposed, if they are more service-related, probably will not be so much of an issue, but putting a bid in costs an enormous amount of money—millions of pounds. Individual VCS organisations just would not be able to risk that kind of investment for a contract they may not win. I strongly suspect that commercial primes will twin with some of the larger VCS organisations and put in a joint bid, and that will protect the VCS organisation from some of that investment cost. There is an enormous opportunity here for some of the smaller VCS organisations to get in on the ground, and getting in on the ground is really important, because if they are not involved in the design of the pathway and the operational solution, they will have that imposed upon them, and I do not think that would work. I think getting in on the ground is fundamentally important. When we were working on some of the innovation pilots that got pulled, we noticed that the fabric out there was quite wide, yet full of holes and relatively unjoined-up. It is incumbent upon the procurement to make sure that that is addressed and, where there are holes and where there is disjointed provision, that is joined up. This procurement could enable that to happen.

I totally agree that Merlin is relatively toothless. Primes should be judged exactly as has been suggested—on whether they put their money where
their mouth is. If they do that, some of the smaller VCS organisations could, if they can demonstrate that their solution—their impact—works, take a very good part in this. I fear, however, that this may be more about saying no than saying yes to some of the organisations. That is largely because there may be too many of them competing for the same resources. That is my major fear.

I also think that a lot of the work being done at the moment is being done on the basis of fundraised income in the voluntary sector. There could be an opportunity to replace that fundraised income with the income on a contractual basis. That will enable fundraising to be deployed in areas for which there is no market, and that might solve some of the problems that might be inherent in this procurement.

I would also urge the Ministry of Justice to talk to the Cabinet Office about joining up some of the social investment opportunities that may be around and making sure that what the Cabinet Office says in its advice to the third sector, in terms of securing social investment, does not scupper their involvement in this procurement. I will give you an example of what I mean by that. I have a message from the Cabinet Office that says, “Go and borrow lots of money. That increases your gearing.” The tender comes out from the Ministry of Justice saying, “You are too highly geared. You can’t have a contract.” That kind of mixed message from two Government Departments that are a stone’s throw away from each other really does hinder the involvement of the sector. That kind of thing needs to be sorted out, but this is all in the procurement. I agree with many of the fears that have been raised in terms of that, but it is not insolvable. I would urge you to really think about this. You have a fantastic sector at your disposal that only in the voluntary sector. There could be an impact. For them, it is all about their reach. If we can resource them so that their reach is further, wider, that movement will bring all sorts of issues with it, particularly in terms of case supervision, what happens with their interventions and so forth, and keeping track of all these changes because, arguably, they will have an impact on the payment mechanism. The risk assessment tools themselves—I understand the Ministry of Justice is developing a new risk assessment tool—will inherently not be 100% effective. That is simply because there will be people who are either assessed as high risk when in fact they are not and the other way around. No risk assessment tool will be 100% effective and, therefore, in some—

Q23 Chair: Can I turn to the public sector that will remain? In a way, the Government are re-nationalising parts of the Probation Service in order to deliver the statutory services. Is that the right way to do it within the system, notwithstanding your overall criticisms of this system? Do the two probation organisation representatives feel that that is the right thing to do within this kind of system?

Ian Lawrence: Chair, NAPO has never been opposed to the idea of a national probation service. In fact, we think that the demise of what was the national service has caused many of the problems that we are trying to help resolve. Any such service needs to be properly resourced and thought through, and the impact on staff and the reputation of Government is equally important. Our chief concern is the proposed division of resources between 17% and 30% of the staff, and the workloads. That is a ballpark figure. We are extremely concerned about how it is going to play out, in terms of public safety and existing partnerships. Colleagues here have spoken glowingly about the usefulness of local partnerships. They exist and thrive at the minute among probation trusts. Thirty-one probation trusts won gold standard awards—a good deal more than G4S got at the Olympics last year, but hey. We are looking at a situation where existing partnerships work, and if they were invested in and developed, we could do what Mr Grayling wants. That is the crime of all this, if I may use that term: destroying what works to put in place an experiment. That is why we are fundamentally opposed.

Q24 Chair: Perhaps Mr Hadjipavlou has a thought about this. Can a system work in which you separate risk assessment from delivery?

Savas Hadjipavlou: We do not think it can work very well at all. There is a real issue in terms of creating a new interface between the contracted and the public sector, where there is inevitably going to be a flow of offenders between the two, not just in the direction of people being allocated to the contracted sector but people who either have breached or for whom the risk assessment has changed in the course of their supervision. We think that the order of about 20% to 25% of the caseload will move across this sector. That movement will bring all sorts of issues with it, particularly in terms of case supervision, what happens with their interventions and so forth, and keeping track of all these changes because, arguably, they will have an impact on the payment mechanism. The risk assessment tools themselves—I understand the Ministry of Justice is developing a new risk assessment tool—will inherently not be 100% effective. That is simply because there will be people who are either assessed as high risk when in fact they are not and the other way around. No risk assessment tool will be 100% effective and, therefore, in some—

Q25 Chair: That, in a way, is a problem we have all the time, is it not?

Savas Hadjipavlou: It is, but it is contained and managed within the same organisation. You do not have all the bureaucracy that goes with keeping track of these individuals in the way that this would bring about.

Ian Lawrence: It is about having skilled professionals who know what they are doing to manage that risk. My experts behind me here tell me that risk can change within the course of minutes, let alone hours and days. The skill that I have as a probation practitioner is what can make the difference between the degree of reoffending and, indeed, the gravity of that. The whole ethos of Mr Grayling’s proposals, to my mind, destroys the strength that we currently have—the relationship between the practitioner and the offender. That is what needs to be developed.

Q26 Steve Brine: Very quickly on that, what the Lord Chancellor said to us in his evidence, and what he would say to you in response to what you have just said—I am sure you have read this—is: why on earth would another provider not have an ultimate interest in working with the public Probation Service in managing, escalating and de-escalating risk, because they only get paid when they do the job and fulfil the contract? Why would they not want to be on top of that?
Savas Hadjipavlou: That is not strictly the case, as has just been described. There will be a certain amount of payment that will happen irrespective of the success in terms of caseload. The real difficulty here is that it has taken a long while to develop those crucial local relationships. They are being broken and a new player is being introduced. In fact, you will need the national public Probation Service to engage with local partners.

Q27 Chair: I am getting a slightly confused message here: that it is essential to be national in order to deal with these problems and it is essential to be local in order to deal with these problems.

Savas Hadjipavlou: It is. In answer to your earlier question, there are two clear issues; does it have to be public, and does it have to be national or local? In relation to the areas that are being retained as public, certainly we would support that. Does it have to be national or local? We certainly think that local is better, simply because that is where the action is, as it were.

Ian Lawrence: Can I come back to Mr Brine’s particular point? The world is paved with good intentions. We do not doubt for one minute that anybody involved in probation delivery would want to do well. Our point is that the whole model that we have been presented with puts at risk the current co-operative approach among providers to the services that we give. Instead of being partners working to develop and reduce reoffending, these same people could soon find themselves competing against one another. The Probation Service currently works with organisations like Clean Break in north London, which I visited last week. It is an absolutely superb example of community rehabilitation in action. That organisation and others like it would now possibly be rivals to other agencies in the field. I cannot see how that is helpful.

Q28 Chair: But it is not a rival to the public Probation Service under this model, because the public Probation Service is not doing that job. The public Probation Service is doing risk assessment and court-related tasks.

Ian Lawrence: Chairman, they work in partnership with the Probation Service. There were probation practitioners at the event I went to.

Chair: They have to work in partnership with whoever is delivering the service.

Q29 Steve Brine: Exactly. They will simply be another chair around the table. We are pressing quite hard here because we have to test this. By all means consult, but I still cannot understand—maybe I am not very bright—why they would not have the ultimate interest in making sure that they manage risk with the public Probation Service and be that other chair around the table.

Savas Hadjipavlou: Your proposition is correct that they would have an interest in making sure. What we are questioning is whether or not, in practice, this is what would come about.

Steve Brine: Okay. That is a fair enough point.

Q30 Chair: At the moment, as trusts are confronted with the possibility of fundamental change, what are they generally doing to prepare for a potential reorganisation?

Savas Hadjipavlou: They have not really had any information as yet about what they need to do, other than in general terms. The steps are set out in the Government’s response on 9 May, but there has been no guidance as to how the division between the public sector retained services and the services that will remain in these new organisations to be competed should be carried out. There are a whole range of issues to deal with: HR, precisely where caseload goes, and so forth. They are waiting to see what that guidance says they should be doing.

Ian Lawrence: Chair, that is why we would be pressing for a proper evaluation of the model, even to the extent that we could have a number of pilot schemes set up to test this over the next two years. That would give the public and Parliament confidence that what is on offer will work. There is a contradiction between the approach by the Minister on that. There is his refusal to do that, and his refusal to publish the results of probation pilots on reoffending in Staffs, West Mids and Wales, yet he talked glowingly about the results from Doncaster and Peterborough HMPs last week. There is no evidence, and he says he does not want to roll the prison schemes out until he has seen the results of the pilots. We say: do the same in probation; let us all test this model; let us all be satisfied it will work.

Q31 Seema Malhotra: We have started to move into this territory slightly, just thinking further about the delivery landscape and the landscape in local partnerships. The Government have, to some extent, moved on some of the concerns that have been raised around national commissioning arrangements, how local partnership arrangements should be changed and whether there should be a reflection in contracts. To what extent have the Government assuaged your concerns about national commissioning arrangements and how they could have worked against existing local partnership arrangements?

Savas Hadjipavlou: The answer that is in the report, and the answer that has been given to us, is that they will have to be convinced that any bidder can demonstrate to them how they are going to manage these local arrangements. It will depend on the bid and the bidder’s ability to develop those networks or continue with those networks. As we have said earlier, what happens in practice is often very different from what we all would like to see. The jury is out, I would say, and we will have to see what happens.

Q32 Seema Malhotra: Do I get the sense that you think the rhetoric has moved but you do not know what the reality will show?

Savas Hadjipavlou: The 9 May report has moved in a number of directions. It has acknowledged some of our earlier concerns, particularly around the division of the caseload, the importance of engaging with local partners, and making sure that PCCs are involved, set against the very compressed time scale that is aimed at for delivery. Bidding, or at least competition, will
start in the autumn. How bidders will be able to get their head round all of this and produce convincing and credible bids remains to be seen.

Q33 Seema Malhotra: Could you also talk a little bit about the role of probation in constructing other partnerships and how this might change under new arrangements?
Savas Hadjipavlou: There are a variety of relationships. At the moment there are partnering arrangements and commissioning arrangements in place, and so forth. All that has to be captured somehow, because a bidder will need to understand what the state of play is, so there is that process.

Q34 Seema Malhotra: When you say “the state of play,” do you mean the state of play on the ground at the local level?
Savas Hadjipavlou: The state on the ground—the “as is” position. A bidder would have to understand what they are inheriting, if you like. All of that would need to be captured. Arguably, that is looking back. If we believe the objectives to be reduction of reoffending, all those things that need to be in place need to be commissioned or co-commissioned, so you will need to establish a whole range of relationships with the PCCs and health and wellbeing boards, so that the right things are commissioned. The gaps that we all alluded to earlier in terms of drugs or alcohol or mental health need to be filled.

Richard Johnson: A slightly different view would be that we have, as we all know, a chronic level of reoffending right now. One of the reasons for that is a lack of integration at a local level. Partnerships do not actually exist effectively. It is possible, in outsourcing, to design your contract to incentivise partnership working. As these contracts are currently going to be configured, they will actually disincentivise it. They will drive contractors to look inwards and simply focus on delivering, as I say, the cheapest possible court orders.

Q35 Chair: Why is that so? Assuming you accept that there is some incentive to reduce reoffending and you know, as you yourself pointed out earlier, that having a house and a job are key factors, doesn’t that incentivise partnership working? The provider cannot deliver all of that; he needs the housing agency and local business.
Richard Johnson: I will look as far as possible for organisations funded by somebody else that I can signpost to, but given the contract that I have signed, and that I have gone from £30 million to £20 million and it is all about delivery of statutory services within that envelope, that will be my focus. It is not going to be about reducing reoffending, other than maintaining it at its current levels.

Q36 Chair: But you cannot do it without bringing in other people, because you have downsized; you have limited internal resources. As you say, you are looking for other agencies whose actions will enable you to claim that you have reoffending rates down.
Richard Johnson: It goes back to an earlier question about evidence of what is working. At the moment we see that court orders deliver a certain amount of supervision, and we see community sentences that maintain reoffending at current levels, with a general pattern of poor partnership working at a local level that does not contribute to improving the return to home, family and job. I will simply be maintaining that but doing it cheaper.

Q37 Secia Malhotra: I am sensing some disagreement.
Richard Johnson: I anticipated there would be.
Ian Lawrence: The notion that it is not working is absolute palpable nonsense. The Probation Service, for all the clients that come through its door, has now achieved the best reoffending rate figures since 2007; it is living proof that it works. We know where the difficulty lies in the main. It is in the short-term custodial community, and there is a lot of common ground between us about how we might usefully engage. Unfortunately, the Minister and others, it seems, confute those two figures together and lump it all at the door of probation and the members I represent.

Richard Johnson: If we look at any international league tables of recidivism rates, we see that we have a national scandal in terms of reoffending rates in this country, particularly among young people.
Ian Lawrence: Let me tell you what a scandal is. A scandal is that my members cannot compete for the job—for their own work.

Chair: What are we trying to establish here is how this system, if introduced, would function. I would like to return to that focus.

Q38 Seema Malhotra: Can you talk about what it would look like if it were successful? We are hearing that if the contacts were this way or that way you would not have incentivisation. What would success look like if it was to work?
Savas Hadjipavlou: If you factor out the private sector/contracted sector/public sector issue and say, “What would work on the ground?”; then there are lots of examples where people are heading in the right direction in terms of community budgets, where people pool their money and work together in a locally agreed framework. That makes sure that they are working with the same person, with the same family and so on, but they are working in concert rather than dysfunctionally. The key issue is whether, by injecting this contract in the middle of all this, it will work better or worse. There is no evidence that it will work better, and, as Mr Johnson suggested, it might well work worse simply because partnership work is time-consuming. It involves a lot of effort on the part of the organisation.

Q39 Seema Malhotra: Are you saying that the changes in the way that new contracts and new partnerships might be set up will reduce the ability to have a strong relationship with the users of the services? Through that, you will be having a negative impact, particularly on reoffending rates. Is that part of what you are saying?
Ian Lawrence: We think so, because we have seen nothing to suggest the opposite. We have talked about
agencies starting to compete with one another as opposed to working together. If it is about funding, people who were friends the other week are at each other’s throats the next. Our point is: let’s test it; let’s see, because it is clear to me, just in the presence of this august body, that people are not convinced that the scheme will work or, if it does, that it will produce the results that are intended. Let us test it. Let the Minister come before you and explain why he thinks he should dismantle the service that has served 100 years for the public and impose this experiment.

Richard Johnson: In an ideal world, if you really wanted to make it work, you would attach to the head of the individual the cash that currently goes to probation, prisons, police, health, employment and housing.

Q40 Seema Malhotra: Attach to whom?
Richard Johnson: To the head of the individual, the service user, the person that is falling through the...

Q41 Chair: You are talking about the offender, are you?
Richard Johnson: Yes; in this context, yes.

Q42 Gareth Johnson: Could I enlarge on some of the points we talked about to do with payment by results? There is a consultation going on at the moment that I do not particularly want to pre-empt, but I would like to know a bit more about your feelings generally on how this is going to impact on the Probation Service. What concerns, if any, do you have about payment by results for providers, on the financial side of things, and is any opposition you have to payment by results an objection in principle to it, or is it a pragmatic approach, whereby you feel that, logically, it won’t work, for whatever reason?

Savas Hadjipavlou: Payment by results is unexceptional. How can anybody argue against paying for the result that you get? The devil is in the detail of how this would work in practice. Certainly, our understanding of the intention is that the payment-by-results component will not be very large. If you take Peterborough and Doncaster as examples, it is around 5% or 10% of the service fee. At that level, it is hard to see that would act as any incentivisation, in terms of what is claimed it will achieve.

The second concern is this notion of a black box. Again, even if it is a black box—that is to say, everything that happens inside it is a matter for the contractor and you just pay for the result—that is fine, but we have just been talking about an open system, with people coming in and going out, with all sorts of other services being necessary to the outcome. It is hard then to be able to ascribe a result to a particular contribution. How much of that will be down to the contract provider and how much would be down to others?

The third concern is unintended consequences or side-effects, or ‘creaming and parking’—all those things where the provider, pressed against a very tight bid price, will look for all sorts of ways to reduce their cost. Again, as a general proposition of course, who could argue against that? In practice, though, how it maps out will be very difficult.

Martyn Oliver: I agree with much of that. If you go down the PBR road, you have to accept that, if you tell people how to get money, that is going to change their behaviour. I do not think it really matters what the PBR element is. The Work programme is an example. You often get some of the clients further away from the labour market not really receiving very much of a service. That is not because people do not want them to go into work; it is because the payment for that individual is so low that it is not worth the investment in them to get them into work. I fear that this might inhabit this procurement if we are not very careful. The MOJ have learned all the lessons. In the innovation pilots that were stopped, the PBR element was so big that they were totally uninvestable and totally unworkable proposals.

Q43 Chair: Sorry, could you just repeat that? What did you say about the PBR element?
Martyn Oliver: The PBR element was so large that the projects were uninvestable and therefore unworkable. That lesson has been learned. From the voluntary sector point of view, we also need to understand a bit about what incentivises them. It is not necessarily going to be money; it is going to be what they can do with that money. That is a really important nuance that we need to understand, because it is not about paying shareholders or costs of capital for them; it is about how they extend their reach with those kinds of resources. The risk, for a voluntary sector organisation, is scale. A big prime can, to a certain extent anyway, have a contract fail and it will not make too much difference. There have been some famous examples of that over the last year or so. Voluntary sector organisations are in a completely different position. A large PBR element in a contract that fails would mean the end, certainly, of that organisation and, I am afraid, probably of VCS involvement in a lot of public services. We have a constellation of organisations, commissioners, delivery organisations and social investors, and their relative position is unhelpful.

Q44 Gareth Johnson: Mr Lawrence, is it a good idea to bring the outside organisations in to PBR?
Ian Lawrence: We are not opposed, in principle, to PBR. Indeed, many trusts operate that locally with different partner agencies. Our concern, as I have articulated, is the lack of evidence to support the particular style of PBR. We have concerns about the profit margin being so low as to raise the question again of why you are dismantling the Probation Service to create a gap for the private sector to come in and maybe work. Payment by results on a system that is proven would be acceptable. Mr Oliver talks about what happened in the probation pilots. Inside information it may be, but we would like to know too why key bidders pulled out. What were the profit margins? All these things Parliament and the public should know before we embark on a scheme of this magnitude.

Q45 Gareth Johnson: My experience of the Probation Service is that it can be a very capable organisation, but it does not have the monopoly of
Wisdom, if you like. It cannot make all the ills in the world better. There are other organisations that can come in and help improve things and can actually reduce reoffending. If you can incentivise those organisations financially to come in and help out, that surely has to be a good thing, has it not? There has been an inherent fear, has there not, in some public sector organisations that if you have companies coming in and saying, “We can reduce offending and we will make some money out of doing so,” somehow that is immoral and that cannot happen? Is that your stance?

Ian Lawrence: No, it is not, because many probation trusts already have innovative strategies and work with outside partners—some in the private sector as well. It is about the management of the whole exercise. We are saying that we would clearly need assistance to engage with the under-12-month community. That is absolutely clear. It is 50,000 new cases a year. We are not averse to new people coming on side and working with us. Our concern is the management of that whole model, which we think needs to be run by skilled professionals and needs the expertise and a sharing of ideas. We are not opposed to that, but again, to achieve the economics of scale suggested and dismantle and dismember the current structure in the way proposed strikes us as completely mad.

Richard Johnson: There is a fundamental flaw in the understanding of PBR here. It is prevalent across Government outsourcing at the moment. There are two forms essentially of PBR. This form is the simple form of cash on delivery. Instead of paying for a service up front, I am going to make sure that I get the service by paying for it when it is actually delivered. But people think what they are buying here is spend to save. In a spend-to-save model we are tapping into the £5 billion-odd that it costs us with our current rates of reoffending. That is a completely different sort of contract, procurement and service. In that model, you are looking to incentivise risk because there are big rewards, and those rewards come from, effectively, a profit share between the public sector purse in reduced reoffending costs and the provider of that service. What you cannot do in that spend-to-save model is try and introduce the notion of competition on price, because competing on price drives you back to the bottom lowest common denominator rather than incentivising it with adequate reward to take risks to reach further out to socially excluded people or, in this case, offenders.

Chair: We need to move on. We are getting very short of time so I am going to go straight to Mr Stringer, if I may.

Q47 Graham Stringer: I want some numbers, just to clarify my own mind. We have talked about reoffending rates. How much reoffending do you find?

Richard Johnson: I will bow to the experts.

Savas Hadjipavlou: It is a re-conviction rate, rather than a reoffending rate.

Q48 Graham Stringer: Over what time?

Savas Hadjipavlou: Typically, a year.

Graham Stringer: A year.

Savas Hadjipavlou: Twelve months.

Richard Monkhouse: It is a binary measure rather than a frequency measure, so any reoffending is reoffending. If a prolific shoplifter now offends once a year rather than 32 times a year, that is not a measure of success. As a sentencer, I would have thought that is a significant measure of success, and yet the measure is binary. Do they reoffend or not?

Q49 Graham Stringer: If somebody reoffends after 18 months, that is a success.

Savas Hadjipavlou: In the way that it is measured, it would be. To illustrate it, if you take 100 offenders, 35% to 40% will reoffend within year one, another 20% within year two and so on. If flattens out in the end, but certainly you have to define a time frame just to be practical.

Q50 Graham Stringer: But it is not a good metric, given the length of time that the criminal justice system takes.

Savas Hadjipavlou: No. It is very narrow in that sense, yes.

Ian Lawrence: Can I just add that it is yet again living proof? The benchmark for this should be that people do not reoffend again. Understood. If we were able, collectively and properly, to engage the under-12-month community—it is common ground, as I have said—they would not be the reoffenders of tomorrow. Let us back-load PBR another way; let us get resources in at the start. Allow probation to work with other providers, with properly managed schemes, and you will not see those people coming back through the door in 18 months to two years.

Q51 Graham Stringer: In the change of the providers, apart from economies of scale, what other scope is there for savings?

Ian Lawrence: You could certainly look at merging the current probation trusts. In fact, there were areas before, and they were merged, which produced economies of scale. Probation has worked under testing efficiency saving benchmarks for many years now and has delivered more for less, well in tune with the Minister’s demands. That could certainly be done. You could repackaged the current areas.
Richard Johnson: Contractors will also attempt to do what they call channel shift. So, rather than delivering things face to face, they will try and deliver it over the telephone or on a computer. I believe in America you can report in for your supervision order at something like a cashpoint machine, so they will attempt to reduce costs that way, if the court orders allow.

Savas Hadjipavlou: The difficulty with all this is that this is person-based work. The quality of engagement between the supervisor and the offender has generally been shown to be critical to how effective that relationship is. If you mechanise it or industrialise it, you will go the other way. In fact, one of the issues with the probation practice in the past has been that it tended to become an IT-based tick box. With discretion and so on, things have moved back to support that quality of relationship between the offender and the supervisor. It goes to Mr Lawrence’s point that this is a professional role, which means that you are bringing about a change through skill, knowledge and the exercise of discretion, combining both a challenge to behaviour and support.

Richard Johnson: It is possible that integration will offer a cost saving, so if my drug rehab worker also delivers the supervision element, we will be able to kill two birds with one stone and combine the costs there.

Ian Lawrence: I have one last point on your question, if I may, sir. I have already alluded to the amount of money spent on electronic monitoring—£107 million a year. We think there are economies of scale possible there. The facilities management of the probation estate has been well documented by my union and others in terms of costing the taxpayer millions. So, yes, there is plenty of scope.

Q52 Graham Stringer: I am interested to go back to Sir Alan’s question. Do we know the cost of re-nationalising the service and do we know the cost of changing trusts into mutuels?

Ian Lawrence: I know nothing about the costs. Perhaps you should ask the Justice Minister, who has withheld the risk assessment.

Q53 Graham Stringer: We have got you here at the moment. Does anybody have any idea of the cost?

Savas Hadjipavlou: We do not have particular figures. Certainly, in relation to the transformation itself, there will be costs linked to merging—assuming that they are merged—those areas that would come into one. There are several cases of trusts that are going to be coming into one.

Q54 Graham Stringer: Are there any other areas where there might be costs that have not been quantified yet?

Richard Johnson: It is not clear in terms of the transformation—which is a euphemism, potentially, for redundancies—where that cost will lie, how much of that cost will be absorbed by the Ministry and how much will be passed to the contractors. Going back to one of your earlier questions, it may be a barrier to organisations bidding in the end if too much cost is being transferred.

Q55 Graham Stringer: I have a final question that has been alluded to in many of the other questions. If there is a drop in operational performance, what are the real risks and consequences of that drop?

Savas Hadjipavlou: It depends where that is. We are doing a piece of work at the moment with the Department around identifying those areas, in terms of the contract, which are not as crucial, particularly in terms of reporting back and so on, so that some resource could be unlocked that way. Plainly, if the impact is on supervision and management, that will be of considerable concern because it would impact on public safety. As I have alluded to earlier, there has not really been any real change up to this point, but once trusts start to divide the caseload and work in a different way, we might expect to see some considerable pressure on them, and so that impact.

Ian Lawrence: There are two aspects. One is that the current propositions have completely destroyed the morale of staff in the Probation Service. I know there will be some chief execs who will tell you differently. You want to see some of the stuff that we get coming in from our members; they feel demoralised and disillusioned that they are now so devalued in the face of this. The fact is that there will be a drop in operational performance because of the proposed changes. Quite simply, Chairman, that will mean more people at risk of harm and the public being endangered. It is quite simple. People are under stress already, and what is being proposed is putting them under even more.

Richard Johnson: If that is the case, I am not sure how quickly you will be able to recover the situation, because you will have gone from the £30 million service to the £20 million service. You will have closed any number of offices, you will have made 30% of your staff redundant, and you will have reduced your service to a different form. How quickly can you recover what you have lost, which was maintaining the level of public safety that you had?

Richard Monkhouse: In terms of sentences, the risk is that our move from a first choice of custody to a last choice as custody will change, and we will see a reversal back. That will then exacerbate the problem because more people will be going into prison on short-term orders, and that is not a desirable effect; it really is not.

Q56 Chair: If, however, in your area you had a provider that was achieving significant success in reducing reoffending, presumably that would have the effect of making the magistrates more willing to continue with the approach of using custody less.

Richard Monkhouse: We have already seen that. In the areas where there have been intensive alternatives to custody—Manchester is a classic example—the drop was greater than in other areas. We need those alternatives and we need providers to provide those alternatives. We still need custody as a last resort for those who simply do not comply or for the people who are a danger to the community, but if we do not have those, then the sentencing patterns may well change and go back to what they were 10 to 15 years ago, which is not a good idea.
Q57 Chair: That is 10 to 15 years ago under the present system.

Richard Monkhouse: Under the present system, yes, but alternatives have come in. There has been a lot of work done among partners—far more than there was 15 years ago. That has developed over the last 15 years. The relationship, despite the links between the sentencers and probation being on a less formal basis, still exists in many areas, but it exists on goodwill rather than on any statutory basis. Again, that needs to be developed. That will have to be built up with all of the new partners. The people we will see in court are not probation because we will be dealing with lower risk, so the problem is almost doubly exacerbated in the magistrates courts. We are forgetting all those people who rely on those other services that fall off the back, those voluntary services where we are fining or giving conditional discharges but we still signpost to a particular route for accommodation, finance, drug abuse and alcohol abuse, which have not touched the Probation Service, and yet there is an awful lot of very good work being done there to prevent those people from getting to the second stage, getting to that seriousness. That is the worry as far as we are concerned.

Chair: Thank you very much indeed. We are under some time pressure this morning, but we have had a very vigorous discussion and tested out ideas very helpfully, so we appreciate your assistance very much. Thank you.
Wednesday 11 September 2013

Members present:
Sir Alan Beith (Chair)
Steve Brine
Jeremy Corbyn
Nick de Bois
Mr Elfyn Llwyd
Andy McDonald
Yasmin Qureshi

Examination of Witnesses


Q58 Chair: Ms Bourne, Ms Mountstevens and Mr Michael, welcome. I have never seen three Police and Crime Commissioners in one place before. It is a new experience. We are very glad to have your help with the inquiry that we are conducting. Some of the respondents who have come before us up to now have argued that current Government policy on crime reduction is inconsistent. It would be helpful if the Sentencing Council was very clear about what they do and how they co-ordinate. From your angle, do you see a cross-Government strategy developing, or is that not there?

Alun Michael: Can I say, personally, that crime reduction, tackling crime and crime prevention are essentially local in their nature? That is recognised in some of the legislation—the Crime and Disorder Act 1998, reinforced quite considerably by the 2011 Act, which established the Police and Crime Commissioners. To a degree, what happens at national level is sound in the background and irritation rather than anything else. There was a deep disappointment, for instance, when the Government did not go ahead with the pilot on the Probation Service. The one in Wales was one of the ones that were pulled, because the way that the Probation Service had engaged with what the Government wanted, and trying to reconcile that with being really effective on the ground, had every chance of success and might have taught lessons that would have helped in a wider arrangement. But I think, by and large, what happens at a national level is something that is in the background. The important work is very much local among the police, the Police and Crime Commissioner, local authorities and other organisations, including the agencies of central Government, like the prisons, that are operating on your patch.

Q59 Chair: So you can just get on with it. Would the others agree that it is really down to what you do locally with the range of bodies that are involved?

Katy Bourne: Chair, yes, I would agree with that. It is very important that it is localised, but, as far as Government is concerned, I welcome the fact that reducing reoffending is absolutely key to reducing crime. I also welcome working with the offenders who have been sentenced to less than 12 months as well, which I think is key.

Sue Mountstevens: I would agree with that. It is a really good approach to look at those who are only sentenced up to 12 months. It is also important to look at working with all the partners together, because reducing crime is not just the role of the police; it is working with all partners, because the offenders are often very complex, and it is not just about looking at reoffending but also looking at offering them an alternative way out.

Chair: You need to speak up a little because the acoustics are not very good in here.

Sue Mountstevens: Okay. It is just working with partners, making sure that we have some pathways to be able to work with offenders when they come out of prison, particularly looking at employment, housing and drug and alcohol help, so that they can be shown that there is a different way to continue with their life rather than continue with reoffending.

Alun Michael: Can I just add one thing, because you were asking about the impact of national on local? One of the issues is what the Sentencing Council does in its advice to sentencers. In the submission to your Committee, I notice that the Department of Justice said that the Sentencing Council, in issuing its guidelines, must have regard, among other things, to the cost of different sentences and their relative effectiveness in preventing reoffending. We had Lord Leveson, as the Chair of that body, speaking to Commissioners a few months ago. In response to a question that I asked him—because you may recall that this Committee called on the Sentencing Council to have that sort of remit—he made it very clear that it was very low down the priorities that they assert. It is my personal view that it would be helpful if the Sentencing Council was very focused on which sentences are most successful in reducing the likelihood and the seriousness of reoffending. It is nice that the Department of Justice think that is what they ought to be doing, but it is actually very low down in the legislation and—very clearly, from what Leveson said—in the way that they approach things.

Q60 Chair: It is a point that we can bear in mind when we review proposed changes to the guidelines. Crime has fallen in every locality, which must be comforting for you, but why do you think that is happening?

Sue Mountstevens: If we look particularly in Bristol, we have the integrated offender management project. That is the whole key of getting partners to work together; we actually co-locate them together. By
looking at real high risk offenders, by targeting them, almost to have a bespoke service for each offender, it has brought down crime in Bristol by 58%. That shows that investing at a very early intervention level has delivered great results. Not only are offenders offending less, but the severity of their crimes is less. Integrated offender management has worked really well. One of the concerns I have with the “Transforming Rehabilitation” programme is how we can protect that really key project because it has delivered real results.

Q61 Chair: Has the creation of a National Criminal Justice Board and the action plan that it produced had any impact on you?  
Alun Michael: None whatsoever. Working with criminal justice agencies locally is quite important. I do not know if members of the Committee have looked specifically at the clause in the 2011 Act and the Oath of Office of Commissioners, but I have brought some copies of both that might focus on some words. We are given responsibility to work with the criminal justice bodies in the area to make sure that they are efficient and effective. I have found certainly at the local level—whether it is the prison, the Courts Service or the integrated offender management team—that they are very keen to work with us. You ask why this has happened. It would come as a surprise perhaps if I were not to suggest that it is the 1998 Crime and Disorder Act, the creation of local crime reduction partnerships, or local community safety partnerships as they are in Wales, and the youth offending teams.

Certainly, in my area, we have seven local authorities and each of those youth offending teams is continuing to see a reduction in youth crime. They refer to it in a phrase that I do not think is terribly attractive but as the “thickening of the soup,” which essentially means that those who can be diverted out of crime are being diverted, which leaves you with a residue of much more difficult cases from difficult backgrounds, much more embedded perhaps in a culture of offending, which obviously need to be tackled. There tends to be a reorganisation and co-operation between authorities and youth offending teams. I would say that, on top of that, there is the sort of local initiative to which Sue was referring. It is a good thing that crime is coming down generally, but then—and this is where Police and Crime Commissioners can work with local authorities and others to achieve it—it is focusing on what the residual problems are, because there are still big savings to be made. You will be aware, Chair, of the work of Professor Jon Shepherd, because he came before this Committee, in taking an evidence-based approach to where violence happens—for instance, particularly in Cardiff.

Q62 Chair: I think we are getting quite a long way from the question I originally asked. I would quite like to find out what your colleagues think about whether this national body has had any impact on you at all.  
Sue Mountstevens: It has. It sets national priorities, and certainly our local criminal justice board has taken on board their direction. A lot of the things that we were already talking about at our local criminal justice board have just been almost reinforced by the national board. We have a very useful criminal justice board in Avon and Somerset, and it is a real driver for change. We have already looked at different ways of working, making sure that the journey of the victim is heard throughout the whole process, and we have invited judges to come on to that criminal justice board so that there is a real remit from the very beginning right through to the end of the process. I think that by getting all those heads together in one room is going to deliver some real changes.

Q63 Steve Brine: Briefly speaking—Sue has already touched on this—with regard to the approaches that you have taken in your areas to reduce crime, could you give me your top item? What would be the headline item that you have done in your relatively short tenure thus far? I am guessing, Sue, you would say the IOM example that you have just given, but could Katy and Alun give us their No. 1?  
Katy Bourne: Sure; I am happy to answer. The police and crime plan that has been written has identified the priority areas, and that forms the basis to pull all the partners together. So far, we have developed a protocol that has the commitment from the three top-tier authorities. In Sussex, we have the two county councils and a unitary as well. They are all politically very different, so there are challenges there. We have managed to get them to develop a shared, outcome-based framework for determining what successful crime reduction will look like in Sussex. Because of that, they have also developed now, and signed, an agreed community safety partnership budget-setting framework that is driven by the police and crime plan. So the plan that I have written is the key driver in all of this. All the community safety partnership activities from now on will be aligned to the plan, and all their activities and initiatives across Sussex are going to be driven by evidence-led best practice. That is really key to it. It is a first in Sussex. To get the three top-tier authorities and the three community safety strategic forums signed up to this has been quite an achievement, and we have used the plan as the framework to drive that. For the future, Sue talked about the criminal justice board. In Sussex, we have just done some really interesting work with Sheffield Hallam. We have done a two-year study, which I am very happy to share with the Committee later on. They have done some really good work on IOM, and it shows that there is a 78% reduction in actual reoffending in Sussex, against what the national was predicting.

With regard to the future, I sit on the criminal justice board in Sussex. I would like to see it potentially merged with the criminal justice board in Surrey, or, if not, certainly my aspiration would be to chair the criminal justice board in Sussex because I see my role very much as a co-ordinator for all these partnerships coming together. I would also like to get a greater role on the health and wellbeing boards, because that is key too.

Q64 Steve Brine: Alun, what would be your No. 1?
**Alun Michael:** The driver of the Police and Crime Plan is absolutely right. The important thing is for the Police and Crime Plan to be something that, although it is the responsibility of the Commissioner, is also, if you like, owned or they field ownership in it of the chief constable and other partners. I recreated the criminal justice board for South Wales. It had dropped away when funding stopped into a lower level group, and we are getting a lot of buy-in on that. I agree entirely about the importance of having those links. In terms of specifics, I would point to two. One is building on what has been effective with youth offending teams, which is doing some pilots on the 18–25 age group. There is actually no logical reason why the approach that was adopted on under-18s should not work over the age of 18, especially as a lot of the factors that this Committee’s predecessor identified as the things that really influenced the levels of crime—whether people are homeless; whether they have jobs and skills; whether they have mental health or substance misuse issues—are influenced at that local level, and the prolific offending is now in that 18–25 age group.

The second one is extending that clinical approach to finding out where violence happens and in what environment, in order to address it to work done at the other A and E departments across South Wales, because that tells you where violence is happening as distinct from what violence is reported to the police.

**Q65 Steve Brine:** Are you content that the role as it is gives you sufficient scope to reducing crime in the context of national policy?

**Alun Michael:** Yes, because it gives you the capacity for leadership. It is not a question of being able to tell other people what to do. As I say, I am finding that with people in the prisons, the offender management team, and the Christian and Muslim communities, which have a great deal of influence on their membership—in their engagement with prisoners, for instance. The opportunity to do that and bring people together and exercise that leadership is not about telling people—it is about a common purpose.

**Q66 Steve Brine:** You would both agree with that, wouldn’t you?

**Katy Bourne:** Yes. **Sue Mountstevens:** I think so. It is not to do with power; it is to do with influencing. It is almost being a facilitator, because you can bring everyone to the same table—and that has been really clear—to make sure that all the partners are working together.

Going back to the criminal justice board, we also have a regional criminal justice board, to make sure that in the south-west we are all working together, because we do not have the same areas as the CPS and the Crown. The areas are quite dysfunctional as far as the PCCs’ area is concerned. It is very clear that, as PCCs, we need to work together to make sure that, geographically, we are all talking in the same way.

**Alun Michael:** It is interesting that we have an All Wales Criminal Justice Board and so there is a similar regional framework, but initially they did not want Commissioners to be involved. They have now asked Commissioners to be involved, which is a sign of the role that the Commissioners can play being recognised in places that were nervous to start with.

**Q67 Steve Brine:** How much scope is there in your role—in Somerset, for instance—to commission early intervention schemes that would obviously get right in there and stop crimes being committed in the first place? For instance, I am sure you are aware of the organisation Home-Start, which is about parents teaching parents to be better parents and help bring up better citizens who do not go on to lead dysfunctional lives and commit crimes. Do you have scope in early intervention?

**Sue Mountstevens:** With the community safety grant that we have been given, in Avon and Somerset we were given £2.4 million. We have worked with the community safety partnerships, which are really key because they are on the ground and they have been able to put forward projects of where we could start. As far as early intervention and looking at youth diversionary projects and everything else is concerned, there is a real key message coming out that, by having that grant and commissioning services through there, we can identify what works. What we are doing in Avon and Somerset is very clear. Because it is taxpayers’ money, we are making sure that every quarter they have to report on their outcomes, which we publish on the website, so that people can actually see that there are differences. It is really important that you just do not pour money into a black hole. I am very clear that there must be a delivery plan and that we as an office will measure against what they said they will do. Where there is not evidence that they are creating change and improving the system, then we will withdraw the money.

**Q68 Steve Brine:** In Sussex, for instance, I mentioned Home-Start, but do you know what the Nurse Family Partnership is? Is that something that you feel you have levers on?

**Katy Bourne:** If you talk about early intervention, we had a key meeting last week around the Troubled Families programme, which is all part of this, because you have families with very complex needs. Early intervention is really important, and often these families have offenders within them as well. The “Transforming Rehabilitation” proposition covers the whole area and it is important that you do not just work with preventing reoffending but you work at early intervention.

We had a meeting last week with the three top-tier authorities. The chief executives were all around the table, with the leaders of the cabinet portfolios, and their key officers with them as well. We had fire and rescue at the table. We had Louise Casey from the Department for Communities and Local Government, which has headed this, with us as well, because we wanted to show a real, clear commitment to working with these troubled families and doing early intervention work across Sussex. That is an absolute testament to the role that I am in.

When you asked earlier, “Are you satisfied that your role is clearly defined?”, yes, absolutely. It is a huge opportunity, which we are only just starting to realise. We are democratically elected, which gives us an
enormous mandate. Using that to the best of our abilities, we are capable of bringing these huge organisations together and getting them to work off one page. I think the future is good.

Chair: I think we need to move on.

Q69 Mr Llwyd: What are your impressions of the existing work to reduce reoffending at a local level, first by the probation services and, secondly, by local community safety partnerships and their constituent agencies?

Alun Michael: I would say that the most important part is that local partnership approach. I found each of the seven local authorities absolutely engaged and positive about that working—and working very closely with the police. Perhaps this is the appropriate place to say as well that, of course, the relationship between organisations and governmental issues is different in Wales from England. The four Welsh Commissioners meet the Welsh Minister with responsibility for local government and community safety on a regular basis. Those meetings are very positive. I am finding that our meetings with local authorities are enormously important.

As far as probation is concerned, I find it quite extraordinary, given the amount of challenge they have in terms of change, how positive and engaged the leadership of the Probation Service in Wales continues to be on things like that 18–25 age group that I mentioned. I have some nervousness about whether they will be able to maintain that very high level of engagement given that there is so much happening in that field. One agrees with the intervention in terms of short-term prisoners. That is a very welcome step, but it comes without resources and with all that major organisational change that is going to be very difficult for them to cope with.

Q70 Mr Llwyd: It is probably right to say that the Welsh Probation Trust is very ably led, is it not?

Alun Michael: Yes, it is indeed.

Q71 Mr Llwyd: Does Mr Michael’s experience chime with you ladies or have you a different view?

Sue Mountstevens: I have a very similar view in the fact that it is the co-ordination of agencies that has really driven that forward. Crime is not a simple measure. The reduction of crime is far more complex. There are a lot of mental health issues that are involved. The police are constantly being used as the service of last resort. If we could find better co-ordination with the NHS, looking particularly at the temporary sectioning of individuals under section 136, if we can get more beds available, then that would free up a lot of police time to do more crime prevention. At the moment, it is estimated that over 20% of their work is involved in working with people who are mentally ill.

Katy Bourne: I would add some caution to your question. Certainly, the IOM study that I referred to earlier in Sussex shows that that is working quite successfully. I can quote, for example, the IOM cohort across Sussex. The average number of convictions reduced from 0.75 to 0.27 in the 12 months before IOM compared with the 12 months after; so there is some quite good work there.

As far as the reoffending rates are concerned, at the moment, in Sussex, we have one of the directors of the Probation Trust who sits one day a week in my office so that I can really understand what this means for Sussex locally. I asked her to prepare some work around this, and she came up with some slightly out-of-date figures here from 2006 to 2011. It shows that crime has definitely reduced, and there has been a 20% fall in the number of offenders and a 24% fall in the number of reoffenders, but the proportion of offenders reoffending has still remained broadly the same. So, despite everything, something is not quite happening right. This is possibly true around the country, but I am obviously speaking locally about Sussex.

Q72 Mr Llwyd: You refer to the IOMs. Of course, they have been established in many areas and they are, for the record, meant to deal with the most prolific offenders. Many of these are, as we know, short-sentenced offenders. What is your assessment of the existing coverage of these schemes within your area, and what evidence is there of their effectiveness—and, more to the point, their cost-effectiveness?

Sue Mountstevens: The evaluation of the Bristol project shows that the cost per crime is dramatically less than it was before IOM was introduced. It is a really positive way of investing earlier on. All the agencies have had to invest in IOM and it is delivering great results. IOM covers some of those who are under the 12 months’ sentencing because those are the ones that have been targeted—they are the persistent ones. But as far as funding is concerned, of course there is no funding at the moment for under 12 months’ sentences. One of the areas in reducing crime may be really effective in the Government strategy of tackling that cohort, but I am very clear that what we must not do is dilute high risk offenders, because what we are doing at the moment is really working and bringing down crime at less cost. It is important that, just because it is successful, we do not dilute it to cover a much larger cohort. The reason it works is because we are targeting much higher risk.

Alun Michael: Can I make two points? One is that partnership is effective. I have been around in public service long enough to have seen previous recessions when organisations have drawn back into their core services and said, “We can’t afford the luxury of doing things with others.” There is something different, certainly in Wales, on this occasion where—in local government, Welsh Government and other services—instead, people are far more saying, “We have to do more together. There has got to be more collaboration when the going gets tough.”

The second thing is that a lot of local initiatives recognise particular problems and seek to tackle them in an evidence-based way. In one sense it is because there is a sense of local ownership that they work. I am particularly noticing people leaving prisons looking outwards so that work with the very prisoners you were talking about is already happening, albeit in a different way—a more hand-to-mouth way. For instance, there is the New Leaf project in Cardiff...
prison, which comes out of an initiative from Saleem Kidwai and the Muslim Council of Wales, working with Muslim prisoners and others. It is very effective. In Swansea prison the other day I was meeting people in the chaplaincy there. These are taking steps to fill that gap because there is not supervision, but, because they are local, because they are owned and because they link it into the wider community, they are having success.

Q73 Mr Llwyd: I have one final and rather important question, which I think is a core question of all this. How are drug and alcohol services funded in your area in this financial year, following the devolution of responsibility to local authorities and to yourselves, and how do you respond to DrugScope’s concerns that there is a risk of disinvestment from such services now that the budget is no longer ring-fenced?

Alun Michael: One of the problems for us is that in the money that came from central Government it was not clear what had been spent in the year before. We never got full information. One of them was, for instance, the investment in the Drug Interventions Programme. In Wales, the four Welsh Commissioners agreed that we would continue the joint funding with probation for a year and undertake an assessment. We then agreed to ask my deputy, Sophie Howe, Deputy Commissioner, to lead that task. It has been linked in with the Welsh Government and we are trying to look at maintaining that investment and that partnership. Of course, that is challenging due to the changes in the probation organisation. We are also looking to increase the resonance with the health service and Welsh Government initiatives, so it is very much on the agenda of the four Commissioners to maintain that intervention work. Getting it done in a way that is really cost-effective is quite challenging.

Katy Bourne: I would agree with that. I am aware of the contribution that I have towards this because I have the breakdown of figures here. In broader terms of funding from the local authorities and the health authorities, that is possibly a harder question to answer. Also, if you think of a police officer’s time and the effort they put in, a lot of the funding does not reflect that side of things as well so that the cost side—

Q74 Mr Llwyd: Given that we are pressed for time, may I ask you, Ms Bourne and Ms Mountstevens, would you be prepared to send a note in to respond to this particular question?

Sue Mountstevens: Yes.

Mr Llwyd: I am much obliged.

Sue Mountstevens: Not only have I agreed to continue funding the drug and alcohol action teams for this year, but for next year we are going to commission a single drug and alcohol referral service through our custody suites.

Q75 Andy McDonald: I would like to ask the Commissioners about commissioning. Previously, the Government were planning to devolve commissioning arrangements for rehabilitation services to probation trusts, but they recognised there may be potential over time for other public bodies such as local authorities or, with a broadened statutory role, Police Crime Commissioners to take responsibility for the Probation Service. Some of your colleagues seem to subscribe to the view that that responsibility for commissioning should be with you. Do you share that view and, if so, could you perhaps explain why?

Sue Mountstevens: I offered to be a pilot area because the whole point of having a PCC is so that we can work with backing local people to find the solutions for us as an area. It would have been an opportunity to have co-commissioned services and to work out ways of tackling that in our environment. As that is not going to be the way forward, PCCs have a real role in working together on setting the contracts, but they also have oversight of how they are delivered so that we can scrutinise them. We are going to know; we are the ones who are going to be facing up if this new project does not work or crime starts to increase. There is a real position now for PCCs to get into the detail and make sure that those contracts are delivering.

Katy Bourne: If I can follow on from that, initially, in the first consultation period, the PCCs put a lot of effort into this to say, “Actually, we are here and we would like a say in this commissioning process.” Certainly, I put a separate paper in with a solution, of which the Committee has had sight. In fairness, the Government have taken that on board and they have now set up a reference group for PCCs, of which we also have membership, which is meeting directly after this to look at how Police and Crime Commissioners can have a direct input into the commissioning process. They are using all our plans. Our police and crime plans are going to be put into the framework for our contract package areas. Where I am, we have Surrey, Sussex and Kent together; it will be absolutely critical for any provider coming in that they take those three plans into account locally. We are going to explore ways of how we can have more emphasis and influence on the commissioning process.

Alun Michael: I would agree particularly with what Sue said about the primacy of working locally to find solutions. Personally, I do not want to get bogged down in the bureaucracy of commissioning processes; I want to get on with the actual work of what works in terms of producing results. One of the biggest challenges for us is being scientific about it, really questioning what works and what does not work. One of the things that we have in south Wales is the Universities’ Police Science Institute. Yesterday I sat down with members of the police force and my team, along with academics from three different universities—the universities of Cardiff, South Wales and Swansea—trying to tease out where we can take things forward in terms of testing our effectiveness and testing new ways of doing things. That is where I want to be spending my time, rather than in bureaucratic commissioning processes.

Q76 Andy McDonald: The MOJ acknowledged that the PCCs would need to play an integral role. You have largely addressed how that might play out. Can you answer me this? To what extent do you think the MOJ has engaged with you in relation to the
Katy Bourne: Certainly it is a challenge because we are Surrey, Sussex and Kent, but, fortunately, Surrey and Sussex probation trust is already combined and has done a lot of this work ahead of the “Transforming Rehabilitation” proposals in so far as they look at their high risk offenders separately from their low and medium risk anyway. A lot of the work has been done. It is much easier for a provider in our area to come in and be able to work across. I have already met with the Chairman of the Kent probation trust to talk this through. We have two probation trusts in our package area, but they are looking at forming a mutual anyway and bidding for this as well.

Alun Michael: I am fortunate in this regard in the sense that it has been recognised that it will only work if Wales is a single area. That is because so many of the services, whether it is in housing, local government, health and so on, are devolved matters; and, because the four Welsh Commissioners are used to working together and working with Welsh Government, I am less concerned about the area and it will probably fit better in our terms. But, reinforcing what my colleagues have said, I would be concerned if it was not on that footprint.

Q78 Yasmin Qureshi: We have been discussing quite a lot about various things being done to reduce offending. Linked with that, I want to look at the issue of reducing reoffending as well, which I know we have been discussing. Various different organisations are involved in this process. With the advent of loads of new providers possibly dealing with the issue of reoffending and reducing crime, how do you envisage the new providers fitting in with the existing partnership arrangements that you already have? Can you give an example perhaps of where new providers have come in where already existing partnerships exist with which you are involved?

Katy Bourne: I will pick up on that one. The Sussex criminal justice board has just done a review of its integrated offender management anyway. It shows quite clearly where the different partnerships are, so I am quietly confident on that front that any provider coming in will have a good understanding. I am making it my business as well to understand what the partnerships are in Sussex, and certainly in Surrey as well, because, as two police forces, we are doing far more collaborative work. I referred to the probation director sitting one day a week in my office. She also sits one day a week in the Surrey PCC office as well, so we share that knowledge across. It is really important with these contract areas, because they are wider than our police boundaries, that we have that conversation going on.

For me, in Sussex, the challenge with regard to partnerships is that I have three top-tier authorities that are politically quite different, and that is definitely a challenge—but not one that we cannot overcome as well.

Alun Michael: The most important thing for a new provider coming in is to recognise what is there and to look at the strengths of what is already in existence, which essentially is what we have to do as Commissioners as the starting point. To do that rather
than to come in with a theoretical model is what is important.

In my case, in south Wales, I have to recognise the fact that we have seven local authorities. They are very different. They are different in size and population, and they have different models of partnership. Secondly, the Welsh Government have looked to increase the partnership between local authorities on a footprint model, Swansea working with Neath Port Talbot and Bridgend, for example. That is just a fact of life. That encouragement is there. I have had to say, how can I work with that and make sure that the priorities of crime reduction and reducing reoffending are fitted within their priorities? If they create, as they are doing at the moment, a joint youth offending team, I have to make sure that that nevertheless provides outcomes in the three local authority areas that enable our partnership working to work.

Going back to your question about the new provider, if the new provider comes in not just thinking that they have an arithmetical model but they are joining partnerships that already exist with strengths, then the joint working will function. If they come in saying, “We know best and we are going to do everything according to this arithmetical model, which is what we bid on,” they will run into difficulties.

**Sue Mountstevens:** I would agree very much with that. How the new providers are going to fit into the new landscape is too early to say, but I have had reassurance from MOJ officials that the contracts will be very closely scrutinised and, if they are not going to work with the stuff that works and delivers results, then they will not be awarded the contract. It is for the PCCs to make sure that we scrutinise that contract, that we can intervene and we can have some leverage about what happens if that does not happen.

**Katy Bourne:** Picking up on what Sue just said, it is really important that future providers demonstrate that commitment to the existing local partnerships, so I would definitely expect to see that as part of the contract package requirement.

**Chair:** Gentleman, you appear to be leading on that question. I think that there is a place for that, but I do not think that we should put too much weight on a theoretical model. Do you agree with that view?

**Steve Brine:** Our predecessor Committee had said that there needed to be a much more direct financial incentive for local agencies to reduce reoffending. Would you agree with that view and whether you think the Government’s reforms to introduce payment by results, for instance, into the commissioning world and “Transforming Rehabilitation”—

**Chair:** Mr Michael will remember that, of course, the idea of commissioning both custody and alternatives to custody at local level seemed to us to be a much better way of building an appropriate financial incentive.

**Steve Brine:** We have not gone forward with that. Do you agree with that view?

**Alun Michael:** The answer is that it is more difficult than that. I agree that it would be nice if we could do that, but it does not always work that way, Sue referred to the reality of crime rather than just what is reported to the police. I go back to the exercise that I am initiating with the support of the Welsh Government Minister, which is to ask about people who come to A and E with injuries as a result of a violent incident, many of whom will not have reported it to the police, in order to scope that and try to reduce it. We want to get closer to reality.

The problem is that, although that work, if we are successful, will help the health service because it will be less people perhaps needing expensive facial surgery, which was the motivator in terms of Jonathan Shepherd’s work, it is very often in the “too difficult” box. That is where one of the things that I have done is to create a partnership fund in order to be able to put a bit of money in to provide the resource to do the work that is going to help not just myself but other agencies. That can be more effective than a commissioning model, because it is very difficult to fit a commissioning model to the actual local experience. What you need is, effectively, a public health model,
where you are trying to look at the cost of having to undertake expensive treatments, whether it is treatment of offenders or medical or remedial work by local authorities in their town centres in order to get ahead of the curve on that.

**Steve Brine:** We are going come on to that, are we not, with the local authority leaders on the public health side of things?

**Chair:** Yes.

**Katy Bourne:** You said, should the payment by results go ahead? Is that what you said?

**Steve Brine:** Yes.

**Katy Bourne:** And should there be the funding around it? Whatever funding there is has to be sustainable. That is really important. It should not just be an initiative that then stops once the funding ends, which is why I am really interested in looking at community budgets as a potential because, with the role that we have, that is a way of bringing people together to look at sustainable funding across the board. Also, there is the Troubled Families scheme, for example, as part of this, which should be built into it. That would be the point I would make. It has to be sustainable.

**Sue Mountstevens:** Incentives are a complex business because you never know which behaviour you are driving. If you looked at restorative justice, that is an area where there could be additional funding, as far as it being a victim-centred process. Victim satisfaction is much, much higher than any other process we have. Victims will come out being satisfied with restorative justice much better than a court process, because the court process is not that interested in the victim.

**Alun Michael:** The big thing is that payment by results sounds nice and is right in principle, but it is difficult to manage. Payment by outcomes, demonstrating what works and then making sure the resources are there to continue that—so sustainability—is the bigger challenge.

**Chair:** Thank you very much the three of you. We are very grateful for your help this morning.

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**Examination of Witnesses**


**Chair:** Dr O’Moore, Director for Health and Justice, Public Health England, welcome. Dr Frater, Head of public health and offender health for London, welcome. Councillor Kober from London Councils and Councillor Spicer, Vice-Chair of the Safer and Stronger Communities Board of the Local Government Association, welcome to you all. I am going to ask Mr Corbyn to begin.

**Q81 Jeremy Corbyn:** Thank you very much for coming and helping us with our inquiry. For all of you, really, what do you feel about the coherence of the Government strategy on reducing crime?

**Joanna Spicer:** Good morning, everybody. Basically, what the Local Government Association is hoping you will give some consideration to is how, with your deliberations, you can perhaps build on some very good practice and very good coherence that exists but is not necessarily always formalised. For example, there are some very good joint cross-departmental initiatives and I would particularly like to give examples such as the Troubled Families initiative, violence against women and girls, domestic violence, and the new legislation around work against gangs and metal theft, which are just coming into being. These all involve different Government Departments, although they are led by one.

One of the things that we are suggesting to you in our submission today is that, in order to improve—to use your word—coherence of crime reduction, there could perhaps be, even at a very senior level, at ministerial level, a crime reduction board that would formalise what is already beginning to work very well across different Departments.

**Q82 Chair:** I discovered recently that we have something that is a rather similar title, but it did not seem to have had any impact on the Police and Crime Commissioners who came in immediately before you.

**Joanna Spicer:** In fact, it is a statutory requirement on local government under section 17 of the old Crime and Disorder Reduction Act to consider the effect of any policy at all on crime reduction.

**Claire Kober:** If I could build on Councillor Spicer’s response, from London Councils’ perspective we would say that there is a danger that policy moves to an emphasis that is on crime enforcement on the Home Office and police, and what gets lost in that is the emphasis on crime reduction and the reduction of reoffending. When we consider, particularly in the light of some of the “Transforming Rehabilitation” reforms, that almost 60% of those sentenced to 12 months or less will go on to reoffend very soon after, we would make the case as local government that Government should not lose sight of crime reduction and reducing reoffending in their plans. If I look towards the Anti-Social Behaviour, Crime and Policing Bill that is currently before you, we have some concerns that, rather than helping the current situation, that potentially dilutes the role of local government and the key facilitation role that is necessary in dealing with some of these intractable issues.

**Éamonn O’Moore:** May I also contribute to the response? In terms of coherence, what is also important in considering that idea is the impact of health issues on the justice agenda, and so Public Health England are engaged in that and have a greater understanding of some of the drivers towards crimogenic behaviour that inform some of the
policies and programmes that we are all working on together. We have been really pleased to be involved with a number of Government Departments in thinking about the health-driven causes of crime. So, in terms of the total idea of coherence, it is really important that health is a key part of any consideration because it is part of the problem and part of the solution.

Alison Frater: I just have a couple of points to add. I certainly support the notion that we have tried very much to deliver coherence across the health sector, the local authorities and at different levels of Government actually over the years. The crime reduction partnerships that we used to have at regional level that could deliver ministerial level crime reduction boards were a good example of that. The challenge is to make sure that we maintain those partnerships across the new structures, in health organisations and with our colleagues in local government, the Probation Service, the police and so on.

Yes, there are good examples. In London, we are determined that we will put our health strategy, in the way that Éamonn is describing, into the Mayor’s office for police and crime. The Mayor in London has published a police and crime plan, and we are putting health in police and crime in London together at the moment, with the support of the Mayor’s office and all of the structures that go with that. We are very determined to support and develop that coherence.

There are, however, risks and there are two. One is to make sure that we have a financial framework that can deliver the investment we need in line with the evidence of good practice. That means everybody agreeing and lining up to the priorities for investment and delivering that. Secondly, in order to—

Q83 Chair: Who does not do that?

Alison Frater: What happens is that people, with the best intentions, do that. Let me give you an example of the sexual assault referral centres, which are a very good initiative that have both health money and police money to deliver for victims of sexual assault both the care they need post-assault but also the forensic examination they need, in the kindest and nicest possible way, within a setting where they do not have to have a double examination via a forensic person. It is all done together and there are councillors in the service. The evidence suggests that we are beginning to see an increase in the reporting of sexual assault in that context. There are often unilateral decisions by either body about whether they will reduce the funds or what pressures they have. The police, for example, have pressures to reduce funding, so there is discussion going on at the moment about what savings we can make from the investment. There is always that sort of issue to look at. That would be an example.

A second example would be Public Health England, where the resource is often not in cash; it is often in bodies or people to help. Clearly, we need to make sure that the priorities we have for technical advice and support line up with the priorities that they perceive for delivering health across the agenda.

My view is that my colleague from the LGA is absolutely right: some sort of ministerial body setting priorities across Government would really help us to begin to deliver that kind of governance framework that we need to make sure we pin everybody in.

Finally—I am sorry I have gone on a bit—there is an issue about data flows. If we are going to understand what we are doing and what benefit we are getting, we need to have good sharing of information across these organisations. We have some challenges that we may go on to discuss when we talk about the “Transforming Rehabilitation” agenda around the potential for maintaining what at the moment is a very good information source.

Q84 Jeremy Corbyn: The Howard League has made an observation that crime reduction is too narrowly focused on those already in the criminal justice system, and, obviously, it is in everyone’s interests that existing convicts do not reoffend. Do you feel that there is insufficient attention paid to preventing a new generation of people entering the criminal justice system? Within that, because you have local government-based views, do you feel that the mental health services could be better funded or contribute more in this whole area, because so many people in prison are suffering from mental health issues?

Alison Frater: Let me kick off and I am sure colleagues want to contribute. Yes, that is absolutely right. You are absolutely right about that. It is a difficult thing to do, is it not, to get upstream of this and think about what the interventions are? In London, as part of our early years strategy—we have pinned this down into our minimum dataset for health visiting—we are encouraging a particular focus on families where there is a parent or a sibling having had an experience in prison or the criminal justice system, because we know that that is the biggest predictor of a child getting into the criminal justice system, having a sibling or a parent involved. We are trying to focus on those issues.

In the mental health and justice realm, we are doing a great deal to try to link activities together and focus on those preventive issues. Again, in our integrated health and criminal justice strategy, we have the notion of focusing on our youth offending institutions, looking at providing better support, and developing mental health liaison and diversion schemes that can intervene to avoid arrests and provide alternatives to young people, and get them back into an appropriate service or set of activities.

We work very closely with the Probation Service, and we are looking at a means to get that very first contact. We had a workshop last week, and it was very apparent that, again, the predictor of criminal behaviour throughout the life course is getting to that first element. The truants are at greater risk; the kids with anti-social behaviour are at greater risk. It is the Troubled Families agenda that colleagues have talked about before. These things are becoming very apparent and we are trying to develop interventions to address them.

Q85 Chair: Does anyone want to add anything there? Don’t feel obliged to because we have quite a lot of things that we need to cover.
Joanna Spicer: The work of the Howard League, for example, emphasises the point that we are all making about the need for some really joined-up coherence about crime prevention as well as the reoffending challenges, and the opportunity to implement, for example, all the initiatives and policies in the Department for Education around schools, and, as Alison has just been referring to, truancy and juvenile behaviour. I will come on to children’s mental health briefly in a second.

I chair the health and wellbeing board for Suffolk and lead on Troubled Families. Taking the Troubled Families initiative, we can see the importance of not just the multi-agency approach but, for Troubled Families, looking at the whole family—whether it is mental health, reoffending, truancy and general health issues as well.

In terms of the mental health issue around this, again it is so important that that does not get boxed into, “That’s health,” and so on—that we are thinking what we can do as local authorities, what we can look for in our schools, and what all the local authorities are doing with regard to the wellbeing bit to prevent a lot of mental health challenges, which can then trigger on into crime.

Q86 Chair: You at the LGA thought that the Department of Health was not sufficiently engaged in crime reduction issues.

Joanna Spicer: I hope it did not come across quite like that. We have had to recognise—the health colleagues from the NHS will agree—the considerable change that has gone on in the national health service over the last year, with not just public health coming into local authorities, which I hope we all welcome, but also the changes, going from primary care trusts to clinical commissioning groups, have made it jolly difficult for us all to keep the same people at the same table. Most of us have done, but it does set us all back a bit in terms of progress.

Q87 Chair: What difference has the creation of Police and Crime Commissioners made to all this? What kind of engagement do you have with them?

Claire Kober: From a London perspective, we would say that it has brought additional co-ordination across the piece, bringing together the Mayor’s office and the 32 boroughs and the City, which has been very positive. Obviously, there is still some way to go. I would also emphasise the fact that at local level it is the community safety partnerships that are driving much of this work. If you had the London Police and Crime Commissioner here, he would echo that thought.

Joanna Spicer: We are all working in our own ways around the country with the Police and Crime Commissioners. The Local Government Association has set up a strategic partnership to work with the Association of Police and Crime Commissioners. It is early days. We are very pleased that the PCCs are joining health and wellbeing boards, community safety partnerships, and even with Troubled Families initiatives. But, as the PCCs were saying, it is early days to be confident about results. We are going make it work—we have to.

Q88 Nick de Bois: In some respects I just want to probe a little further on territory you went into, which is essentially the recent changes to the national and local health commissioning landscape. I am going to start, if I may, with Dr O’Moore, but if anyone feels they can add to it please do. Almost for the record, could you explain to us briefly the respective roles and accountability of Public Health England, NHS England and local directors of public health in local authorities? I think you are best placed to do that. I am sure you all can.

Éamonn O’Moore: Sure. Perhaps I will defer to my colleague from NHS England to talk about their specific role, but I am very happy to talk about PHE’s role and perhaps directors of public health.

Nick de Bois: Just broadly.

Éamonn O’Moore: In general, Public Health England has a specific mission, as a national public health expert service, to provide advice, information and intelligence to all parts of the health and social care system. We have a specific role in terms of supporting the health and justice programme of local authorities, and, by extension, through the work of directors of public health and clinical commissioning groups in identifying and meeting the health needs of people in contact with criminal justice, not just in detention settings, where there are specific responsibilities for NHS England, but also in the community where there is a much wider range of partners to work with.

We have a range of ways in which we support that work at a local and national level. At national level, I am director of a health and justice team and I work closely with my opposite number in NHS England, Kate Davies, who has a similar portfolio. Together, we are working at that level to understand policies and programmes at national level that could assist that work. At local level, PHE has 15 centres, which are the front door of our organisation, and then in 10 of those are health and justice public health specialist posts. They align to the 10 NHS local England area teams that have a lead responsibility for commissioning. It sounds a bit complicated, but it enables us to create a horizontally and vertically integrated network to support the work at local level.

We are very conscious of working to support directors of public health, and in that role we have been working with them and others, including Revolving Doors and the National Association of Probation Chiefs, to draft a briefing paper on the role of directors of public health in the health and justice agenda, and supporting them in understanding their role in meeting those responsibilities.

Q89 Nick de Bois: You said you are drafting that now.

Éamonn O’Moore: It has been drafted and I understand those organisations are going to publish it later this autumn, but it is not quite ready. They have allowed me to give you a preview, if that is acceptable.

Q90 Chair: I find it slightly worrying that it takes that long to explain what you are.

Éamonn O’Moore: Well, it is possible that we are a new organisation trying to explain a complicated
agenda and understand the roles of respective partners in different organisations, local authorities, National Health Service England and ourselves working collaboratively. Our responsibility is, at national level, to work with others to describe and develop a programme that meets national objectives, and, at local level, to work to support the local partners to understand and meet the health and justice agenda. We work very closely with directors of public health at local level, and with our NHS England area team colleagues at area level, to understand and meet those needs.

Q91 Nick de Bois: You are trying to do the joined-up bit, by the sound of things.

Éamonn O’Moore: We are working facilitatively, co-imaginatively and in a co-production model with a range of partners. We ourselves are not commissioners of services so our role is in providing evidence and intelligence of what works, what the problems are and so on, to partners who have a role in commissioning such as colleagues in local government.

Q92 Nick de Bois: Will that involve, as this progresses, sharing best practice then?

Éamonn O’Moore: Absolutely, and that is one of our key roles.

Q93 Nick de Bois: Okay; I thought you would say that. Did anyone want to add to that or else I am going to move on to health and wellbeing boards, if I may? That neatly introduces me to you, if I may, Ms Spicer. You are chair of Suffolk—

Joanna Spicer: —health and wellbeing board.

Q94 Nick de Bois: I would be interested in whether you have an idea of what impact you anticipate the creation of health and wellbeing boards have on public health investment in early intervention in a co-creation paradigm, particularly, which we have already touched on, and effectively crime reduction approaches.

Joanna Spicer: Interestingly, if you had made me answer the last question, I could have tried to give an example. Public health is now part of our county council and it is sitting in the same building; the director of public health is sitting alongside directors for the economy, for environment, children, adults and so on. What we are trying to do at the health and wellbeing board—not just through the strategies, which are easy, but also through cross-cutting action plans that involve, of course, the police and voluntary organisations—is to use the opportunity for public health and indeed the budgets they have, to be directed much more towards prevention and promotion of good health, but also I have to keep an eye on crime prevention.

If we take something absolutely classic for what was formerly much more health—childhood obesity—we are making that one of our priorities, not just because children who are overweight at school might then be overweight when they are grown up and cost the national health service money, but children who are overweight are often unhappy children, which can lead to mental health and drug and alcohol problems, which leads to, potentially, crime.

Q95 Nick de Bois: I am with you on the public health argument. I will just stop you there. Is the assessment you are making there evidence-based at this point, or is it a presumption that you will be looking for evidence to support?

Joanna Spicer: There is a little bit of evidence. I do not have any with me, but there is some evidence, particularly about the link between childhood obesity and mental health. Of course, there is plenty of evidence separately about mental health and crime. I would love to see some evidence right through. The Childhood Obesity Programme, which weighs children, and improved data available in the NHS and to local authorities, should enable us to track that better.

Q96 Nick de Bois: In many ways you are doing the right thing to explore it. If nothing else, health and wellbeing should be doing that. I just want to touch on something. The Committee will be discussing justice reinvestment approaches later, but how much is austerity or the need to make savings an incentive for the local authorities and health services to invest in these early intervention approaches, obviously in an attempt to reduce those engaged in crime in the future? I am not quite sure who would be best to answer that, so are there volunteers?

Claire Kober: I will kick off, certainly. Alun Michael was correct in the comments that he made in the previous session when he said that, this time around, people have not retreated to their own core functions and core responsibilities. Instead, partnerships are being maintained and in many areas—certainly in London this is the case—being strengthened. I certainly feel that we are in a place where partners are willing to work together and willing to continue to invest, because there is a recognition, perhaps because of the scale of some of the reduction that we are seeing and from a local government perspective between 2010 and 2018, that for many of us it is going to be almost 50% in real terms if you factor in some of the increases in demand we are seeing.

Q97 Nick de Bois: Are you taking into account the public health money that has been allocated? I am a London MP. Enfield has done very well in the public health allocations, relatively speaking. There is still a big gap.

Claire Kober: I am really pleased you have asked me that because there is an issue around public health funding allocations. My own borough is Haringey. Again, we have done fairly well out of it.

Q98 Nick de Bois: I am not sure we should go into that too much here.

Claire Kober: But there is an issue in terms of the way that those allocations came down. There are some boroughs—I believe Waltham Forest would be one, to draw an example there—where the allocations were put together through a whole range of historic funding decisions, which therefore meant there was a huge disparity. In London, Kensington and Chelsea did best out of everyone; places like Waltham Forest did very badly. So there is an issue about how well need is aligned with the allocations that have come down.
Q99 Nick de Bois: We have had this in Enfield for the last 10 years.
Claire Kober: Yes, of course. There is something familiar about the translation of the problems of inner London into outer London in more recent years. If I could just say one other thing about funding allocations, this week I know that the victim service allocations have come down to Police and Crime Commissioners. In London, I am aware that we have been allocated 14% of that. The way that that allegation has come down is through a population calculation. If you look at per capita crime in London, we should be receiving 20% to 25%, so there is an ongoing issue, whether it is public health allocation on a borough by borough basis or on a regional basis, as some other allocations come down.

Q100 Nick de Bois: As part of your answer I think I was hearing—correct me if I am wrong—that you are kind of saying that the pressure on savings has actually driven people together rather than to retreat.
Claire Kober: Yes.

Q101 Nick de Bois: It is a slither of, shall we say, promise as a result of it? I am not endorsing it but I think that is true. You are saying they are staying the course.
Claire Kober: Absolutely. I am not here to say that, as a result of cuts, we all just retreat into silos and decide that there is very little we can do and all we can do is manage decline. I do not think that is the role of local government, nor is it the response of local government and its partners.
Alison Frater: I have three points to make. We have to identify that it is tricky at the moment, is it not? There are a lot more players on the pitch in terms of who has the money. In London we also have the CCGs, but there is willingness to work together. The regional director in London is certainly taking the initiative to try to encourage a leadership form around co-commissioning to get everybody in the same place.

Q102 Nick de Bois: New models of funding.
Alison Frater: Yes. Some of that has been really interesting and worth exploring. With regard to a lot of these wicked problems that we have not been able to solve in the past, let us think about getting some of that social investment in and some long-term thinking about how we do some of this. For me, some of those ideas that are beginning to come are worth exploring because I do not think we will get there just by all our goodwill.

Q103 Nick de Bois: You have anticipated my next question, so not only is that excellent but you have saved some time. The Committee might want to look at the work of Chance UK, which is working in Enfield, and how that has been funded as well, which is producing some excellent results.

I have a final question and, if I may, I will ask you, Dr Frater, because you touched on data and the problems in accessing data required to inform the local decision making. I suppose my question would be, what bearing, if any, will joint strategic needs assessments have on the understanding of the health and wellbeing needs in the local communities, and the other point is about the access to the data? Can you expand on that and then if you wanted to come in, sure, please do...

Alison Frater: There are a number of things about this. The Health and Social Care Act has given us a problem with patient identifiable information to track people. If we are talking about linking across organisations, as we clearly want to do, continuity of care from prison into the community, drug and substance misuse funded by the NHS in the prisons but by CCGs out of the prisons, and engaging with the DAATs in the local authorities, we want to share information across those organisations. We have a bit of a problem with doing that at the moment. We need to find solutions that fit with the current legislation that do not get us all in trouble with the data controller, so that is an issue for us.

The second thing is that we need definitely to use the joint health strategic needs assessments that our local authority DPH colleagues are putting together. My plea to them is: can we have a consistent format for preparing those? I know they need to respond to local need, but could we have an agreed format and some agreed priorities, because I do not want to be having to go to 33 different organisations and say, “Can we have an agreement?” I do not think we are quite there yet with that, but, again, as colleagues said, it is early days.

With Public Health England, we need more technical support. So I suppose, from my perspective, I go back to my original point about resource. This is a very fast-moving agenda in terms of population need, especially in London where we have a big change in the population. This is something we really do need to keep on top of and understand what the predictors of crime are. They change a lot. We need to get into that preventive agenda with the children and families, and how they interact, and new models of understanding of how we can engage with behaviour and change it.

I feel that this is an area where we need a lot of technical support, and my plea to Public Health England would be to double what you have at the moment in order to support this agenda.

Éamonn O’Moore: If I may, certainly, we absolutely agree that data is key because an epidemiological approach and an evidence-based approach will ultimately lead to the best outcomes. We already, as an organisation—PHE—provide a number of data resources to local authorities and others who are interested, including data on violence indicator profiles, on national drug treatment monitoring services, and so on, which allow local authorities, directors of public health and clinical commissioning groups to understand the needs of the local population and some of the issues in the local population, and therefore have an evidence-based way of commissioning that is based on an assessment of need.
Alison is absolutely right that, of course, the resource is never ever equal to the challenge, but we have some ways forward. If I could give a very quick example, just very briefly, one of the big challenges we have often had in the criminal justice estate is that, when people are in prison, they are well looked after. When they leave prison it is a cliff edge. They fall off the system and part of that problem is that they are not captured by data systems, and part of that is the nature of the population but also the way in which data systems capture and use the information. We have a commitment with our partners in NHS England and the National Offender Management Service to ensure that NHS numbers are used for all new prisoners coming into the estate this year. It is simple, but the key is to ensure that we have a way to track people through the NHS estate, post-release, and that will inform information about what services are used or not used, and this will give an assessment of how well the services currently commissioned to provide it are meeting need and inform the next commissioning cycle.

Q104 Yasmin Qureshi: I do not know if you are aware of the fact that the Magistrates’ Association made an observation that offenders with substance misuse problems often view the criminal justice system as their best way to access treatment. My first question is specific to local authorities and public health. How have the local health authorities approached their new role with respect to the commissioning of alcohol and drug services in this financial year, and to what extent are you working on this with the Police and Crime Commissioners on a shared agenda?

Joanna Spicer: With regard to the first bit of your question about what the magistrates were saying and using the criminal justice system in a way that is called “through the gate”—in other words, doing exactly what you are describing, which is to ensure that, when people are being prepared for discharge, their total health needs are understood and, in order to ensure continuity of care, all efforts are made to ensure that that follow-up happens.

New data will come from the national drug treatment monitoring system, which will allow us to track that journey more effectively so that we can tell if the services commissioned and provided in communities are meeting that need. We are a little way off having the baseline for that just yet. It will be June 2014, I understand. However, even now, an independent evaluation of the integrated drug treatment and management system in prison found that two fifths of
surveyed prisoners had some form of aftercare support or treatment for a drug problem arranged on release. That is not the level we would like to be at ideally, but it does give an indicative level of the sort of care that people are accessing in the community that is the subject of your question. That is the start of the journey into that answer.

**Claire Kober:** There is also something to be said about the responsibility of health and wellbeing boards in terms of developing joint strategic needs assessments so that there is an evidence base as to what needs to be delivered in terms of strategies, what funding needs to sit behind particular priorities—and the flexibility to conduct those on a local basis, dependent on local needs, is going to be critical. A lot of this has not yet come to fruition because these are in their relative infancy, but the potential for the future I would argue is great.

**Q106 Yasmin Qureshi:** Are they looking not just at those who come into the criminal justice system or come out of it at the other end, but also those who have not started their journey and who have these problems? Are we not giving enough support so that they will end up in the criminal justice system, so catching them at the beginning before they fall into it?

**Alison Frater:** The evidence and the integrated drug treatment system that Éamonn has talked about is excellent and it shows a reduction in drug-related death, but it is not showing as necessarily a reduction in drug-related crime. That is something where we need to begin to redouble our efforts. For me, the third sector—the voluntary sector—is very important in this. In our commissioning models and thinking about how we do that investment across the piece, we need to make sure that we engage in people, both directly so that there is very good engagement with the voluntary sector but also at every level. Within our mental health liaison diversion schemes, where we are trying to prevent people ending up in custody or the whole section 136 issue, we could start to build the resilience by engaging with drug and substance misuse workers in those schemes, and we are starting to do that, and also with alcohol, because we could plug people back into these services and put them in. We probably need to develop a framework with our probation colleagues, and, indeed, we are doing that so that these become part of a regular pattern for rehabilitation. There is promise here but there is certainly work to do.

**Chair:** We do have to move on because of pressure of time.

**Q107 Mr Llwyd:** Dr O’Moore, you have given us the soundbite of the session, I know unintentionally, as you are not a politician. You said, “Health is part of the problem and part of the solution.” The Centre for Mental Health estimates that at least 39% of the offenders currently supervised by probation services have mental health problems, and, by contrast, just 1% of community sentences include a mental health element. To what extent do existing services meet levels of demand for mental health treatment for those involved in the criminal justice system or who are at risk of becoming part of it?

Can I ask you a second question? What role will Public Health England play in seeking to ensure that there is sufficient access to mental health services to offenders on those community sentences?

**Éamonn O’Moore:** Thank you very much. There is no doubt that the level of need among people under supervision by probation services, as you mentioned, is great. What is interesting is how little well understood that need is, and we in Public Health England have recently been doing some work with the National Offender Management Service to ensure that probation services undertake effective health needs assessments of their client group. That is part of the start of the journey of ensuring that they are appropriately referred to care services in the community. One of the opportunities that we have with contact with the probation services is that it is a structured and supervised contact, and its health potential is probably underexploited at the moment. There are opportunities in some of the changes coming in that system to look at the opportunity that working with clients in a structured way and being a gateway to health services might bring.

NHS England—I am sure Alison can talk to this—is also doing an amount of work to look at how health care is commissioned right across the whole care pathway, and there is a significant amount of work to be done there. Public Health England will be collecting data on some aspects of contact with mental health services, but we are not a monitoring or performance-monitoring organisation. We will help to ensure that partners at a local level understand the level of need, involving health needs assessment to understand whether services are meeting those needs and perhaps how commissioning could be more effective in meeting these identified needs. That, I hope, explains some of the ways in which we will be helping local partners understand and meet need among people attending probation services in the community.

**Q108 Mr Llwyd:** Do we not have a massive capacity problem here? Dr Frater, magistrates are often frustrated by having few options to deal appropriately with these people before the courts. Mental health services are a huge problem and have been a problem for many years now. What can the NHS Commissioning Board do about this, having assumed responsibility for it?

**Alison Frater:** We have to accept that across the board there are problems. We do not have the effective models of care. We do not know often what works, so there is an issue there. Yes, services are pressed, and so back to the issue that we tend to focus our investment on severe and enduring mental illness or people with acute exacerbations of their mental illness. It is crisis resolution and crisis intervention, rather than investing in models of care that we are uncertain about, which might be about anxiety and depression but could, as Joanna was pointing out, be a pathway to something else. We have to put our hands up and say, yes, of course this is an area where there ought to be renewed, reinvigorated approaches and probably where we are not meeting need. We do need to address that.
Having said that, I do think these issues are problems whose time has come and that there is a quite a lot of opportunity in the new system to begin to address them. For example, in the NHS Urgent Care Review at the moment and with the NHS Constitution giving parity of esteem to people with mental and physical health problems, within the Urgent Care Review there is a big stream of work that is looking at how we can work with vulnerable, mentally ill people in crisis in that context, who are in contact with the criminal justice system, to begin to address models of care and thinking about how we can do some more work in prevention.

In our prisons, we are making sure that all our primary care teams have skills in mental health. We are trying to increase resilience and capacity for the management of minor mental illness in that context because we know everybody in prison has anxiety and depression. There is quite a lot of work going on to try to address these issues, but, yes, it is a problem and we need to make sure we prioritise it.

Mr Llwyd: Without sinking into political hyperbole, it is a massive problem. I would say that, coupled with the line of questioning from my friend Ms Qureshi, either we get to grips with drug and alcohol and mental health, or we just pack up because it is not going to work. This problem is as big as that, is it not?

Chair: Nobody dissenting, which enables me to go to Mr Brine for a final point.

Q109 Steve Brine: That is a very good idea. This is probably because we are running out of time, so I suppose I might just be quite discriminatory and point this towards Councillor Spicer with her LGA hat on. Looking at the Government’s ‘Transforming Rehabilitation’ reforms, I know you support the extension of statutory supervision to offenders on short-term sentences, which from my point of view is good to hear. Can I just ask you then—putting your boot on the other foot—what are the relative merits of the Government’s reforms to doing that through national contracts, as opposed to through a local contract, which I know you support?

Joanna Spicer: The relative merit is that the Government are bringing forward the changes anyway, so that is to be welcomed. The Police and Crime Commissioners mostly made the point, too, that to get a more local model enables us to build on the new local health services, obviously the PCCs, but also the clinical commissioning groups. We do not have perfect boundary arrangements throughout England and Wales, but a national model really would not enable the influences of the community safety partnerships and the PCCs. We have touched on and off around money during the discussions. Again, we are all accepting that there is not going to be lots of new money—don’t worry—and we are all looking at the community budget approach. If we could have influence over the local commissioning for rehabilitation services, that is yet another tool that we could use to make local money go further—through a pooled budget, a joined-up approach or a joint action plan, or whichever way. With regard to national commissioning, we can see the attractions to Government of one big picture and one bit of efficiency, but we just do not believe it will be as effective.

Q110 Steve Brine: The Government’s rationale is greater efficiencies, but I just wonder what piece of work is being done, because the door has been open. They said, did they not, that there may be potential over time for other public bodies, such as local authorities, to take responsibility for probation services?

Joanna Spicer: Would you let me just say that efficiencies come in many ways? They are not just cash. One of the things that we are very keen to convey to your Committee is the value of preventing crime and preventing the effects of crime in the first place.

Q111 Chair: We need no persuasion on that.

Joanna Spicer: Sorry?

Chair: We need no persuasion on that. That is a theme of ours.

Joanna Spicer: That is the whole thread through. If we want to save money, we could save it at the starting point, which is all sorts of things around housing or safer streets and licensing and things. The drivers for efficiency should not just be a commissioning model but they need to be all the way down the line.

Q112 Steve Brine: Dr O’Moore, you are looking at me as if you have something to say. Go for it.

Éamonn O’Moore: If it is okay.

Steve Brine: Yes.

Éamonn O’Moore: I would not like to leave the room with words ringing in your ears that there was no evidence of the effectiveness of intervention and drug treatment on reducing criminality, because, in fact, recent work has estimated that drug treatment prevented 4.9 million offences in 2010–11, saving approximately £960 million. We know the annual cost of drug-related crime is £13.9 billion, so it is just apropos efficiencies in saving money. This stuff works, it works really well and we need to do it better.

Chair: Thank you for putting that on record and thank you, all four of you, for your help today. It is much appreciated.
Tuesday 12 November 2013

Members present:
Sir Alan Beith (Chair)
Mr Steve Brine
Mr Christopher Chope
Jeremy Corbyn
Mr Elfyn Llwyd
Andy McDonald
Yasmin Qureshi

Examination of Witnesses


Chair: Thank you for coming to give evidence this morning. I welcome Ian Mulheirn from Oxford Economics, Toby Eccles from Social Finance, Tom Gash from the Institute for Government and Max Chambers from Policy Exchange. We look forward to hearing your thoughts on a number of the issues around the changes affecting the probation service, in particular, under the heading of our report on “Transforming Rehabilitation”. I ask Yasmin Qureshi to open the questioning.

Q113 Yasmin Qureshi: Thank you, Chair, and good morning, gentlemen. As you are aware, we are looking into the issue that the Ministry of Justice wants to open probation service delivery to a wider market—private companies and not-for-profit companies. I want to ask some questions around that particular aspect, particularly in light of the fact that the Ministry initially rolled out programmes in 2011 where payment by results was going to be seen but then abandoned the plans mid-way, so no one had a chance to see what the end result was or what the conclusions were. However, it is intending to go ahead. First, what do you see as the rationale for competing probation services in the way the Ministry of Justice plans? Do you think this model is financially viable? Anyone can start.

Toby Eccles: I shall have a go. The first thing to say is that there is a series of rationales but also a series of constraints. A rationale of being interested in working with short-sentence offenders as well as long-sentence offenders and focusing on reducing reoffending, which is clearly creating a very significant criminal burden on the country, seems very sensible and coherent; there is wide agreement on that. Then you meet the constraints—namely, the budget agreed by the previous Secretary of State, with a different strategy. The pace is created both by the size of the window of political opportunity and the budget constraints, which require the Secretary of State to make savings quite quickly. That leaves us with a model that appears to be moving uncomfortably quickly, but towards an end goal that has the potential to be sensible.

Tom Gash: It is quite clear that one of the difficulties in this area has always been that there is a huge shortage of evidence on what drives reoffending rates. There is also a very low evidence base about the benefits of putting things out to contract. The evidence on the contracting side to allude to is that the best studies have been in the areas of facilities management and waste management. They tend to show that private sector outsourcing proposals in the 1990s ended up with a big bang of reform, not necessarily ever of sufficient scale to get the type of improvement that has been forced on the Department and the Secretary of State and the Ministry of Justice.

I think it was operating with very little evidence and that has been forced on the Department and the Secretary of State. In that context, you have a question of what to do—do you do nothing, because you have no evidence, or do you try to change something and make a difference? The Secretary of State has gone for the second option. Given the lack of certainty in all sorts of dimensions, I would say that the obvious approach should be one where you phase reforms, learn, change, adapt and build in as much flexibility as possible, whereas it looks like the approach that is being taken is to go for a big bang of reform, not building in enough capacity in lots of different ways, including contract length and the timetable for the reforms, to allow you to learn and adapt as you get experience of doing this stuff. The cancellation of the pilots is one thing, but I do not think they were necessarily ever of sufficient scale to get the type of learning you need.

The obvious thing was to phase the roll-out—as happened, for example, in railways. It is very interesting to think about the West Coast Main Line story that we had recently and to say, “A mistake was made there, which cost £100 million—maybe more.” That was for one part of the country that was being contracted at a specific moment in time. If it had been for the whole country at the same time—and remember that they had 10 or 15 years’ experience in this area—it is quite scary to think about the level of risk that is going on in some of these big contractual negotiations. More should be done to manage those risks.
Max Chambers: I would like to make a point about the pilot process. I was involved in that process, working for a provider at the time. I came to the view that many of the pilots would not have happened. The commercial models that were being pursued were not viable, and the Ministry of Justice was being quite intransigent about changing those models as the process went on. The pilots also would not have delivered results until 2017 at the earliest. As Tom has mentioned, they were not at the scale that you would have needed to be able to glean anything particularly useful from them. Also, they were not very strategically conceived, so it would have been very difficult to take much from the results, apart from whether one provider had outperformed another. I would question whether it was worth waiting five years for relative provider performance.

My sense was that a lot of the big dimensions of choice had been worked out through the pilot process—which part of the system to incentivise, how to procure, how to measure and how to pay. For me, all of those things were tested to destruction as part of that process. There should be enough learning within the Department to know how to scale payment by results without waiting a number of years for those all of those things were tested to destruction as part to procure, how to measure and how to pay. For me, process—which part of the system to incentivise, how

Ian Mulheirn: The point that I would make about pilots to come to fruition. by results without waiting a number of years for those all of those things were tested to destruction as part to procure, how to measure and how to pay. For me, process—which part of the system to incentivise, how

Tom Gash: I think there is a balance to be struck. Every scheme that you run—every pilot—is slightly different from every other one. We have seen similar things in payment by results in employment programmes around the world—some of them have shown results, but some of them have not done so much. It is very sensitive to design. In some ways, I am sympathetic to Ministers saying, “You know what—we can’t replicate exactly what happened in that pilot. It is going to be completely different at the national level, so we may as well get on with designing the national-level programme.” Having said that, there are some broad lessons you could probably learn from seeing the pilots through, so I tend to agree that it is being rushed a bit fast. However, Ministers have a point when they say, “You could spend your whole life doing little pilots and never actually getting on with the main show.”

Max Chambers: The other point about speed is that the Work programme was the creation of a whole new service nationwide, to be up and running within about 18 months or two years. Here, there are existing services—this is not the creation of a whole new service. It is something the state knows a huge amount about, as it has provided probation services for a century. There is a restructure, which Government have done before—that is the first stage. Then there is a procurement process, which Government have done before. Then there are CRCs—community rehabilitation companies—running in shadow form for six months, a long mobilisation period. Combined with the pilot process that we have seen and all of the work that has been going on to design those pilots and then the national programme, this will take a lot longer than welfare to work, and it is probably simpler and more comfortable for Government to do.

Tom Gash: I would challenge that analysis on simplicity. I would say this is probably the most ambitious outsourcing programme that the Government have embarked on. We designed an analytical tool—quite boring and technical, perhaps—at the Institute for Government to identify the questions you need to ask when you are thinking about outsourcing that will make it easier or harder to do. Some of those questions include “Is it easy to measure the value added by the provider?” and, “Is the service highly connected with other services?” On probation, the answer to lots of those questions is yes. When the answer is yes, that makes it much, much more difficult. The interrelationships for probation and other parts of the public sector are enormously complex. Adding into that a particular additional separation between an in-house provider of probation services for higher-risk offenders and a contracted provider for other offenders is a type of complexity that is clearly different by an order of magnitude from that which we see in other areas. The provider market is extraordinarily immature. You are bringing in providers to manage these services that have not done it before, admittedly with a work force who are experienced and have experience of operating in this environment. To me, lots of the signals suggest that this is an incredibly complex programme, on a timeline that has not been achieved before.
The example of the Work programme is probably a false analogy; I think it is important for the Committee to consider that. Over 15 years, the Government have been contracting out employment services in different ways, at local and national level—it was a patchwork. The Work programme was a big programme, but it was built on 15 years of experience in the market, so providers knew what was going on and had had a chance to learn, to adapt and to improve their capability. This is a completely different scale and order of magnitude from that.

Toby Eccles: There is a very specific difficulty here, in that there is a real paucity of data on actually working with short-sentence offenders and knowing whether you can do effective work to reduce their reoffending, while in the work situation there is much more data. Also, here you are talking about probably 85% or 95% of revenues coming through as normal income and a fairly modest proportion coming as outcome payments. Really, the question in this process is, will there be any incentive to focus on reoffending or not? You have a whole restructuring process to do. The work force and everybody else have an enormous amount of change to work with. Will rehabilitation just be lost in the process?

When we built the social impact bond model, we were focused on trying to make contracts that were service-user focused, that had the flexibility to adapt and change according to what they were learning and that had feedback loops, so that you were learning what you were doing wrong and right and improving on that, and then had some sort of pressure to respond to that feedback and improve your activity. Really, the question is whether, given that we are dealing with a complex system, with hard-to-reach individuals with complex needs, the contracts that are going to be put in place will be able to cope with that complexity and have the flexibility to do so.

Chair: We have quite a lot of ground to cover. That is very helpful in laying out some of the broad differences, but we will need to move on fairly quickly. Not everybody need contribute to everything, but I want to ensure that different views are given an opportunity. Yasmin, is there anything else you want to add?

Q115 Yasmin Qureshi: I was going to say that that fits in with the fact that this roll-out is going to be in 21 different areas with three tiers of providers, over tiers 1, 2 and 3. As you probably know, there are many people in the country who feel that probation services do a very good job anyway, so why are they being privatised and why is all of this being done to a service that is working very well? Do you have any observations on that, or general feeling that it should not be undergoing such large-scale structural changes?

Toby Eccles: On a personal level, I think it is very difficult to tell from outside whether or not probation could be run more efficiently, so I would pass on that. Should not be undergoing such large-scale structural changes?

Q116 Yasmin Qureshi: I have one final question before we move on. There is some suggestion that the Government have said that the data on cost savings cannot be published as they are commercially sensitive, but how can the potential value for money of public service reforms that rely on external commissioning be determined in the absence of data on costs? If you do not how much you are spending, how do you know you are efficient?

Max Chambers: You cannot, as Parliament; it is difficult. Presumably, the rationale is that somehow that would prejudice or influence the competition process. There is an argument for that. The other thing to bear in mind is that surely these proposals will have been through proper Treasury and Home Affairs Cabinet Committee approval, so the idea that the numbers do not stack up is probably a red herring.

Q117 Jeremy Corbyn: On the points that Mr Chambers and Mr Mulheirn have just made, Mr Mulheirn said that the private sector had better knowledge than Government services. Should not be undergoing such large-scale structural changes?

I have one final question before we move on. There is some suggestion that the Government have said that the data on cost savings cannot be published as they are commercially sensitive, but how can the potential value for money of public service reforms that rely on external commissioning be determined in the absence of data on costs? If you do not how much you are spending, how do you know you are efficient?

Max Chambers: You cannot, as Parliament; it is difficult. Presumably, the rationale is that somehow that would prejudice or influence the competition process. There is an argument for that. The other thing to bear in mind is that surely these proposals will have been through proper Treasury and Home Affairs Cabinet Committee approval, so the idea that the numbers do not stack up is probably a red herring.

Q118 Jeremy Corbyn: Meaning who?

Ian Mulheirn: The experts who are currently delivering probation.

Q119 Jeremy Corbyn: Meaning the private sector or the probation service?

Ian Mulheirn: The structure does not matter. What matters is that the people at the front line have better expertise than central Government policy makers, but they are not freed up to use that because all the political and financial risk sits at the centre. The centre directs, yet it knows an insufficient amount about what good services look like. I would say that it does not matter whether the financial structure is private, third sector or public, as long as you can put some financial risk at the front line.

Q120 Mr Llwyd: Good morning. The MOJ has stated that there are approximately 30 organisations wishing to become, in effect, prime providers. In your view, is there sufficient scope in the planned reforms for a broad range of new providers to come into the
market? Has the Ministry done enough to encourage the diversity it seeks?

Toby Eccles: There are two sides to this. One is that, if you have a procurement process that is run in a set way, coming out the other end you are likely to end up with organisations that look roughly similar doing best. You are in danger of moving from one monotone solution to a second monotone solution, rather than creating what in my view would be best, which is a diverse market coming out at the other side, with a mix of private sector organisations, mutuals and social sector organisations—different people taking up different roles.

Is the model that is being used likely to come out with that? There are some attempts at creating that by making smaller areas, to allow smaller bidders to participate, but it still feels as if the model being used is one that will favour those who have gone through lots of procurement processes with the Ministry of Justice before, because they are used to answering the questions and the people marking them are used to marking their answers. There is an element of an inherent incumbency bias, if you like, in the model.

I also think that there is a real constraint in terms of the amount of knowledge out there as to whether or not one can bid, so you have considerable uncertainty.

There are also some financial constraints. You are being asked to demonstrate that you have half a year’s worth of money available to start off with. You cannot raise money to do this if you have no idea what you are doing, so you have to have that money available already. You are creating another constraint in the market in that way.

Q121 Mr Llwyd: In other words, the 30 organisations are probably fewer than six.

Toby Eccles: I would hesitate, because clearly I have not seen the list, but I assume that there will be quite a few mutuals in there and some that are relatively speculative.

Tom Gash: We should credit the Ministry of Justice with some interesting innovations to try to make sure that it gets a more diverse market of suppliers. One thing that it has done that I think is really positive is to put a 25% cap on the value and volume of work going out to the same provider. That is the sort of thing that should probably be more standard across the public sector, and we should credit that. There has also been a reduction in the balance sheet requirement from a lot of standard Ministry of Justice contracts. Basically, it requires people to have less capital than in previous tendering processes; we should commend that as well.

The problem for me is that some of the smaller providers or the mutuals will really struggle to get up and running and operational, while also putting in a bid in a process they have never gone through before at national level. That is clearly going to disadvantage them, which is why in any market creation reform you are much better off phasing these things. You would do an area of the country at one point; meanwhile, mutuals can start to develop and get themselves on to a sound footing. Then they can bid for the next round that comes out in a year’s time. It has been the standard received wisdom that this is what you do when you are doing a major national outsourcing programme, but there has been a decision not to do it in this case. Obviously, it is driven by the timelines and the desire to change things quickly, but I think there should be a question about where the appropriate scrutiny is coming for that in terms of value for money for Government overall and where the Treasury is on this.

Max Chambers: I would be surprised if it ends up being 30 organisations. The MOJ has structured it in such a way that not only do you have to have the financial standing but you also have to have had direct experience of working with offenders. I think that will force partnerships. You will end up with some of the big providers, but they are being compelled to club together with voluntary sector and other organisations in consortiums, which will make it more complicated for them. You will probably end up with fewer than 30 but with partnerships instead.

Q122 Chair: Last night, we had a letter from the Lord Chancellor saying that 70 organisations have completed the registration process via their e-sourcing portal. You can interpret that as you will, but that is the number that have actually registered so far.

Ian Mulheirn: My reflection on the diversity issues is that it is clearly important to have diversity if you are going to make the competition work but there is a tension here with the ability to measure results. One of the reasons why the Department has gone for relatively large areas is that it knows that the smaller you get, the harder it is to identify any results. If we get round to talking about the payment mechanism, we will see that there is huge risk for providers that have small groups of offenders to work with that they will not get paid, because they will not be able to make a sufficient difference to the numbers to prove to the Department statistically that they have made a difference. That means that there is massive risk for providers in small areas.

Q123 Mr Llwyd: In its evidence to us, the Institute for Government observes that the market for probation services is relatively immature and that currently no private or voluntary sector providers provide the full array of services, which goes along with what you are saying. I quote directly: “Commissioning providers which do not yet have this capacity is highly risky. The capacity may never develop, or it may develop in ways that do not necessarily improve service outcomes.” I expect that Mr Gash will stick by that. Do the other gentlemen on the panel have any observations on that statement?

Chair: Does anybody else want to comment on the Institute for Government’s view on that?

Tom Gash: Can I expand on it a bit?

Chair: There is a surprising reluctance for anyone else to challenge it.

Tom Gash: The point is that some providers will be able to succeed and some will not. We do not know how well different providers will hold up either financially or in terms of their service quality and service standards. Given that that is the case, what you need is flexibility to shift who is providing over time. This is where we get into questions such as contract
length and the decision to go for seven years. From my external assessment—I do not have all the data, so you cannot work this out from outside—that seems excessively long for a relatively non-capital-intensive contract. What has been announced is a seven-plus-three contract length. It is then much more difficult to replace underperforming providers, so lots of attention probably needs to go into what service standards could trigger a change of provider and into thinking about how you would change a provider if they failed financially. Stress-testing and running some scenarios on that is vitally important before this begins. All scrutinisers should probably be thinking about getting assurances that that process has been gone through.

**Mr Llwyd:** You have answered my next question—about what happens if it fails—before I put it.

**Chair:** I think Mr Chambers wanted to comment.

**Max Chambers:** I was just going to echo that. It will be really important for the Secretary of State and the Ministry of Justice to have step-in rights where there is evidence of under-performance. That might mean that, as markets shift, the contract in an area should go to a new provider or another provider. In very extreme circumstances, the NPS—the national probation service—which will have significant national infrastructure, could potentially be an option. All of that needs to be thought through, to give the comfort that Parliament and the public would expect.

**Q124 Mr Llwyd:** What is the potential impact on competition of providers working on Government contracts across a range of services within the justice market in a particular geographical area?

**Chair:** You can see the dangers that can come with that.

**Toby Eccles:** There are dangers. The real danger lies if you do not require any form of data transparency. If, at that point, someone has knowledge of the prison, the probation service and everything—if all of that is in a closed system—it will be very hard for somebody else to compete against them in a sensible way in a future contracting model. I hope we will talk at some point about transparency, because in a certain sense what we really need is a prisoner’s dilemma around that whole area. If the market is set saying, “Actually, you all have to deliver outcome data on a time delay of, say, two years,” everybody begrudgingly accepts it; everybody learns from one another; and everybody improves. If you do not require it, everybody keeps their cards very close to their chest and does not tell anybody anything. In a certain sense, the only way of making sure in those environments that you can have future competition is in the event that the data are out there.

**Chair:** In the event that?

**Toby Eccles:** In the event that the data are available, on the interface and on both pieces.

**Q125 Mr Brine:** We have touched on this a bit, but I will probe it a bit more. I will start with Mr Chambers. What are your observations on the Merlin standard and the Government compact in protecting the interests of voluntary sector organisations in such a large commissioning programme?

**Max Chambers:** Things like the Merlin standard and the voluntary compact will be really important. The evidence from the Work programme shows that those things are a necessary part of protecting their interests. There is also the other side, which is that the voluntary and community sectors need to be more commercial. They need to understand properly the arrangements they are entering into and to make sure that they are able to demonstrate the impact they are having, in order to make sure that they can take part in the delivery of the services but also, in this early phase, that they can partner with larger partners, to make sure that they are part of the piece. Both sides need to be looked at together.

**Q126 Mr Brine:** So you agree that they need to be more commercial, as the Secretary of State said. Mr Gash, you said that some will survive and some will fail. Isn’t there a headline there—“That is called the market.”? At the moment, some probation trusts will survive and some will fail. Those that fail lead to the reoffending rates of those with sentences under 12 months that we currently have, that we cannot afford and that the Government say they want to address. I am playing devil’s advocate with you here, but you see my point. Surely, if they fail they will be shown up as having done so. There just needs to be a mechanism in place to see that that is addressed.

**Tom Gash:** I think that is fine. The question is, can the system overall cope with a large number of failures at the same time? That is the point that I was trying to make. I perfectly accept that it is a good thing, if you are going for a competition-based model, to have entry and exit. That is exactly what you want to free up. In terms of protections within the supply chain, smaller and voluntary sector organisations, when we looked at the Work programme, our assessment was that Merlin was not quite enough and that we need to think about other ways of ensuring that there is visibility on what is happening within the supply chain. Rather contrary to the idea of the black box, where we do not mind so much and just monitor the outcomes, I think that is much harder to do for probation outcomes, in particular. We need to understand what the supply chain looks like, so it would be good to have transparency on whether people are subcontracting lots of work to voluntary sector organisations, partly so that people can spot the good voluntary sector organisations to work with, say, “Those guys are doing a really good job with that particular group of people,” and start to employ them in their area—in the next-door area, for example. Transparency in the supply chain could be good not just for protecting voluntary sector rights but for making the market work more effectively overall.

**Q127 Mr Brine:** Mr Mulheirn, you made a pen gesture.

**Ian Mulheirn:** Can I come in on that point? I am slightly worried about the language of protecting VCS interests. I do not think we should be protecting anybody’s interests here—it is about reducing reoffending. That is the point that the Government have made, and it is really important to focus on it.
However, what happened with the Work programme was that there was the same logic for having big primes—that they are able to bear financial risk—but there was no regulation on allowing that financial risk to be passed down to the front line, to the very smallest providers, which, by the whole design of the system, were not in a position to bear that financial risk. That was damaging not just the interests of the VCS but the interests of the people trying to get jobs. The same is at risk of happening here.

The obvious logical conclusion of this is that payment by results should be for the prime tier and should not necessarily be allowed to be passed down to tiers below that. Sure, they should be hiring and firing according to who is doing well and who is doing badly, but that should be up to the prime in charge. In my view, very highly risky contracts should not be passed down to very small organisations.

Q128 Mr Brine: Mr Eccles, the idea of a level playing field doesn’t wash much with you, as you say in your blog.

Toby Eccles: No. You need similar access to finance and similar access to data. What we have at the moment is a data room that will be available only to the primes, so all of those they will be negotiating with will be flying blind. We have a timetable and a set of information that do not allow those to access finance in a reasonable time, because the social investment marketplace to support social organisations taking some of the risks that they might like to take is an emerging, new market. It needs a bit of time to work, unfortunately. We have been trying to push it along a bit more quickly, but it does not work. In order to do so, you also need the information.

In a certain sense, the Merlin standards are being undermined by the process. It is also relatively straightforward to fix. Give second-tier and third-tier providers access to the same data as primes, which should be relatively straightforward, and make certain parts of the process a little bit elongated, so that they have access to capital at the same time.

Q129 Mr Brine: The Chairman said that there are 70 organisations that have registered. What do you think is the most apprehension that people are generally harbouring? Are they all stumbling blindly into this process? Do some of them have their eyes wide open, or are some of them acting more in hope than in expectation?

Toby Eccles: I would say they are coming in with two or three different attitudes. I would have thought that the probation trusts themselves are coming in hoping to be mutualised and to work out an alternative solution, but not quite sure. There is the issue of their access to capital. If they need to be able to provide half a year’s worth of money up front, they do not have that, so they need to find somebody else to work with who has some money. So they start off with one hand tied behind their back. I think the private sector entities will arrive with long experience of working with the Ministry of Justice and thinking, “If we don’t know the information now, while that feels uncomfortable and will feel uncomfortable when we talk to our board, it will probably be even more uncomfortable for the Ministry of Justice at the end of negotiation, where that lack of information is a card that can be played late.”

Q130 Mr Brine: Do you think their view is that it is better to be in the room—that they have got themselves in the room and are around the table?

Toby Eccles: Absolutely—and the number of options will decline.

Q131 Mr Brine: Does anybody else want to add anything to the checklist? If you were one of these organisations that are registered to bid, what would be on your checklist of things you wanted to know by Christmas?

Ian Mulheirn: The price of mechanism, there are all sorts of things.

Chair: I will move on directly to Mr McDonald.

Q132 Andy McDonald: Can I turn the panel’s attention to the risk of failure? Previous witnesses have expressed grave concerns about the pace of change. If this works wonderfully, there will be benefits, but there will be considerable implementation difficulties. Mr Gash has said previously that commissioners should understand the risks of introducing market mechanisms and should identify mitigating actions that can help. First, what do you think are the key risks of implementation failure for this programme? Do you think the MOJ has sufficient grasp of them? Second, to what extent can these risks be mitigated?

Tom Gash: I am sorry for diving in, but this is an issue I care passionately about. There is a real need to identify exactly what the risks are, but more than that, if this is going to be a professional process, it is about thinking about the probabilities of those risks materialising and costing the harm caused when they do. These are some of the risks that to my knowledge have not yet been thought through and should be asked about.

First, I would ask about what will happen to charitable spending on some of these ex-offender groups when people know that other people may be making a profit off it. How much is that charitable spending overall on these individuals and groups? That needs to be worked out and played through. I have spoken to some probation trust chief executives, who think that about 20% of their rehabilitation-focused spend is given in kind by charitable trusts and foundations. We need to know how trusts, foundations and charities will respond to the fact that others are making profit in this market and to think about that carefully.

We need to have estimates of the knock-on costs of introducing this new model of service provision for people with sentences of under 12 months.

Q133 Chair: Can I stop you for a moment? That is not categorising the risk of failure. They may be contributors to failure, but Mr McDonald’s question was about whether we now know what we consider to be failure. What are the failure risks?

Tom Gash: Do you mean provider failure or programme failure?

Chair: Programme failure.
Andy McDonald: Or both.
Max Chambers: Can I raise a question? I suppose this is a political risk and a programme risk at the same time; it relates to serious further offences. At the moment, this cohort, which is in the hundreds of thousands of offenders, goes on to commit very serious offences—murders, kidnaps and sexual offences—under the probation service’s supervision. I am not blaming the probation service for that. That will happen under the new system. It is important that everybody is aware of the reputational risk for the programme. With the best will in the world, it will probably be presented as somebody managed by a private contractor being involved in whatever the incident ends up being. There needs to be a level of maturity in the response to that. It would be a shame, having gone through this whole process, to let the programme be irreparably damaged by something like that happening early on.

Toby Eccles: The most obvious structural risk of the present programme is that we will end up with a cost-driven production, with no focus on rehabilitation in anything other than handing out some leaflets and hoping for the best because the cost envelope will not allow it. If you look at what the implications of that have been for the Work programme, there have been structural difficulties for some of the hard-to-reach groups, where the numbers simply were not right. That has meant that putting in any other work with that community has been very difficult because the response from the DWP and others has been, “Well, we have got someone who is contracted to do that, so we have no other money available,” even if nobody is working with those people at all. In terms of getting in the way of innovation, change and progress, getting the structure for this wrong from an outcomes point of view will mean that it becomes much more difficult to work with those people than it is at the moment.

Ian Mulheirn: I would go further than Toby’s criticism. I do not think it is just about the cost envelope. There is obviously only a certain amount of money around at the moment, and we are not going to get buckets more. The question is, do you use the money you have to incentivise reductions in reoffending, which is the principle that lies behind this whole programme, or do you not? Currently, the structure of the payment incentives is completely perverse. It encourages cost cutting and, probably, increases in reoffending, which is the profit-maximising thing to do. At the moment, the incentives are completely topsy-turvy.

As to the question of whether the MOJ knows about them, initially when we pointed this out in the Social Market Foundation’s research, it denied those things, but in the market feedback and development considerations document that it put out recently it has acknowledged some of those problems. However, it has not yet gone nearly far enough towards addressing them. If we do not get that right, the whole payment-by-results approach is fundamentally flawed.

Q134 Andy McDonald: I turn to the issue of potential fraud. Where you introduce a market, there is that potential, of course. We have had recent experience of that with electronic tagging, so the component of confidence is a key issue. Perhaps we should be grateful for small mercies—unless Serco and G4S are cleared of these allegations, they will be prevented from bidding. Do you think the governance arrangements proposed by the Department are sufficient to ensure that it has robust controls in place to prevent fraud?
Max Chambers: I do not think anybody really knows quite what those governance controls are going to be yet. The only thing that I would say is that it will be in everyone’s interest to prevent fraud. I guess it will be a case of the MOJ working with the providers to minimise or, hopefully, eliminate that possibility.

Q135 Andy McDonald: So we do not have a view on whether, as we currently understand it, there are sufficient controls in place to prevent this happening again if one of these organisations comes into the market.
Max Chambers: The other thing that is worth pointing out is that the results for the discretionary payment come from the police. Although a lot of other service provision is paid for on a service fee basis, the reoffending result is externally verified by the police and the courts, from the police national computer. It is not a box-ticking prisoner escort contract about flows, volumes and whether a journey has taken place—the result is the result, so I guess you could argue that the contract is less amenable to fraudulent activity.

Q136 Chair: Do you think the Ministry of Justice has the capacity, given the evidence of past experience, including the interpreting contract, to guard not only against fraud but also against early signs of failure? Is the capacity there within the Department?
Toby Eccles: I think it is possible, but it is not presently used. At the moment, there is the idea of a black box in a lot of PBR models. Actually, what we want is a transparent black box. It is perfectly possible to have open-book accounting but still leave people flexibility as to what they do. It is perfectly possible to require people to state the level of investment they are going to make in rehabilitation but let them work out how to spend it. However, we are not requiring either of those things at the moment. You have the tools available to make it much more transparent. Also, if you go forward and say, for example, “If, after three years, you are not showing any statistical impact on reoffending, we are going to retender your seven-year contract,” that is the sort of thing that could get quite interesting. It is possible both to change the incentives and to improve the transparency, I would have thought.

Q137 Andy McDonald: Related to that—Mr Eccles has already touched on it to some degree—is this business of how the Ministry can ensure effective practice on the part of new providers, to identify and disseminate that, and at the same time protect intellectual property. One company will say, “Hang on—I am doing pretty well here. I am getting a good return for my shareholders. This PBR is doing very nicely, thank you, and I am not telling you. You can
Ian Mulheirn: Sevenths’ worth would be a significant improvement.

Q138 Andy McDonald: Are you serious? You would delay data coming out for a period of two years.
Toby Eccles: Outcome data.

Q139 Andy McDonald: Couldn’t that mask problems?
Toby Eccles: At the moment, we see none. From the Work programme, for example, we see no data because they are commercially sensitive. I am saying that, for example, at the point of retender you would have five years’ worth of data, from all providers, to improve what is happening. If you give out everybody’s data on a month-by-month basis, that becomes part of the news story and it becomes very difficult to invest in anything innovative. At the moment, the procurement process is very good for avoiding innovation. If you innovate and take it to Government, the Government say, “We have to run a procurement process,” which will find a cheaper alternative to you to provide it, so there is no point in bringing innovation to Government. You want to manage this in such a way that you have a balance of a wish to invest in innovation but provide transparency. At the moment, in most of these contracts, we have no data coming out at all, so five sevenths’ worth would be a significant improvement.

Ian Mulheirn: It is worth pointing out that this is not a relative payment mechanism. It is not the case if one provider is up then the other one is down—they are all paid relative to a baseline of historic reoffending in their area. Sure, they will want to hold on to their IP, but it will not affect—in the short term at least—their remuneration from the policy. I am not so worried about it myself.

Q140 Jeremy Corbyn: I am astonished by the answers you have just given to Mr McDonald. Are you approving of withholding data from the public?
Toby Eccles: At the moment, we have a situation where no data are made public.

Q141 Jeremy Corbyn: Do you think they should be?
Toby Eccles: Yes.

Q142 Jeremy Corbyn: All of them?
Toby Eccles: I think that the majority of them should be made public. You then have to ask the question, “If we have full transparency, what perverse incentives and behaviours will that create?”

Q143 Jeremy Corbyn: Don’t you think there is an overriding public interest in this, since it is the public who pay for the profits of these companies and the service provided, and they are supposed to be working in the public interest, not their commercial interest?
Toby Eccles: Let us clarify different sorts of data for a moment. One is, how much did the contract go for? Should we publish all of the contract values and everything else? My personal view is yes, we should. At the moment, we publish none of them. Should we publish outcome data as they become available, in terms of the levels of rehabilitation that have happened on the ground? Actually, those data take a little while to come through and are quite complex and fiddly. If anyone makes a difference in the first year, I will be very impressed, because they will be doing a whole bunch of other things as well. If we then create a great storm around the fact they are not being successful when they are all trying to do a range of complicated things, I think that would be a pitty. A window where people are able to continue to work but where data always come out in the end also avoids the perverse incentive—dare I say it?—that if there is pressure to publish the data month on month and you are right in the middle of it, you may create pressure for greater fraud than you would have had otherwise. I am trying to figure out a balance between these pieces, so that you get as many data as possible into the public eye but also incentivise investment in programmes and innovation.

Max Chambers: Can I say something about the difference between transparency to the public and transparency to the Ministry of Justice? There are plenty of data on the probation service that the Government do not publish as a matter of routine already. As long as the Ministry of Justice is aware of certain parts of data and information on delivery models and things that are commercially sensitive, that is one thing. That does not mean that you necessarily have to go the whole hog and publish absolutely every piece of data or delivery model or unit cost. That could damage the ultimate goal, which is making sure that you have a properly functioning marketplace. The other advantage of this is that Parliament—

Q144 Jeremy Corbyn: I am sorry; I thought the ultimate goal was reducing reoffending, not the marketplace. What are your priorities in this?
Max Chambers: The ultimate goal is to try to make sure that the reform is a success. A big part of that is making sure that you have a marketplace that can be built over time and can sustain itself.

Q145 Jeremy Corbyn: That is highly debatable.
Max Chambers: Obviously, the ultimate goal of this is to reduce reoffending. The best way of getting the maximum results is to have a marketplace where people can compete according to those results.
Q146 Jeremy Corbyn: Can I ask you a couple of questions on mitigating risks? When this issue came up in the House of Lords, the Government were extremely unwilling to reveal their own risk assessments, and they continue to be so. There are concerns there, but how much time do you think should be allowed for providers to gear up to delivery and become operational?

Tom Gash: My personal view is that you need more detailed information than anyone who is not a provider and does not have full information on the cost base of the staff and what savings you have to make in this model could currently get hold of. When getting to be operational, the main thing that providers will be doing—whether or not we think it is desirable—will be trying to reduce their cost base, which is normally done by changing staff terms and conditions or reducing their staffing within the probation services. That will be focused largely on the case management work load and delivering community interventions, not on anything to do with the reoffending part.

It is very important for the Committee to recognise when the probation is not entirely probation and where it will go in future. The bulk of the money goes on delivering community orders and case management of offenders—effectively, referring people to different services. That is why I think it is very important to understand what will happen with the referral process. One of the interesting things when you go to an outsourced model is that sometimes the risk is that the incentives change and are geared up. If I am a private provider providing probation in a particular area, I want to refer my clients to every service possible that could help them, irrespective of the cost-effectiveness of that service overall for the taxpayer. That may be a good thing and lead to outcomes that are a lot better in terms of reoffending, because suddenly these people who have never been served before will get housing and get referred to drug and alcohol treatment and mental health. However, the Ministry of Justice needs to work with other Departments to think about how that will work in practice. What will happen to costs in the local mental health service and around drug and alcohol treatment, and will that be a good use of taxpayers’ money? Can people absorb that work load? Are they planning for additional capacity and so on? Thinking about the system effects will be—

Q147 Chair: Isn’t that a challenge to the whole policy—not just the privatisation policy but the whole rehabilitation policy? Whatever you do with the intention of ensuring that people do not reoffend involves precisely the things you have just said—housing, social support and things like that. That is a given for any proposal we come up with, isn’t it?

Toby Eccles: I think there are two aspects to this. First, I think there is one category mistake in the policy structure, which is that we are starting off by saying, “What is the size of the probation budget? Let’s cut it;” and then, “How can we impact on reoffending?” Surely, what we are trying to do is create a criminal justice system that reduces reoffending. At the moment, we are not putting that on to the prisons at all. We are creating new private prisons. When we first started putting forward Peterborough and talking to private prisons about this sort of thing, they said, “That’s amazing. If we were asked to reduce reoffending while we were producing prisons, we would produce different prisons.” That is the first element.

The second element is that the prison budget is 88p in the pound and the probation budget is 12p. The question really is, if you actually spent and invested heavily in reducing reoffending, would you be able to change and reduce your overall cost envelope for criminal justice, while reducing crime? To my mind, that is an open question that we are not studying, which is a great shame.

Chair: We are studying it.

Q148 Jeremy Corbyn: Have you done any modelling of the cost of reoffending—in the sense of the numbers that go back into prisons, which are far more expensive than probation work, shall we say?

Toby Eccles: There is the cost of prisons but also the cost of police and the cost of drug rehabilitation. Forget for a moment the wider societal costs. If you look just at the costs to Government, they are considerable. They are not being considered in the equation of how much to invest in probation or not.

Q149 Jeremy Corbyn: Can we move on to payment by results? The Social Market Foundation said there should be radical revision of the payment-by-results system. How would all of you want to change the payment-by-results system? Do you think it leads to perverse incentives to model businesses according to how they can gain maximum payment, rather than an effective real-time measurement of what happens to ex-offenders?

Max Chambers: I will start by saying that I agree with a lot of the points that Ian made in that pamphlet; hopefully, the Government will take note of some of those points. The big issue that we at Policy Exchange have also talked about is that we do not like the binary hurdle. We think that is not necessary.

Q150 Jeremy Corbyn: Could you explain what the binary hurdle is?

Chair: To everybody.

Max Chambers: It is the idea that in order to receive a payment for reduced reoffending, however you measure it, you first have to have reduced the proportion of offenders who have reoffended. So there is a binary decision—have you reduced reoffending from 60% of the cohort to 55%, for example? Until you achieve that binary measure, you cannot access other payments for reducing frequency, which we all agree is an important measure that needs to be included as part of the consideration. I expect that the Government will move on that—because providers will demand it, as much as anything else.

The other thing we always struggled with in the pilots—this may be difficult for people such as the NAO and, perhaps, for the Committee—is the idea that payment has to be attributed to statistically significant reoffending points. That produces quite strange results. If you reduce reoffending by 2.9% you
do not get paid, but if you reduce reoffending by 3%, because that happens to fit with the statistically significant modelling you do. That relates to Ian’s point. It means that, theoretically, you could allow reoffending to drift up by 2.9% with it not being statistically significant and, therefore, not be penalised for that. To address directly the implication of that—that providers will deliberately design delivery models to reduce costs and allow reoffending to drift up—I would be very surprised if anybody would deliberately do that. I am sure that would not happen, but you have to design a payment mechanism that does not allow that to be an unintended consequence.

Chair: Reluctantly, I will have to draw this part of the session to a close because we have another group of witnesses to bring in. We are very grateful to you for all the time you have spent with us this morning and for the interesting points you have made. Thank you very much.

Examination of Witnesses

Witnesses: Sue Hall, Chair, Probation Chiefs Association, Sebert Cox, Chair, Probation Association, and Oliver Henman, Head of Partnerships, National Council for Voluntary Organisations, gave evidence.

Chair: I welcome Ms Hall from the Probation Chiefs Association and Mr Cox from the Probation Association, both of whom are familiar to us, and Mr Henman from the National Council of Voluntary Organisations, which has a broader remit but has raised issues that are particularly relevant to our inquiry. I ask Mr Llwyd to begin.

Q151 Mr Llwyd: Good morning. My first question is to the Probation Association and the Probation Chiefs Association. In your view, what is expected of probation trusts in preparation for the transition to the new structures? What support is being provided currently by Government to support this? To what extent has this transition already commenced?

Sebert Cox: Before I get on to answer that specific question, I wonder whether I might refer back to the response that the Probation Association and the Probation Chiefs Association gave to the consultation in February. We stated then in our introduction that we thought that the probation service—the 35 probation trusts that currently exist—was in a very healthy state and that we saw no great need or urgency for it to be dismantled to enable the Government’s principal objective of reducing reoffending and bringing in people who—

Q152 Chair: We are familiar with this view, Mr Cox, but we are very anxious to find out what is happening at the moment. I would like you to address Mr Llwyd’s question.

Sebert Cox: I was coming to that. On the point of what is the expectation, we are now obviously in the process of implementation. As you know, the programme has been truncated from the original time scale, which was expected to be around October 2014, down to a date of 1 April 2014. Obviously, we have to explain to staff the rationale behind the changes, as explained by the Ministry of Justice. We have a process of trying to divide staff between the two new entities, transferring to the NPS and to the CRCs. We have to ensure that reallocation of cases is divided between the two different organisations.

We are getting some assistance from the Ministry of Justice, in so far as we are getting a lot of information—coming almost on a daily basis now—on the way it sees the programme operating. We also have a process of information that comes through a series of teleconferences. There are bits of information flowing around but not in sufficient detail that allows us to be able to make the necessary changes to build the new structures.

Q153 Mr Llwyd: The implication of what you have said is that this is being pushed through rather too quickly.

Sebert Cox: Had I been able to carry on a little bit in my introduction, I would have said that one of the things we said quite clearly was that we were more than a little anxious about the pace and timing of this implementation. This is quite a significant event. We have not been here before. As you know, the probation service has been nationalised before—in 2000 to 2001—but we did not change it significantly on the ground. People did not move from one place to another. This is a very significant event, in which we are going to expect quite a lot of upheaval to ensure that staff end up in the right place, at the right time and, more critically, that offenders also know who their supervising officers are to be.

Sue Hall: We heard the Government’s response to the consultation only on 9 May this year. The expectation is that by 1 April 2014—10 and a half months after the consultation response was published—we will have moved from being 35 probation trusts to 21 community rehabilitation companies and a national probation service. That is an order of change that would have been hard to achieve if it had started at the start of the Government’s term of office. To bring it in within two years of an election, with an expectation that this will all be achieved, that the transfer to the market will have taken place and that it will be up and running, feels like a huge, huge challenge.

The responsibility of probation trusts is to get to a point in April where the new national probation service and the community rehabilitation companies are in the system and trusts wind down, so we are not only moving to the new state but are also in the process of winding down the trusts. Most of the decisions and processes to make that happen are not in our gift in the first instance—they have to be designed centrally. We are finding that the amount of time available to us to do some of the really complex and demanding tasks that have to take place is shrinking hugely. We are now looking at four and a half months
to 1 April. The pace at which we are being expected to work feels extremely risky, I would say, at the moment.

Q154 Mr Llwyd: In addition to that, how do you envisage the trusts’ core business proceeding during this time of flux?

Sue Hall: It was made clear to us at the start of this process that the one thing that should not suffer is what is called “business as usual”—that in the midst of all of this offenders needed to continue to be supervised responsibly and that work with partners in the community should continue to provide all the resources that are needed. That is where the heart of probation is. Probation staff are highly committed to making sure that the best possible service is delivered. We are working closely to get things in place for the last quarter, and we are beginning to see that performance is starting to look a bit rocky. Part of that is because staff are uncertain and worried about their future, part is about the capacity in the system to manage all of these things simultaneously and part is that in some parts of the country we are now seeing staff leaving—staff are not waiting for the change to take place. We will keep business going but I fear that performance will begin to slip.

Q155 Mr Llwyd: On a tangential point, what sort of governance arrangements will be required to be undertaken by the trust boards for the new roles that they will be occupying vis-à-vis the community rehabilitation companies in the year before the new providers come on stream?

Sebert Cox: That is a very interesting question and one that we have been asking the Ministry of Justice for several months. To date, we have not got a satisfactory response. I know that it is thinking about it. We think that the safest way to transition from the current trust arrangements into the CRCs is to ensure that some of the non-executive directors—the people who are appointed by the Secretary of State—go forward, even if it is only for the relatively short time that they remain in public ownership. We think there is a lot of expertise within current trust members that could safely ensure that the right arrangements are set in place.

At the moment, there are two sets of things that we need to consider. The first is the decommissioning of trusts, because our contracts will cease on 31 March. As yet, we still do not know what the intentions are to decommission those services. It seems to us that it is right and proper that the current board structure should see things through and should account to Parliament for the way it has carried out its activities over the last year and, obviously, before that. It should ensure that its accounts, for example, are laid before Parliament, as it has done in the last year, certainly.

As regards the CRCs, we have absolutely no idea how the governance will work. We have heard that these are to be established as 21 commercial entities. One presumes that they will have a board, as a normal company would, but, at the moment, our only understanding is that they are considering some form of one, which may be national; I do not know whether that is to be a supervisory board or whatever it might be. There is certainly an expectation that the Ministry of Justice will continue to decide how those companies will operate, up to the point of share sale. It is very patchy at the moment. We are pressing for information on that because, with the expectation that boards will cease their activities on 31 March, like staff, some people already have their bags packed ready for exit. We think it would be a disaster if we lost the expertise that some of our members currently have when we could help that process to transition and ensure that the organisation gets a good start.

Q156 Mr Brine: I have some questions for Sue Hall. No offence to both of the other witnesses—I will come to you.

Sebert Cox: Thank you.

Mr Brine: You’re welcome.

Now that we have published this target operating model, I want to try to understand to what extent the Government have addressed—or not—your concerns about the impact of splitting responsibility for the management of offenders at the different levels of risk, with public sector probation services retaining responsibility for public protection. To what extent have they explained that to you?

Sue Hall: The target operating model gives a high-level explanation of how the system would work. Just for the record, PA and PCA remain very concerned about the way risk is being split. If the Government were ever willing to listen to that point, our strong advice would still be not to split offender management on the basis of risk.

Given that the model is not the basis on which this is going forward, I have a couple of concerns. The first is that there is a way of talking about the CRCs as managing medium and lower-risk offenders. In fact, the public sector probation service is retaining only offenders who are showing a risk of serious harm—not a high risk of harm, but a high risk of serious harm. We do not yet fully know exactly what that will encompass, but the implication is that the CRCs will be managing a whole raft of offenders who are at risk of committing harm. We understand that to include domestic violence cases, complex mental health cases and child safeguarding cases. It is not the case that the CRCs will not be managing risk—they will be managing risk.

We have concerns that the interface—the point at which risk moves from high risk of harm to high risk of serious harm—has to be worked through. There has to be a good escalation process that takes the case back up from the CRC into the national probation service. Those processes are not in place yet, although it is recognised that they need to be. Where currently we have one simple model of an offender manager managing the offender’s entire journey through their order or licence, we now potentially have a bureaucratic system to put in place that ensures that information moves between two sets of organisations. We all know that points of data and information transfer are potential points of risk. There is a lot of work to be done to get that safely in place. I would say that we have not seen those processes yet.

Secondly, because CRCs will be managing high levels of risk, they will need to have trained, qualified
specialist staff. The documentation on the target operating models makes it clear that the new prime providers will not be required to have qualified probation officers in the way that the national probation service is, although they can choose to. The only thing they will be required to do is to explain how levels of training and qualification are appropriate to the job they need to do. We think that is a mistake and that there should be a unified framework of qualified staff across both the CRCs and the NPS. With nurses or doctors, you would not dream of allowing one set of providers to make up their qualifications. There really should be a consistent, agreed set of qualifications across both sets of providers.

Q157 Mr Brine: Is the bottom line—which has been the concern from the start—that, exactly as you say, risk is not something that is very easily boxed off and defined? Risk escalates and de-escalates all the time. The skill set of a probation officer is to see that, spot that, prepare for that and act accordingly.

Sue Hall: Staff have said to me that they are worried, regardless of which side of the fence they go on. If they go into the CRC, they will not be writing reports for the court any more, so they will lose some of the skill set that they currently have. If they go into the NPS, by and large they will not be providing a lot of interventions; they will be doing a lot of public protection work. The overall package of skills that you currently have in staff will be diminished. I think that will be to the detriment, potentially, of both the NPS and the CRCs.

Q158 Mr Brine: What estimate have you made of any of the cost to the trusts of reconfiguring themselves into mutuals or other organisations able to bid? Earlier, we learned from the Chairman that 70 companies had registered an interest in bidding. Can you give us an idea of cost?

Sue Hall: That is really hard to do. I would like to make a couple of points about mutuals. At the moment, there are eight groups of staff—in some cases it is one single trust that is linked to a CRC, in others it is a sort of consortium—that have received Cabinet Office funding to get themselves to be bid ready. That is not the same as actually setting up a mutual, because probation trusts cannot set up mutuals ready. That is not the same as actually setting up a mutual, because probation trusts cannot set up mutuals

Mr Brine: Go for it.

Sebert Cox: There is not a necessity—

Q161 Mr Brine: In teams, the cohort around offenders, is there precedent for those teams to act in that way? All teams, in any office—and I am sure, in yours—are coalitions of skill sets that coalesce around offenders, aren’t they?

Sebert Cox: They are.

Q162 Mr Brine: Is there currently precedent for that to be split? When you sit around the team table to talk about assessment of risk, do you talk to Jim to my right and say, “Okay, Jim, tell us about assessment of risk.”? Does that already happen?

Sebert Cox: I am not aware of that, but I would be corrected by my colleague Sue, who is obviously much more focused on operations. Teams do work in a generic sense, as you say. In a probation setting, it is certainly my understanding and expectation that the expertise around the table is made up by and large of people who are qualified and trained and understand that risk assessment basis, so—
Q163 Mr Brine: So it is a qualification and training issue. I think people had the view that these teams would sit in separate offices a train ride away, whereas in a debate in the House a couple of weeks ago, it was said that they would be sitting around one table. Is that wrong?

Sue Hall: There are a couple of points there. The first is your question about whether there is precedent. Yes, within probation services there may be specialists who deal with high-risk offenders. Is there any model that mirrors what the target operating model will be? No, there is not. Will people be sitting in the same offices? Yes, they will, for about two years, but the process will allow prime providers to move out of MOJ offices in due course. On day one, we will all be in the same office, although we may have moved our chairs around a bit, but the fact is that you will have one national structure managing half, or 40%, of the staff and one local structure managing the other 60% of the staff. Those management structures are not aligned in a way that will make the development of local processes easy.

Q164 Mr Brine: Do you hate this? You represent the Probation Chiefs Association—you represent probation chiefs, and their empires are being split up.

Sue Hall: Can I answer that in a different way? I can see what the problem is for the Secretary of State around short-term prisoners. We all see that. We all want more innovation and diversity in the system. Is this the most logical way to achieve it? We would say no. You could have asked probation trusts to take on the under-12-month group. You could have competed the under-12-month work separately. You could have looked for savings to do that from probation and, indeed, from the Prison Service—from the wider system. To move from trying to solve a problem that is quite specific to the wholesale dismantling and then reconfiguring of a service, bringing in a market, at is quite specific to the wholesale dismantling and then system. To move from trying to solve a problem that looked for savings to do that from probation and, and one local structure managing the other 60% of the staff. Those management structures are not aligned in a way that will make the development of local processes easy.

Q165 Mr Brine: So you hate it.

Sue Hall: I can see as well—

Q166 Mr Brine: Bear with me for one very quick final question. You are from the PCA. You meet Ministers in this Government and met Ministers in the previous Government, and you accept the need to bring in the under-12-month offenders. At any point—over lunch, coffee, meetings or whatever—have you said to Ministers in the past, “Do you know what the problem is here?” We don’t supervise under-12-month offenders. Can we work out how to do that?

Sue Hall: You would be interested to know that not just during the whole custody plus debate that we had with the last Administration but in my own trust, West Yorkshire Probation Trust, we have run through-the-gate services together with the Prison Service and the local authority out of Leeds prison, which will become a resettlement prison. We are not alone. Through integrated offender management developments all across the country, we are starting to work with under-12-month offenders, even though we are not paid for it by the Government. It is not funded—it is done through partnership consortiums to make it happen. So there is a precedent. In the course of this programme, we sent information about the through-the-gate scheme at Leeds prison to the centre and said, “This could be a model you might want to look at,” so yes.

Q167 Jeremy Corbyn: Could I move you on to the question of whether potential savings that could be achieved through this? Do you think it is possible to get the savings that the Secretary of State envisages and to get the results he wants?

Sue Hall: There are definitely savings that can be made from the system. Even with the current system of 35 trusts, we have been very good at making efficiencies. We can offer some things like a 19% cost-effect cut since 2008–09. If you look at last year’s record, you will see that many trusts turned in quite significant underspends, on the basis that we thought we were going to have to make real economies of scale this year, in accordance with the plans that the former Secretary of State laid before us.

Q168 Jeremy Corbyn: Would you put on the record what plans you are referring to that the former Secretary of State laid?

Sue Hall: When Kenneth Clarke was still the Secretary of State, we were under no illusion that we would continue to have our budgets cut year on year and that we would need to continue to produce results as well as to start to engage in competition. We all worked very proactively on that basis. There are definitely further efficiencies that could be made by bringing trusts together. There is the notion of having 21 CRCs, as opposed to 35 trusts. You can see that there are back-office efficiencies and other efficiencies that can be made. However, if you had mandated trusts, taken off some of the shackles and said, “Go ahead and produce results, and be much more innovative than you have been able to be,” because we have been very constrained, I think we could have produced the results, I am convinced of that.

Sebert Cox: I would support that. One of the things that we have argued for many years is that probation has never been free to run its own affairs. We have been under the auspices of NOMS; the Chairman will tell me that that has been discussed in this Committee. Effectively, NOMS calls the shots. In so far as trusts would like to be able to innovate and find ways in which we could make real cost reductions, we still have this overarching process that directs the way we should do things, rather than focusing on outcomes. We have argued that we really should be released from doing that. One of the things that we hear the current Secretary of State saying, which we applaud, is about reducing bureaucracy, but we would have liked to have seen that applied to trusts, so that we could have demonstrated our ability to bring in the under-12-month group, for example, and, potentially, still continue to make savings.

Chair: We are very familiar with the arguments that all of you might want to advance about what else could have been done or how it could have been done differently. It is particularly important that we are able
to use what little time we have left to establish what may be happening—or may be about to happen—in this system, because that is what we are analysing.

Q169 Jeremy Corbyn: That was my point. What advice, support, help and conditions are being put on the establishment of mutuals by the Cabinet Office? Are you getting any practical help to do this?

Sebert Cox: Sue gave a response to that earlier. I am not personally involved in one. Again, I will make the point that Sue made—trusts themselves are not able to bid. The Cabinet Office has been helpful in providing some financial resource and some practical help to those individuals and organisations that want to be established as mutuals. I think that has been working quite well so far.

Sue Hall: I can say that that has been working well. The eight potential mutuals that are working with Cabinet Office funding feel very positive about the level of funding that has been received, which ranges from about £60,000 that has been given to Leicester and Rutland through to £103,000 that has gone through to the Cumbria, Lancashire and Merseyside probation trusts potential mutual. There has been a good level of funding, and it has bought consultancy that has been procured via the Cabinet Office. We understand there may be a bit more funding in the offering for the mutuals that are going through the process at the moment. That has been helpful.

Oliver Henman: In so far as the voluntary and community sector is concerned, there is some support available, partly through the Cabinet Office. In fact, NCVO is engaged in delivering master classes around how the sector can become more adept at negotiating contracts and participating in these kinds of payment-by-results mechanisms. We think our sector is very well placed to deliver some parts of the rehabilitation work, which it already does in the current infrastructure, but there are a number of concerns around how that payment will be measured. In spite of the skills, if appropriate payment is not flowing down the supply chain, many of the specialised smaller providers may well be lost at that end.

Q170 Jeremy Corbyn: Do you have concerns about smaller providers simply not getting into the action at all on this and getting sidelined by commercial interests?

Oliver Henman: I think there is a risk of that. This morning, I was on the phone to our member in Manchester, who was highlighting precisely that. The payment that is available is unlikely to be sufficient. Some of the prime providers are highlighting that this could be a risk in the sense that they will be unwilling to subcontract to the degree that we had hoped, simply because the payment-by-results mechanism does not incentivise them to work with those who are harder to reach, which is where we come in. We have the access to some of those who are perhaps harder to reach, but the way the payment is structured, there is more of a focus on delivering the court-mandated services—the core services—and less support on the rehabilitation side.

Furthermore, I would argue that smaller providers will have a delay in these first two years. We are hearing from many quarters—it has been mentioned already—that it will take a number of years for the new system to bed in, so any new deliverer that takes on these large contracts will have a number of undertakings under TUPE and so on to sort out first, before they can think about any subcontracting.

Q171 Jeremy Corbyn: Do you feel that pressure is put on because of the lack of capital and financial resources for very small organisations, some of which you represent?

Oliver Henman: Yes. On payment by results, the risk transfer and access to capital is a big concern, which was mentioned by the first panel. If a prime provider is working on a payment-by-results model and is expecting a small community organisation to do the work before it gets paid, that can be a very high risk, particularly if the flow of referrals and so on does not come through. It is a challenge for many organisations to be able to sustain themselves if they are waiting a year or two to get paid. We would argue that it is essential that smaller providers receive some element of grant funding or up-front funding to deliver those more specialised, community-based services.

Q172 Andy McDonald: Can I turn your attention to risk? We have been here before, not that long ago, when there were real issues around the failure to address the concerns raised about the ALS contract, which were flagged up early doors. The PA and the probation chiefs have produced their own risk register for trusts. Can you tell the Committee what key risks you have identified and whether you have shared them with the Department? If you have, do you have any confidence in any risk mitigation procedures that have been adopted as a result?

Sue Hall: We have named quite a number of the risks already, both in the previous session and in this session. It all hinges around the ability of the programme to have the design both completed and in place within the time scales that have been set. There are issues in terms of capacity from the centre and about managing the staff transfer safely and well and in a way that does not demoralise and demotivate staff, so that performance does not deteriorate and so on. We have been very clear about the risks that the programme is currently running.

We have been very plain in our discussions with the Ministry of Justice and have written to the Secretary of State outlining our concerns very directly. It is fair to say that at the moment there is a lot of activity around the programme. We are hopeful of a meeting with the Secretary of State in the near future to continue to discuss our concerns more fully. Very recently, we also had discussions with the lead people within the programme, who are beginning to understand the trusts’ point of view. It is reasonable to say that there is a big gulf between the way the programme is being experienced by trusts and the way I think it is being described at the centre. From a trust point of view, it feels unco-ordinated and as if it is not keeping to the time scales that we will need if we are going to do our bits of the business—
Q173 Chair: What time scale would you need? I know this is not what you want to happen, but, if it is happening, what time scale would you need to do it in what you would regard as a professional and satisfactory way?

Sue Hall: It is difficult to say, but personally I think you would probably have needed a couple of years to do this well, in terms of developing the design, testing it properly and having all the bits in place before you went live. Probation working in the community is such a complex undertaking that to bring in something very quickly risks unforeseen consequences in our relationships with our partners or in the way that the new changes impact on the whole system. I would have liked to have seen a more measured approach to the changes.

Sebert Cox: When we started out on this process of implementation, if we had stuck to the idea that from 1 April—the spring of 2014—you would begin to see some shadow arrangements taking place, that would have given us more confidence that this was all doable, because one would hope to see a more seamless transfer from the current integrated state to the new entities of the NPS and the CRCs. However, now we are really up against it, so there are very serious concerns.

One of the things that we expressed to the Secretary of State in our letter only last Friday is that we really have to see the very bare minimum of things happen if you are to get to that point. In other words, we must ensure that staff are in the right place on 1 April, whether that is the NPS or the CRCs, and each offender must know to whom they must go for their supervision, whether that is in the CRC or in the NPS. More importantly, if there are breakdowns in the system—there is almost bound to be some sort of breakdown on day one—what arrangements are in place to ensure that the sentence of the court is being properly carried through? We believe those are essential bits of the framework that must be in place to start this off. Whether that is on 1 April or at some other time is really a decision for the MOJ, but we are now working very hard to keep pace with its programme, and it is slipping daily.

Q174 Chair: It would be helpful for us to have a copy of that letter.

Sebert Cox: I cannot see any reason why you should not see the letter we have sent to the Secretary of State.

Chair: If you could arrange that, we would be very grateful.

Q175 Andy McDonald: On a related point, you have had these sounding board meetings since March. To what extent do the trusts and the CEOs feel that their views are being taken into consideration on these potential implementation failures? Are NOMS and the MOJ listening to what you are saying?

Sebert Cox: The sounding board is a very interesting concept. It was created by the Minister of State, Jeremy Wright, as a forum for—literally—ideas to be sounded out. The probation representatives from both the PA and the PCA side of it are individual chief executives or chairs of trust boards. The idea is that they meet in a confidential setting so, in effect, nothing flows out. You might hear an anecdote or two of what was discussed.

From what we understand, it is one of those mechanisms where questions are asked, they are taken away by the MOJ and answered, but they may not be answered by the next meeting or in a very timely way; frankly, they may be forgotten. We would not say that we think the sounding board has been a great success in moving this process along. I might be doing it a disservice, because none of us here sit on it, but we certainly get the impression that it is not moving in a direction that enables there to be confidence that this programme is really being drawn up.

Oliver Henman: I have something to add from the voluntary community sector perspective. We have been invited in for conversations with the Ministry of Justice. However, there still seems to be a lack of clarity, particularly around some of the potential subcontracting arrangements, that is quite alarming, given the pace at which we are moving and at which our members are expected to mobilise over the next few months. We will be seeking more clarity, particularly around the balance, which was mentioned before, between the binary and reducing reoffending rates.

Q176 Andy McDonald: I have a couple of specific questions for Sue Hall. What are the key factors that explain reductions in reoffending among the cohorts that the trusts have managed in recent years? Could you comment on that?

Sue Hall: Thank you for that question. One thing that has really bedevilled communications about reoffending statistics over the last few months is that there has been a lack of clarity about what the stats actually say. We hear lots of scare tactics in the press about the level of reoffending; which is just not the case. For the record, since 2000, there has been a reduction of 9.2% in the reoffending of those offenders supervised under court orders by the probation service. When you compare that to those who have spent under 12 months in custody, where there has been a 7% increase in reoffending, you can see the impact that the probation service has. What does that come down to? I think we can tie it down to a number of factors. One is that we have become much more systematic. The offender management model is actually a good model, because it is based on assessment, sentence planning and review—and having specialist assessment and interventions that meet the needs of the sentence plan and doing that consistently across all offenders, in a way that can be measured. It is about being clear that resources should follow risk. It is not down to an individual probation officer’s personal preference about how they work—it is about saying, “These sorts of offenders receive the most resources.”

It is also about the evidence base. We may not know everything we want to know about what deters people from offending, but we know an awful lot more over the last 10 years. The whole desistance research about what helps offenders desist from offending has really influenced the way that probation staff engage with
service users—how they work with them to find relevant ways to address their offending. All of those things have come together to mean that we are a much more professional, evidence-led service than we were back in the 1990s. That has to be held on to at all costs in the new scheme of things.

Q177 Andy McDonald: Finally, to your knowledge, what progress has NOMS made on developing the national case management and risk assessment systems that will be required to underpin this system?

Sue Hall: We have all had a new case management system rolled out over the last year. It is called national Delius, or nDelius for short. That is now the basis on which the 35 trusts are operating. Clearly, when the new community rehabilitation companies are formed, there has to be a massive separation in the system between the information that is held by the two bodies. They will need to be able to have an interface with each other, but they have to be separate. That is a really challenging piece of work for the MOJ to put in place.

When the CRCs move over to the new prime providers, those providers do not have to use nDelius, but they do have to maintain an interface with it and a minimum data set. All of this feels very complex. Perhaps it would have been easier if everybody had remained on the same case management system, but there is a case management system that is in operation. It is making it work in the new environment that I think will be a challenge. Where risk assessment is concerned, we are in a much less certain place. A new allocation tool is being designed that will help to decide who stays in the national probation service and who goes to the CRC. It will be about risk of serious harm. None of us has yet seen that tool. We know it is being developed, but, as far as PA and PCA are concerned, we have not seen the result of any trials or validation processes. We are concerned at how long it will take to get this risk allocation tool into place. We have learned this morning that it probably is not going to be the basis on which cases are divided in the first instance in April and will come in later down the road in 2014, but it is a key tool that we are very anxious to have sight of at the moment.

Chair: Thank you very much. We are very grateful to the three of you for coming in this morning, for responding to our questions and for the other ways in which you made information available to us before this meeting. If, afterwards, there is something you wish you had had the opportunity to say and want to let us know, do so, but we will be moving quite quickly on this issue.
Wednesday 4 December 2013

Members present:

Sir Alan Beith (Chair)

Rehman Chishti
Mr Christopher Chope
Jeremy Corbyn
Nick de Bois

Gareth Johnson
Mr Elfyn Llwyd
Andy McDonald
John McDonnell

Examination of Witnesses

Witnesses: Rt Hon Chris Grayling MP, Lord Chancellor and Secretary of State for Justice, and Jeremy Wright MP, Parliamentary Under-Secretary of State for Justice, Minister of State for Prisons and Rehabilitation, gave evidence.

Chair: Ministers, good morning and welcome to both of you. As you know, the Committee was working on revisiting its previous report on justice reinvestment and the extent to which it had or had not been implemented. During this time, transforming rehabilitation and the proposed probation changes caused us to decide that framework we should do some interim work on the probation changes, on which we may well issue an interim report. It is to assist us with that that you have kindly come to us today. I ask Jeremy Corbyn to open the questioning.

Q178 Jeremy Corbyn: Good morning, and thank you for coming to the Committee. Why have you adopted a big bang approach to this rather than a phased-in system?

Chris Grayling: This is not a big bang approach; it is an evolution, not revolution. The changes will take place over a period of at least a year, which will allow bedding in across the country. For example, the transition to inclusion of the under-12-month group builds up over an extensive period of time. Over the first six months, only offenders in the very low thousands are involved, so there is plenty of time for that new system to bed in.

If your question is why we are not doing it in one place alone, looking at the nature of the challenge that we face in Britain today, the crime figures—including the British crime survey—have been showing fewer first-time entrants into the criminal justice system. Increasingly, the problem with crime in this country is about reoffending. My judgment, which was shared, if not implemented, by the last Government, is that the exclusion from supervision or any kind of support of the 45,000 people who leave prison each year is a threat to our society in terms of victims of crime and levels of crime in the future; and it is also unfair on that group. On Monday I sat with a group of them in Wormwood Scrubs and was given quite a hard time about what would happen to them when they were released. One man in particular said to me, “I’m going to be released in three months’ time. I do not know what’s going to happen to me after I leave. There’s going to be no supervision; I’ll have £46 in my pocket; and heaven alone knows what’s going to happen to me next.” I believe it is a huge failing in our society that we do not provide any kind of supervision, guidance or resettlement strategy for those offenders. They are the ones most likely to reoffend. You could say, “Let’s do a little bit in one place and a little bit in another.” What you are saying is, “We will wait years more before we do anything about this problem,” and I think that would be a mistake.

Q179 Jeremy Corbyn: But you are claiming to achieve 40% efficiency savings on this. Can you honestly say that is going to happen? Are you confident in the companies that are engaged in doing this?

Chris Grayling: I am confident that we can bring down cost. We have a system that is more bureaucratic than it should be. This Committee itself has identified the fact that not enough probation staff time is spent working with offenders. It is far too little; it is a minority, according to your report in 2011. Across both the last Government and this one we have extensive experience of the private sector helping to bring down cost. This is not purely about the private sector. We are trying to weld together the strengths of the public, private and voluntary sectors. The voluntary sector has enormous skills to bring to bear on this. Skills that we have started to see through the creation of our Justice Data Lab have genuinely reduced offending in the cohorts of people that they have been working with. It is about bringing down costs but not the delivery of substantial savings. Most of the reduction in cost is being reinvested in supporting that under-12-month group to try to deal with a problem that was not deemed to be affordable by the last Government.

Q180 Jeremy Corbyn: Are you suggesting there are not enormous skills in the probation service at present?

Chris Grayling: If there were not enormous skills in the probation service at present, we would be taking a different approach, but all those skills, particularly in terms of front-line reoffending, are part of the new package, either as part of the national probation service or as teams of people who will move into the new community rehabilitation companies. We are not throwing away the existing skills but bringing two extra dimensions to what we are doing: the ability to create a more efficient system so that we can afford to support the under-12-month group, and the kind of mentoring and support skills that all of us have
probably seen in the voluntary sector, which can make a huge difference. I would like to see more former offenders who have gone straight to act as mentors for the younger offender who has yet to do so, based on the approach: “I’ve been there; I’ve been through it; there’s a better way.” I am sure you have seen it in your constituency, Mr Corbyn; I have seen it in many places around the country. I want to capture more of that for the rehabilitation of offenders more generally.

Q181 Jeremy Corbyn: Have you measured much the effect of mentoring?

Chris Grayling: Most recently, the experience in Peterborough is proving to be very good. We are not dictating a model, but the Peterborough pilot is the closest to what I think most providers will adopt. That has shown a two-year decline in reconviction rates. A comparator between the cohort who have been through the Peterborough pilot and a comparable group of prisoners elsewhere who have not shows a gap well in excess of 20% in reconviction events post-release. If we can build on that and get that elsewhere, that is enormously important.

Q182 Jeremy Corbyn: Are you confident that this quite complicated interrelationship between your Ministry, the probation service, private sector providers and the voluntary sector could not break down through lack of communication?

Chris Grayling: There is no reason why it should. Let me pass it to Jeremy to say a bit about that.

Jeremy Wright: I do not think it is as complicated as it sounds. The first interaction is between the Ministry of Justice and those who are going to be running the community rehabilitation companies. That is a contractual relationship, and we will need to make sure we monitor it effectively. You may want to come back to that in later questions.

In terms of the interrelationship between the national probation service, which is the public sector bit, and the community rehabilitation companies, we will expect good communication between the two, and there will have to be from both perspectives. The national probation service will want to have good communication with the CRCs, and vice versa; it is in the best interest of the CRCs to do so. We do not want anyone to be out of the picture. I still think it is important that the CRCs’ contracts, there will be a requirement that they engage with the national probation service, particularly on the most important subject which is change in risk profile. If somebody is moving from being a low to medium-risk offender to a high-risk offender, we must make sure that the national probation service receive the information they require in order to make a second, third or fourth—whatever it may be—risk assessment so they can determine whether that person has become high risk, and, if they have, to take over the management of that individual.

That relationship is crucial, but we think it can work effectively. It is not the case now that necessarily the same individual deals with an offender when they are medium risk and high risk, and that the offender manager is the same individual and the person who determines breach. There are already interactions between individuals, and it is important that they continue. The Secretary of State has made it very clear in the past that one of the things we think can help with those interactions is the co-location of people who work for the CRCs and those who work for the national probation service. We think that is a good model to facilitate just that kind of interaction.

Chris Grayling: On that front, I see two key relationships for the national probation service. I see an increasingly close working relationship with the police, to the point where, in the end, it would not surprise me if we were to see national probation service teams co-located with police teams to provide a really effective approach to integrated offender management of the most serious offenders.

The other point, which we will expect to happen and will be a requirement, is that the risk assessment of somebody who is a low-risk prisoner and who might be recategorised will be carried out by a small team of national probation service staff, who will be co-located. It is not a question of it being in a different building with processes lasting two or three days. They are sitting over there. A couple of national probation service people will be responsible for returns to court, recall notices, carrying out new assessments and deciding whether there needs to be a change to the monitoring arrangements. That is fundamental. What I do not want are people in a different town trying to talk to each other. There will need to be co-location of a small number of national probation service staff with the CRCs, and it will be their job to be the interface effectively with the enforcement part of the system—the recalls to court—and the assessment of risk to decide whether somebody needs much closer supervision, multi-agency supervision or whatever.

Q183 Chair: Has that operational design been tested in any way? Do you have any model that you are working from?

Chris Grayling: A lot of testing is taking place now in the trusts, and it will be worked on very carefully. Perhaps I may run through for the Committee how the next year is designed to work. We are now going through a pretty rapid process of assigning staff. Leaving aside legal structures, the assignment of staff is taking people who currently work in the trusts, reorganising them into two separate teams. One of those teams will subsequently move into the employ of the community rehabilitation company’s new provider. The aim is to have those two teams in place by April and to have started the process of migrating cases so they are properly allocated across those two groups, but without an absolute requirement to do so by 1 April, because we need to take it carefully and do it over a period of time. We need to make sure public safety is guaranteed. If a particular offender is in the wrong group but there is a good reason for them staying with the current offender manager, they will do so.

Over the course of the rest of next year, there will be an extensive period of dry running in the public sector, under the leadership of NOMS, with us having plenty of time to iron out issues that arise and make sure that the process of interaction between the two teams, for example on risk management, works effectively long
before we ever move ownership of the CRC out of the public sector. The aim is to road-test this very thoroughly and to learn lessons. We are doing early testing now but, through the whole of next year, we will be doing very careful testing. We are making modifications as necessary so that we have a system that is fit for purpose to move on to new control in about a year’s time.

Q184 Andy McDonald: Can I start by asking questions about the risk register? We have asked for sight of it, and at this moment you are not agreeing to disclose it to us. I am wondering how you expect us to be able to do our job without having sight of that crucial document.

Chris Grayling: It has never been the habit of any Government to make public risk registers. It is worth saying what a risk register is. It is simply a group of civil servants who at the start of a project sit down and work out everything that could possibly go wrong so that they take appropriate steps to make sure it does not. If you produce a risk register, it is a whole litany of potential disasters in the making, not ones that are likely to happen but ones we are working to make sure do not happen. This applies to every project in the public sector, whether it is a big IT or organisational change project. It is not a true reflection of the nature of the project; it is more a reference point to make sure we have thought of everything that could go wrong and have taken the steps to make sure it does not. It has never been the custom and practice of Governments to publish that. It is not a document on which you can base a true assessment of the state of a project. It is an internal working tool, and I think it should remain such.

Q185 Andy McDonald: I am disappointed, but I will move on. The Guardian suggested that the risk register assessed at 51% to 80% the risk that the reforms would fail to deliver the proposed level of savings. If that is right, how have you persuaded the Treasury to approve the programme?

Chris Grayling: The fact that the Treasury has approved the programme would suggest that The Guardian’s story was not right.

Q186 Andy McDonald: So it is not 51% to 80%.

Chris Grayling: This is my point about risk registers. A group of people in a room saying, “What are the risks to the project? If we don’t do this, that could happen,” is not necessarily a reflection of the project. The project is being well run by a good team in my Department; it has been looked at very carefully by the Treasury, which has given its approval to go to the next stage and has accepted the business case. Mr McDonald, as you will know from the experience of your own party in Government, the Treasury is quite assiduous in looking at things that are laid before it. The fact that it has approved the outline business case for the project suggests that the kind of things being highlighted as risks are not substantial ones and do not exist beyond the theory at the start of a project.

Q187 Andy McDonald: You told us in February that you expected the programme to make small savings. Are you in a better position to provide us with an estimate of the size of the savings, and do you have any projections for cost savings over the next decade?

Chris Grayling: There is a very small overall saving of low percentage points in the envelope, but this is not a savings exercise. As to the position we are in, if you look at the budget challenges that lie ahead for my Department and the whole of Government, to make significant changes to the cost base of our criminal justice system in future, the way to do it is by bringing down the rate of reoffending. In the end, if we are going to have fewer prisons and fewer people in prison, in our courts and being arrested and put in police stations, there are only two ways you can do it. One is by letting criminals off, for which I do not think there is a lot of support in Westminster. The other is by working to bring down reoffending. As I said at the start of my remarks, the big problem we have today is increasingly not about new people committing crimes for the first time; it is about the same people going round and round the system. The focus of what we are trying to do is to use the resource we have to invest in better and more innovative approaches to rehabilitation, particularly with a view to target that 12-month group who are by far the most likely reoffenders. This is not a money-saving exercise. When we come to the tendering process, the number one criterion will be about the quality of bids. I am not interested in selling to the lowest common denominator but in the best strategy to deliver real improvements in rehabilitation which will bring down all the pressures on the system and help our society.

Q188 Andy McDonald: How can we be expected to scrutinise the potential of the proposed reforms in terms of value for money if you are not going to share with us the projections for the likely reduction in reoffending rates?

Chris Grayling: In part, you are asking me to anticipate the tendering process. I cannot judge. I am looking to providers to come forward with credible, innovative plans to bring down reoffending. As part of the process, they will demonstrate how much they hope to achieve and how much money they intend to put at risk to do so. I cannot second-guess that. Therefore, I have no figures to offer you that will say this is exactly what it will look like. I am telling you that I have a budget to bring down reoffending over the next few years, and this has to take place within that budget. I am looking to spend that budget on the best quality options.

Q189 Andy McDonald: Are you reinvesting the £450 million that you are saving from the benchmarking in the prisons arena? Is that going back in?

Chris Grayling: No. The prison savings are part of the departmental savings.

Q190 Andy McDonald: But it is not funding this programme.
**Chris Grayling:** No. This is basically spending the money that we already spend on rehabilitation.

**Q191 Gareth Johnson:** Can I ask how you see the work dividing up between the new CRCs and the national probation service? We know that the national probation service will look after the higher-risk offenders and the CRCs will look after the rest, but what sort of proportion of the overall work do you expect each to cover, because obviously that will be important in terms of where the funding goes and flows?

**Jeremy Wright:** The exact breakdown depends on the individual risk assessments made by the national probation service, as I know you appreciate. You and I discussed it in the Committee over the last week and a half. The individual assessments will be made by the national probation service. They will determine whether someone is a high, medium or low-risk offender, so we cannot be precise about the exact proportions. The best guess is that it is about 70/30; that is, 70 for the CRCs and 30 for the NPS. The balance between them will change, because some people’s risk profile, as we know and have always accepted, will also change, so people will move in the direction of the NPS. The crucial point is that the decision will be taken in each individual case by the NPS, when they make an initial assessment, either during the period of custody or at the point of sentence.

**Q192 Gareth Johnson:** In response to a question from Mr Corbyn, Minister, you made it very clear that you felt it was important that when an offender moves from the CRCs to the national probation service, because they have been deemed to be a higher risk than was previously thought, information about that offender should also flow so that people know what they are dealing with. What do you anticipate will happen with funding? Will the national probation service take over the whole of the budget for that, or will it be a proportion? How will it be established?

**Jeremy Wright:** The information will have to flow in order for that subsequent risk assessment to take place. If somebody’s risk profile is changing, we expect the CRC to send the case to the NPS for a further risk assessment to take place. In order for that risk assessment to be done properly, a good deal of information will have to go too, to enable the NPS office to make that assessment. Information transfer is absolutely important, but it is quite important at that point rather than at a later one.

In terms of funding, we have to make sure that the NPS has the necessary funding to look after those it has initially assessed as high risk, but also those who may later be assessed as high risk. We will make sure that happens. We will not be expecting the national probation service to look after anybody for whom it doesn’t have funding.

**Q193 Chair:** As to the point Mr Johnson raised, when we were briefed by officials last week we got the pretty clear impression that 30/70 was looking less likely and things might be moving towards a 50/50 split. Are you still confident of that 30/70 split?

**Jeremy Wright:** I suspect there is a distinction to be made between the funding split and the number of people split. It may be that the funding split is not 70/30. It is difficult to be precise about the people split, because to some degree we have to wait and see how people are assessed by the NPS at the beginning of the process, but we believe it is crucial that we have the necessary funding for the NPS to do the job they are being asked to do, and we will make sure they have that.

**Chris Grayling:** I do not expect it to be 50/50, nor do I expect the funding split to be 70/30. The more intensive supervision required for some of the high-risk offenders means that the cost of supervising them is higher per offender than for those who are low risk.

**Q194 Gareth Johnson:** What do you know about spare capacity in the existing probation service? It has been suggested by some that the probation service as is could take on more supervision under the current structure of offenders, particularly short-term prisoners, within the current funding arrangements. Do you see any evidence that there is spare capacity to do that within the probation service as it is at the moment, or do you maintain that you would have to change the existing structures in order to cover that?

**Chris Grayling:** The last Government looked at doing precisely this in 2010, having set up the probation trusts, and reached the view that it was unaffordable on the current basis. It is worth saying that the change is not simply about the cost of supervision; it is also about generating additional freedoms, which are difficult to achieve within the public sector.

Let me give you a practical example of what I mean by that. If I were running one of the community rehabilitation companies, one of the first things I would do is set up housing provision. I would do that by creating some form of housing association or, more likely, enter into long-term lease arrangements with landlords to ensure I had a supply of housing available for people coming out of prison, at least for a period of time while you bedded them down. Going back to the guys I spoke to at Wormwood Scrubs on Monday and other people I have spoken to in prisons over the months, one of the most common refrains is that nobody does anything about housing. I sat with a probation officer who said, “I am supervising somebody who is sofa-surfing at the moment.” One of the first things I would do is try to find a way of doing that.

Given public sector constraints and Treasury rules, it is much more difficult to do something like that within the public sector. I am hoping that the freedom the CRCs enjoy will enable them to take rapid decisions like that, free from public sector process, that can deliver a better all-round package, so it is both about driving efficiency through the current system but also freeing up innovative opportunities that are not necessarily there at the moment.

**Q195 Rehman Chishti:** I very much welcome the reforms as a way of reducing reoffending. Can I touch on the specific issue of the transition from trusts to new entities and seek clarification on that? How do you respond to the concerns of both the Probation...
Chris Grayling: I do not think that is right. Every time you put a group of people through change it causes challenge and uncertainty, and that is unavoidable. We are doing our best to make sure that we take the process through as smoothly as possible. We have had some constraints on our ability to communicate plans in detail because of the negotiations that took place with the unions. We went as far as we felt we could in trying to take the unions with us. We worked very hard over an extended period to try to reach agreement with them on transitional arrangements. In the end, they decided they could not reach agreement with us, which is a shame because things like the quite generous voluntary redundancy package we were going to offer to back-office staff, who will lose their roles in the new set-up, will now not be available because we cannot do it without union agreement. It is a bizarre situation where the unions are blocking a quite generous redundancy package for their own members.

In terms of the process, it is true that we are doing a very rapid transition of people, and I think that is right. One or two people in the probation service have said to you it is quite rushed. People in senior positions in the probation service have said to me they just want to get on with it from the point of view of staff; they want to know where they stand and end the uncertainty.

Having gone the extra mile with the unions and done our best, our goal now is to get people into their new roles as quickly as possible so that uncertainty is not there, but operationally there is then a very long period of bedding down and transition. It is not about saying the whole thing has to be done by 1 April. We do not have to have migrated all the case load, and have all the systems finally in place, by 1 April. We have got the rest of next year to dry-run, test and modify and the rest, but the starting point needs to be just two groups of people sitting in the same buildings having reorganised themselves into different teams. I do not think that doing that over a six-month period is unduly ambitious. It is right and proper for smart management of the staff so they have some certainty. It would not be right to say that everything has to be done by 1 April. That really would be a risk, but we do not think that doing that over a six-month period is unduly ambitious. We want to get on with the transition and uncertainty, and that is unavoidable. We do have all the systems finally in place, by 1 April. We have made that clear. The co-operation between the MOJ and the transition team and trusts has in most cases been very good. We have had a good degree of dialogue with trusts, and they are getting on with this. Therefore, I think we can be reasonably confident that it will go as we expect.

Chris Grayling: We have added in some very relevant external expertise. For example, the team working with the trusts on the people transition is the same one that worked on the establishment of the clinical commissioning groups earlier this year. Whatever your view may be about the health service reorganisations—I know there are political disagreements on that—I believe that almost everyone in their own areas will have seen a fairly smooth transition from the PCTs to the CCGs in terms of the transition of people and the recruitment of new staff.

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Association and the Probation Chiefs Association that the speed at which they are expected to make these transitions feels extremely risky and challenging?

Q196 Rehman Chishti: Thank you for that. Linked to that, can you clarify what steps you have taken to ensure that trusts have sufficient capacity to manage change at such a pace while maintaining business as usual?

Jeremy Wright: The “business as usual” point is crucial, because we do expect trusts to look after offenders for whom they are responsible efficiently and effectively over the next few months, but every trust has an implementation plan to get to the point on 1 April where we want to see that transfer of people to the Secretary of State has described. They are not being asked to do it alone. We are also providing as much support as we can from the centre to enable them to do that, and keeping close track of how things are going in each trust so that, if there are problems, we can identify them and assist with them. The costs of transition are being met by us, not by the trusts. It is achievable. It is very important that we do stay in close touch with trust management so that it is given the support it needs, but that is exactly what we are doing. For the reasons that have just been explained, we are very confident that the people transfer can be done within the time scale.

There was concern that we were asking everyone to do everything by 1 April. That is not the case, and we have made that clear. The co-operation between the MOJ and the transition team and trusts has in most cases been very good. We have had a good degree of dialogue with trusts, and they are getting on with this. Therefore, I think we can be reasonably confident that it will go as we expect.

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Q197 Jeremy Corbyn: Where are you living?

Chris Grayling: It has been very smooth in Surrey and in other areas. We have used the expertise that managed the people transition to those new organisations to help us in this particular transition.

Chair: If I were to make a comment—I should not encourage it because we proceed by questions—it would be that in that process it is NHS England that has been slow to get into position and create the necessary structures. Some lessons might need to be learned from that in relation to the national probation service.
Q198 Mr Llwyd: Why was it not possible to come to an agreement with the unions regarding staff transfer?

Chris Grayling: We did reach a point where effectively we had reached agreement with the unions.

Q199 Mr Llwyd: When was that?

Chris Grayling: About three or four weeks ago. They came back at the last minute with a series of wholly unrealistic demands. For example, they wanted a redundancy package to be there in perpetuity, if I remember rightly. They took us to a point where we could not agree. I think we have produced a voluntary redundancy package for staff that is much more generous than exists in the current arrangements for probation trusts. It was a disappointment, but you can only deal with the world as it is.

Q200 Mr Llwyd: For the record, on 20 November, the unions, Probation Association and MOJ were unable to reach an agreement, as you have said, but what is said to me—I accept it—is that on the last available day for negotiation new information was presented by a senior MOJ official which would have caused significant detriment to members. This prevented the NNC from debating the substantive framework agreement which was on the table. Would you like to comment on that? It is slightly different from what you have just said.

Jeremy Wright: That is different from our understanding. It is worth making the point that this is a process of negotiation that has taken an extremely long time. On several occasions, we extended that period of time for negotiation because we thought it was important to do everything we possibly could to reach an agreement. Of course it would have been better to reach an agreement, but it simply was not possible. We did reach agreement across a whole range of different subjects, but we did not reach final agreement and, as the Secretary of State explained, that has had consequences.

Q201 Mr Llwyd: I do not recognise the length of time that you are talking about. The whole thing has been rushed through anyway. There has not been a long time from the genesis of these ideas.

Chris Grayling: We began the negotiations with the unions in June, possibly even as early as May, and they continued until November. It does not seem to me like a rushed negotiation.

Q202 Mr Llwyd: That is not a great deal of time when people’s futures are in the balance.

Jeremy Wright: To be clear, that is negotiation about the process for transferring members of staff either to the NPS or CRC. That is a six-month negotiation on that issue.

Chris Grayling: How long do you think it should have taken?

Q203 Mr Llwyd: It is not for me to say, but what I do know is that you are rushing this through and it is going to fail. Are you in a position to meet with the unions yourselves? Are you prepared to, even at this 11th hour?

Chris Grayling: I would be delighted if the unions wanted to come back and accept the redundancy package for their members, but you say that the Department produced new stuff on the last day. Can you tell us what that was?

Q204 Mr Llwyd: It was on 20 November.

Chris Grayling: But can you tell us what it was?

Chair: We ask the questions here.

Q205 Mr Llwyd: It was a significant extra matter. It is on the record for 20 November, so we can find out.

Chris Grayling: We have no knowledge of producing material new information. You have just said that we did, but do you know what it was?

Q206 Mr Llwyd: With respect, if you met the unions they would tell you directly. I am not speaking for the unions; I am trying to evaluate where we are currently. If you were prepared to meet them, they would tell you directly. People were at that meeting. You and I were not there. You would like to know. Ask them.

Chris Grayling: We have had extensive discussions with the union over the months, both as Ministers and officials, and you have just produced something but do not appear to know what it was.

Q207 Mr Llwyd: Well, no because you have been told about this; letters have gone to the MOJ about this breakdown on 20 November. It is not new.

Chris Grayling: Mr Llwyd, we have done as much as we can to reach agreement. We have reached a package which I think is pretty generous. I know that many of those involved in the negotiations would like to have concluded an agreement on the basis of what we have offered. It is a very strange position to be in. We have made a very generous offer of voluntary redundancy to employees. There will be some changes; there would have been even if we were not going ahead with these reforms because of the need to streamline back-office operations. We are in a very strange position where it is not possible for us to offer more generous redundancy terms to people, who will probably lose their jobs anyway, because the unions are stopping us from doing so.

Q208 Mr Llwyd: I repeat the question: would you be prepared to meet the unions to discuss these outstanding issues one final time?

Chris Grayling: We have said that our doors will remain open to the unions right the way through the next few months. I hope they will decide in the end that the voluntary redundancy offer available to their members is one they can accept, because it is a very strange position to be in.

Q209 Mr Llwyd: Would you be willing to halt the reassignment process until we as a Committee have reported on this subject, and we plan to do so in January?

Chris Grayling: No, I am afraid not.

Jeremy Wright: With or without final agreement on all points which we were seeking, it is probably worth highlighting that, in terms of the transfer of staff that will take place on 1 April, that will happen under their
existing terms and conditions. It will have no effect on their pension entitlements, and there will be no compulsory redundancies, so everybody will have a place one side of the line or the other. I would not want the impression to be given that agreement has not been reached and, therefore, there are no settlement terms available to staff which they might find acceptable. We have tried to present that as a fair package for staff, even though we have not been able to get agreement across all issues.

Chris Grayling: Mr Llwyd, it would be totally unfair to halt a reassignment process that is now well under way, creating extra uncertainty for staff. I want to move as quickly as possible to what is initially only an internal reorganisation so that people have certainty about what job they are doing and what their role is going to be over the next year. My keenness to move on quickly with the people assignment, as requested by many trust chiefs, is to ensure that people have certainty about their roles. It would be unfair to staff suddenly to say, “We’ll call a halt and delay things,” when many of them have already been told where they are likely to be assigned to.

Q210 Mr Llwyd: In terms of certainty, do you anticipate any redundancies in the process?

Chris Grayling: It is inevitable that over the next year or two there will be some redundancies, particularly in support staff. That is why we are seeking to put in place a very generous voluntary redundancy scheme that offers better terms than those currently available to most staff in most trusts. It is a matter of regret to me that at the moment we cannot offer that.

Q211 Chair: Can I turn to what would happen, when the system has been introduced, if a number of areas had not been the subject of satisfactory bids and you had not felt able to go ahead in certain areas? Our understanding from discussions is that at that point the public sector would continue to provide the service, because the people who had been moved into the team which was intended to be taken over by a private company would still be there and would carry out the work, but that it would not be possible to introduce the scheme for people who had been in custody for less than 12 months, if that were the situation.

Chris Grayling: We will publish shortly the list of organisations that have put forward their names as potential bidders at the PQQ stage. We have had expressions of interest from 35 lead groups representing more than 50 organisations. That is a very good mix of private and voluntary sector, often in partnership. We have had more than 800 organisations express an interest in being involved at tier 2 level, and we have a very good geographic spread of interest.

This is not an eventuality I expect to happen, but what is currently happening within the public sector would have to continue if there was not a transfer to be made. NOMS and that organisation would have to take a long, hard look at the time as to whether it was viable for them to take on the under-12-month group.

Q212 Chair: As we understand it, there are two possibilities in that situation. It is, after all, not unusual for the bidding process to have to be stopped in an area. We have all been through rail franchises and all of these problems. We have to plan for it. It is not quite clear to us whether, if that happens and one part of the country is not ready with suitable bids, the whole scheme for prisoners with sentences of under 12 months just does not roll out at all, or whether in the area affected it does not happen.

Jeremy Wright: There are two issues here. One is how the additional provision for the under-12-month group would be funded. We have always been clear that the most feasible way to fund this is to carry out a process of competition, releasing savings through which that extra funding can be found. If you have not contracted with other providers, you have not released those savings. Therefore, there is a financial challenge.

The second issue is an operational one. If you start in some parts of the country with mandatory supervision and additional licence for the under-12-month group of offenders, but not in other parts of the country, there are difficulties for the courts. If you start someone with a process of additional licence and supervision in one part of the country and they choose to move, or they move for any other reason, you have a practical difficulty. We see formidable practical challenges in having a situation where one part of the country is running this system and another part of the country is not. You end up with something of a postcode lottery in sentencing, which is undesirable for a range of reasons.

Q213 Chair: Have you decided which way you would want to go in those circumstances?

Jeremy Wright: As the Secretary of State has made clear, we simply do not believe that is going to arise; we think that we have a strong market.

Q214 Chair: You have made it clear that you do not think it will arise, and obviously you do not want it to arise because of the challenges it would present. Does it mean that you as Ministers have got too strong an incentive to accept bids that might not be as good as you had hoped they would be?

Chris Grayling: The first thing to say is that the main focus is not price but quality.

Q215 Chair: I was talking about quality.

Chris Grayling: Clearly, the bids have to deliver within a cost envelope for us. In terms of the overall package, it is theoretically possible for the public sector to take a view that it will fund the provision for the under-12-month group, and for there to be a roll-out of this that does not happen at exactly the same time. If we had a two-month delay in one contracting area, given the fact that the cohorts take some months to build up because they have to be applied going forward rather than going back, a slightly staggered transition is a possibility.

If you ask whether it is possible for the public sector to keep managing part of the system over the long term, the answer is theoretically yes, but there is a funding implication in doing so because you cannot simply have a sentence available to the court in one county and not in another.
Q216 Chair: What have you learned from the work programme and the interpretation and translation services, both of which had problems—very severe ones in the latter case—in the contracting process?

Chris Grayling: If I may talk first about the work programme, it is now generating very real and positive results, so I am a strong defender of the approach that we took. The lessons we have learned, which we are trying to bed into this, include that one of the complaints from the voluntary sector early on was that they went through a very tough process of talking to potential bidders, particularly the smaller organisations that did not have the critical mass to bid in their own right. They found the process of talking to lots of other bidders and filling in a whole range of separate forms and having different contractual arrangements for each of them extremely complicated. One of the things we have done is to say that there will be standard templates for contracts with subcontractors; the passing of risk down the supply chain will have complete transparency; and there will be single processes to tie together subcontractors and prime contractors. One of the things that I did not do, which would have very happily been done with this—when you see the list of organisations that have come forward at the PQQ stage you will see this has borne fruit—is to say very clearly to the market that I am strongly attracted by partnership at prime contractor level between the private and voluntary sector, not simply prime and subcontractors. I am not saying it is inappropriate in all circumstances to have prime and subcontractors, but the strengths of a genuine partnership are there and great, and I want to see those very much at the heart of this.

Q217 Chair: I am going to explore that a little further in a moment. Before we come to that, can I establish what would constitute corporate renewal? I refer to those companies which you think might not be suitable to undertake bids in this area unless they have what you call corporate renewal?

Chris Grayling: You put me in a difficult position, because, as you know, this is an area of great legal sensitivity and it is a matter that the Government—we, the Cabinet Office and Treasury—are looking at enormously carefully. It is an area where I would fully expect to give evidence to this Committee in the future, but I need to be quite circumspect, for legal reasons, about how much I can say now. Suffice to say that one of my objectives in what we do as part of this is to make sure that the Department has a broad supply base. One of the reasons I am very pleased at the number of very credible organisations that have come forward to seek to work with us in this area is that it gives me a very strong opportunity to broaden our supply base.

Q218 Chair: The Sunday Times reported on Sunday that there was a panel operated by the Cabinet Office, with businessmen and senior civil servants on it, which was carrying out this process. Is that the process that you are referring to?

Chris Grayling: It will certainly be the case that Government non-exec directors play an important role, as you will know from my own Department on the issues that have arisen over electronic monitoring. I have asked our lead non-exec director, Tim Breedon, who is the former Chief Executive of Legal & General, to lead a review of our contract management to make sure that it is absolutely fit for purpose. That very important work is being done at the moment. The Cabinet Office will use the Government’s non-exec directors as an important part of assessing the fitness to work with Government, so that part is true; but in terms of the exact process, how that will work is not fully defined.

Q219 Chair: But you can see our difficulty, surely, in not knowing what it is that would constitute a clean bill of health for companies which have been either found or indeed have admitted to overcharging the Department in the past.

Chris Grayling: Equally, Sir Alan, you understand that from my point of view I have to be very circumspect in what I say for legal reasons, because I do not want to expose the taxpayer to risk. I have to be cautious. At an appropriate moment, I will very happily give evidence to this Committee. I am circumscribed in what I can say by the criminal investigation taking place at the moment. Suffice to say I understand absolutely where you are coming from. Please believe me when I say that I understand that, and this is very important, but I am also very encouraged by the fact that I have a very wide range of organisations that have offered their services to do this work.

Q220 Nick de Bois: It sounded like you were encouraged by the variety and quality of the bids, in particular the co-providers and co-partnership. Can I press you on what proportion of those submitting PQQs includes voluntary sector organisations and mutuals as prime providers or co-providers?

Chris Grayling: Again, I am in a difficult position here. Because it is part of a commercial contracting process I am legally constrained in how much information I can give about the organisations. Suffice to say that a mix of organisations has come forward. We have got private sector organisations and voluntary sector organisations. There are some very good and substantial voluntary sector organisations in this area. We have also got a number of areas where staff teams have come forward to express a desire to bid.

Q221 Nick de Bois: Those are staff teams within the service at the moment.

Chris Grayling: They are within existing trusts, so effectively it would be management buy-outs and mutuals. The Cabinet Office has been providing advice to those groups. In some cases, they have formed partnerships with third parties; in some cases, they have put forward their names in their own right. As I look down the list, a good proportion of the most substantial and attractive potential partners has come forward as partnerships rather than simply bidders in their own right. We will publish the list shortly, and it will become apparent. The moment we can make that list publicly available, I will provide a copy to you, Sir Alan, and all the Committee members. I hope that
when you see that detailed list you will share my view that we have a good mix of organisations that have put forward their names.

Q222 Nick de Bois: Thank you for that. I am going to press you a little further before we talk about the principles of risk-sharing and partnership, which I would like to clarify with you. Are you able at this stage to share with us whether any of the prime providers, be they co-partnerships or not, are proposing to use social finance to provide the backing to enable them to participate in the competition? Have you looked at their pre-qualification tenders? Have they indicated whether there is a level of social finance in there?

Chris Grayling: I have not looked at the pre-qualification documents, and I would not normally be involved in the process until the final results are presented. At the moment, my officials are doing the assessment and the pre-qualification questionnaires. We have made quite a substantial effort to make sure that social finance investors have the opportunity to be involved. We have held a number of events involving social finance investors so they are available, but at the moment I am not able to share with you what the individual consortia have chosen to do financially.

On the voluntary sector front, we have had very positive responses about the level of engagement they have had. We have made a real effort to give them an opportunity to be involved, because we need them to be. I am very clear that we need the best of the public, private and voluntary sectors. The voluntary sector has unique skills in this area, and it needs to be in the final mix when we deliver what I hope will be a transformation of the rehabilitation of offenders.

Q223 Nick de Bois: To go off on a slight tangent—it is a pet subject of mine—will you be able to share or publish any information about those in the voluntary sector who chose not to bid because they found it too complex a process? Did you achieve your objective of simplifying the process to encourage the voluntary sector to participate?

Chris Grayling: A lot of that will be at the tier 2 subcontract with the passing of risk down the chain to tier 2 suppliers? Are we talking about financial or offender risk, or both?

Chris Grayling: We are talking about financial risk. Sir Alan, you asked me about the work programme. This is a very different set-up from the work programme, in that the work programme moves very quickly over a three-year period to being 100% payment by results. You need to look at this contract rather differently. There is a block requirement, which is the majority, where you simply cannot apply the black box approach and give complete freedom. There is a requirement for delivery of orders of the court, and that is really the majority of the work. Of the remaining fee, which is the discretionary part where the freedom to innovate lies, a proportion will be at risk, but in overall cash flow terms—I hope this will be of benefit to the voluntary sector in its involvement—this is much less demanding than the work programme because of the requirement to deliver orders of the court where we and they do not have flexibility.

Q225 Nick de Bois: Is that going to be different in a relationship that is a partnership or second tier? You can govern more by contract and second tiers and hopefully it can be supported, but if you go into partnership there will still be potential for a junior partner and senior partner. I understand your aims and you are absolutely right, but in practice the bigger company may be able to wield the big stick. Is it really fair to try to pass down a level of risk, first to two-tier suppliers at all; and, secondly, how are you going to be able to gauge the level of risk, and whether you run a risk if they have unfairly distributed that risk? There is a lot of risk here, but I think you get my point.

Chris Grayling: I do. There is a lot of noise around the work programme about voluntary sector organisations being used as bid candy and the rest. That was not true. By the time I left my employment role, 15 months after starting the work programme, there had been a tiny amount of change in the voluntary sector base involved in the work programme; it was a handful of organisations. Well over 100,000 people were being looked after in the voluntary sector, which was doing some really big pieces of work. Just one example is the Papworth Trust managing the work programme over two or three counties; there are big charities like the Salvation Army. The voluntary sector was playing a very strong and important role.

One or two people said to me, “We signed up to a tougher deal than we should have done.” With the best will in the world, we did our best to say to those voluntary organisations at the start, “If you are mistreated by your prime contractors, we have the contractual power to chuck them out.” At the time I left, which was 15 months later, I had had no formal complaints whatsoever by any voluntary sector group about a prime contractor and its commercial behaviour. To make trebly sure that it is impossible for somebody to say, “We’ve got only a little bit of risk but you’re going to have a lot of risk,” any subcontract with the passing of risk down the chain will need to be transparent. We will need to have sight of that so we can take action if inappropriate treatment is happening.

Q226 Nick de Bois: That is good, and we will talk about that a little later under another section. The key driver here is going to be the assumption of risk by a second-tier provider. We are entering into a very long contract with them. We will talk about the means and measures at your disposal to review it, but you are taking on quite a responsibility if you think you will be able to tell from a bid whether, as you have described before, some of these voluntary sector
bodies need to get more commercial, and whether they have entered into an agreement with a senior partner or prime contractor and even have the knowledge that they can deliver. I think your words were that the voluntary sector needs to get a little more commercial. Are you satisfied that they will have done?

Chris Grayling: I think so. If, for example, we have a partnership between a private and voluntary sector organisation that is managing the core CRC and they have a subcontractor providing a form of support for a particular group of offenders, it is not unreasonable for there to be a performance-related element in their contract. What I would not tolerate is a situation where an organisation is simply passing all the risk to small subcontractors. That would be unacceptable. We will have full visibility of that. That would have a material impact on our willingness to grant a contract; and, if it was done at a later date, it would certainly call into question our willingness to retain the main contractor in its position.

Jeremy Wright: Can I make one quick point on partnerships? You are right that there is something materially different about a partnership arrangement compared with a second-tier subcontractor. One thing that applies to both, which we have been keen to encourage, is that those in the voluntary sector who are contemplating going into these arrangements should have access to as much advice as we can give them about what sort of arrangements it is and is not sensible for them to enter into. We are grateful for the work that the Cabinet Office has done in this regard. It does a great deal of work with the voluntary sector and has been closely engaged in the development of this particular programme.

In the end, we cannot stop a voluntary sector organisation making a bad deal. We have to accept that they have a free choice; they can enter into a partnership as they see fit, but we very much want them to do so with their eyes open, and to understand the legal and financial consequences of doing so. I know that a lot of the work that the Cabinet Office is doing is designed to make sure they have that information.

Q227 John McDonnell: Can I just focus on risk? The nature of this service is that there is more than just the financial risk. If things go wrong, there is risk to the public and the staff themselves. I have been looking at the evidence presented to the Committee so far. Witness after witness has come forward to raise concerns about the risk as a result of the pace of reform. The quote from the Probation Chiefs Association is that, ‘The Government would be taking unnecessary risks with public protection.’ Just to get it on the record, your own risk assessment based on BRAG—black, red, amber and green—is that a score of 20 indicates significant detrimental effect and has roughly an 80% chance of occurring. They list a whole range of potential risks which have hit the 20 mark, which means there is an 80% chance of occurring. One of them, which is really worrying, is a risk of an unacceptable drop in operational performance during the programme, leading to delivery failure and reputational damage. That means the general public could be put at risk. You seem to have made light of your own Department’s internal assessment. You have described it as a reference point only. Combined with your own Department’s assessment and the witness information provided to the Committee by senior staff members and those with expertise, what measures have you taken to mitigate the chance of risk to the general public?

Chris Grayling: The risk register is designed to identify potential risks so that the operational team can make sure they do not happen. If you were sitting down at the start of a project like this you would say, “We have to make sure that, in delivering these transitions business as usual is not damaged.” If we do not get that right, there is a risk that business as usual will be damaged. The purpose of that exercise is to make sure that business as usual is not damaged, and the way in which we have addressed that is to put in place additional support, alongside the trust management. I talked about inclusion of the team who worked on transition to the new structures in the health service to make sure that resource and people support is available so there is a smooth transition and it does not damage business as usual. We would not be doing our job if we were not saying at the start of the process, “What are the things that could go wrong, and how do we best make sure they don’t?” That is just good management practice, and that is all the risk register is. In terms of timing—

Q228 John McDonnell: What are the scores now under the BRAG process? Have you addressed the original concern?

Chris Grayling: It is not about scores. I will look you in the eye and say I have seen no evidence; I have not been provided with any warnings by my team that business as usual will not continue. I have had discussions with probation chiefs. The Minister sits regularly with both probation chiefs and those involved. I believe that this transition is happening in a way that is right for staff.

Q229 John McDonnell: You might, but what about your officials advising you? Have your officials revisited the BRAG scores, and have they been reduced as a result of the measures you say you have put in place?

Chris Grayling: If you are talking about today and whether the risks have changed since the risk register was first drawn, yes.

Q230 John McDonnell: By how much? What are the scores now?

Chris Grayling: Mr McDonnell, I am not prepared to publish a theoretical, internal working document of the kind that the Government have never published, which is simply a reference point for the internal team to say, “Are we doing our job properly?” Our judgment is that this process is taking place in a way that is designed to do everything we can to protect public safety and business as usual. The first phase of the transition is purely about the reorganisation of people. We have said very clearly that, for example, the transition of case load needs to take place over a period of time to make sure we do everything we can to protect the public, but public protection is also
about moving as quickly as we can to support the under-12-month group, because they are the biggest risk to the public today.

Q231 John McDonnell: To follow the logic of this, first your officials have advised you that there is an 80% risk of failure with regard to public protection. Chris Grayling: They have not advised me of that.

Q232 John McDonnell: They have, because a 20 score under BRAG means there is a risk of an unacceptable drop in operational performance leading to delivery failure. Delivery failure puts people at risk. Secondly, you are saying that you have put measures in place to mitigate that, but you are not saying whether or not your internal assessment, or any assessment, has confirmed independently that that risk has been reduced, are you? Chris Grayling: Mr McDonnell, as I have said to you, at no point has any official come to me and said, “If you go ahead with this, there is an 80% chance of the public being put in danger.”

Q233 John McDonnell: They have; they have said there will be delivery failure. What is delivery failure in that sense? Is it the protection of the public, is it not? Jeremy Wright: The point, I think, is that the risk register sets out what would happen if you did nothing about this risk. What percentage chance is there of it happening?

Q234 John McDonnell: All I am asking is: what have you done to mitigate the risk? Has that risk been independently assessed as being reduced as a result? Jeremy Wright: The first assessment is not an independent one.

Q235 John McDonnell: It is a departmental one. Have your departmental officials advised you that this score of 20 has been reduced as a result of your measures? Chris Grayling: Two things—

Q236 Chair: As a matter of interest, do you formally revisit the risk register at some point in the process and rescore it? Chris Grayling: It is a living document. Jeremy Wright: We keep the risks involved under review all the time.

Q237 John McDonnell: Tell us whether it has gone down. Jeremy Wright: What we are not going to do, for the reasons we have discussed, is start to put figures or risk ratings on things.

Q238 John McDonnell: You have done; you did at the beginning. Why can you not do it now? Jeremy Wright: You are talking about a document that was leaked. We are not going to publish a risk register, for reasons we have discussed, and that applies to updated risk registers as much as to original ones. John McDonnell: But the general public will be put at risk. This is extraordinary.

Q239 Chair: The Minister has made the position clear, and they are not going to publish whatever revised assessment is made, but we are entitled to ask, and are asking you: what have you done to mitigate that risk? Jeremy Wright: I was about to come to that and say that, in relation to risk, at every stage of the project, we have to make sure we do everything we can to smooth the transition process.

Q240 John McDonnell: But how do you know whether it is working? You have repeated this time and time again. How do you know and prove to us that what you have put in place is working, or will work? Jeremy Wright: We can describe to you the way in which we intend to manage the transition. John McDonnell: Yes, but—

Chair: Order. You have asked a question and the Minister is entitled to answer it. Jeremy Wright: If you give me just a minute, I will try to put it in a different way. The explanation we have tried to give is how we intend to manage the transition process. It is not—this was where we started the questioning—a big bang, which we all accept would be inherently risky. If you expected everything to be done by 1 April, clearly that would be unwise. That is not what we are proposing. We are saying that there should be a transfer of people to one side of the line or the other, either the NPS or the CRC, by 1 April. There is then a much longer period of time to enable case load transfer to be finalised and for us to test the seals, if you like, to make sure the system is working as it should while both halves are still in public ownership. We think that is a responsible way to address precisely the point you are making, which is whether or not there are risks involved in transfer. But the point the Secretary of State was making is also important. There are risks in not making the transfer. If we continue the way we are, offences will continue to be committed by those who have been in trouble before, and there will be no supervision for the group of offenders who receive sentences of 12 months or less. That in itself is not a scenario without risk.

The final point, which I know you will recognise, is that there is not an absence of risk of further offending in the system now. We already have serious further offending in the system as it stands. That is not the result of probation officers not doing their very best to avoid it, but it happens. It is important to recognise that we do not start from a base point where there is no serious further offending and the system never works badly or goes wrong. That is not the position. The system sometimes does go wrong now and there is further serious offending. Neither the Secretary of State nor I will promise you that that will not be the case after these changes, too, because sometimes those things are unavoidable, and it is not because people are not doing their best to avoid it. That is also an important point to make.

Q241 Jeremy Corbyn: You know there is a risk involved; you are handing over a whole load of services to private contractors; you tell us that the problem is diminishing, yet you will not publish any
evidence to back up what you have just said, so how can we believe it?

Chris Grayling: Let’s look at where, in practical terms, the risks really lie. The first is if we stopped supervising offenders during the transition process. That is not happening. We have been very clear about it to trust chiefs. Our probation officers are continuing to do a professional job with the people they are supervising. The second would be that we made an inappropriately hurried transition of case load. I have been very clear in setting the policy very early on. We will not do that; we will migrate people over an extended period. A lot will transition immediately where there is no risk in doing so. Where there is an identified problem in moving somebody from one case manager to another, we will delay that and wait to an appropriate moment, or they can stay there over a very extended period of transition if necessary.

The third point would be if we did a sudden transition from one organisation to another, so a different group of people took over the job one day from the ones doing it the previous day. We have planned the transition and whole reform in a way that that does not happen. We are migrating a team of people who are already bedded in in the public sector, who have made the transition to the new arrangements within the public sector and who will continue to look after the same offenders the day after ownership changes as the day before. It will be an evolution, not a revolution. The fourth is the transition of information within the new system. We have specified that the same systems for risk assessment and case management will be used by everybody in the probation service.

Finally, we ensure that senior management teams are sufficiently equipped to manage the transition. As you know from your own work, Sir Alan, you have identified that the probation service has quite a lot of capacity that is not focused on working directly with offenders. We have put in place additional resource, through the expertise of the team who worked on the health service transition that I described, to make sure there is additional resource to help the trusts with the transition.

Q242 Nick de Bois: I want to continue the point about mitigating the risk post-implementation—it is worth talking about. You are giving a seven to 10-year contract, which is absolutely right to get the best value and also the advantage of the learning cycle, but it also means that you could get into a lot of problems as well. Not focusing now on the financial position, can you explain to me a little about what steps you will be taking to assess the likely quality of the prospective providers’ offers at the procurement stage, bearing in mind this long cycle? I am intrigued about how you will monitor the quality of the services delivered by these providers so that they are successful. What level of intervention will there be? I suppose we would need to explore, if there is a failure regime, what steps to take.

Chris Grayling: Let me start with the principle and ask Jeremy to fill in some of the detail. As far as we can, we are trying to get to a situation where we have operational independence in the delivery of rehabilitation services in the front line so we have a system that is nimble and flexible. There are, however, two bits that need to go alongside that. The first is a contractual requirement to fulfil the orders of the court, which is why this is different from the work programme. That is a requirement and we will need to ensure there is the ability to deliver a quality service in that respect.

As to the second piece, we will expect the providers to set out a minimum level of intervention that they will provide for every offender, because we could not accept a situation where they decide to work with only some offenders and not the rest. The payment structure will be designed in a way that mitigates against that, particularly the fact we have decided to move away from having simply a binary measure of success and have a mix of both a binary measure—whether or not they reoffend—and, alongside that, how many crimes the cohort of people you are working with commit. Therefore, you cannot just ignore the prolific offender in the corner on the basis that they are likely to reoffend anyway.
mechanism by which we can make sure that quality is maintained. As we have made very clear throughout, this is not about finding the cheapest bid it is about finding the best one, and we want to make sure, as part of our contract management process and independent scrutiny, that people maintain those levels of quality.

Q246 Nick de Bois: Can I paint a scenario for you that you might come across? I will be interested to know how you might deal with this during the lifetime of a contract. Co-partnerships are an excellent way forward. After a number of years, we could end up with a situation where, regardless of whatever the partnership agreement is, one partner does not want to work with the other, which could undermine the viability of what they are trying to achieve. Are you able to impose an ultimate sanction so that it does not matter that one part of the partnership has broken down and, as far as you are concerned, the relationship will have to be broken down and put out to tender, or have you provided any process, first, to try to bind the partners together, if they can be, but, secondly, to take steps to mitigate what could be a rather messy situation?

Chris Grayling: The ultimate fallback point would be that, if a provider ran into very serious difficulties, we would take control of the set-up in that area through the national probation service and then relet it. I am very clear that material changes to the delivery structure need to be signed off by us, and that includes subcontractors. It does not preclude a change to the supply chain but it does preclude a change to the supply chain without explanation. That prevents a big organisation from dumping a small one for no reason, having behaved inappropriately. We intend to import the same principles that we have in the Merlin standard for the work programme, which, for want of a better way of putting it, says that, if the big guy duffs up the little guy, we can duff up the big guy. We will have mechanisms in place to say, “If you make a material change to your structure and supply chain, you have to tell us first.” If it is wholly unreasonable, ultimately, we will have power to withdraw the contract.

Q247 Nick de Bois: I am not sitting on your side of the fence so I do not know how Government Departments work, but to me that sounds terrific. But in practice I can almost hear myself saying, “Is it really clear when the relationship has broken down?” Who will be making the decision, or will you find yourself in a situation where MPs will be saying to you, “We think this relationship has broken down; there is evidence it has broken down, and there is a problem here,” and yet I suspect the instincts of the contracting body—yourselves—will be to try to keep it going for as long as possible, because the last thing you will want is change, not for face-saving but for the upheaval it will cause. Where will the responsibility lie for deciding that a contract has broken down? Is it at ministerial level?

Jeremy Wright: There are two different scenarios here. One is that the partnership or arrangement is not working as it should. We should pick that up through contract management, and they would be failing to perform as they should. In the end, if they are not performing as they should, that will be reflected in reoffending rates and the success payments that they do or do not get. We have to manage inadequate performance through the contractual arrangements. If, on the other hand, this is a more substantial failing for two partners to continue to work together, presumably at least one of those partners will want to extricate themselves from that arrangement. In those circumstances, what the Secretary of State has described would apply. They would have to come to us and say, “We don’t think this partnership is working any more,” and the remaining partner would need to find another way of delivering the contract.

Q248 Nick de Bois: You would have to give your approval for that.

Jeremy Wright: Yes.

Q249 Nick de Bois: So, the final question is: if they were not coming to you and you felt it necessary, are you empowered? Would you use the ultimate sanction of dissolving the partnership or the contract?

Jeremy Wright: We can end the contract, if we need to.

Chris Grayling: You talk about reluctance. In the early days of the work programme my life would have been easier if I had had the opportunity to terminate a contract. If I had identified a case of clearly inappropriate commercial behaviour, I would have terminated the contract, for two reasons. First, it would be the right thing to do, but also it would send a strong message to everybody else that we meant business in that situation. At no point, in the end, did anybody ever come to me with a formal complaint and so I could not do that; but if we had a situation where a big organisation formed a partnership with a smaller one, bid and won the contract and then said to the smaller organisation, “On your bike.” I would have absolutely no compunction about terminating the contract immediately and reletting it.

Q250 Mr Chope: I think we all agree that the objective of reducing reoffending is fundamental to this, but concern is being expressed that we have not got sufficient incentives within the payment mechanism to bring about that reduction in reoffending. Have you reached conclusions yet about the proportion of the payment that will be incentive-related?

Chris Grayling: It will be determined by the bids. The variables in the bid process will be, on the one hand, the quality of the proposition, and, on the other hand, the amount of money the individuals are willing to put at risk, but in these contracts you should not expect to see the same level of payment-by-results element as you might see in a welfare-to-work contract, for two reasons. The first is that a block of the money is not really available under the black box approach because it is fulfilling the orders of the court, so that proportion, which is well over half the money, is the cost of doing what the court tells you to do. Therefore, the ability of the individual organisation to adapt and innovate around that is more circumscribed.
The other part is that this is an immature market. In the case of welfare to work, there was 15 years’ experience of what did and did not work. In this area, there is experience out there of what does and does not work, particularly in the voluntary sector, but we expect the willingness of organisations to take risk to increase as knowledge increases. One of the things we will build into the contract is effectively a ratchet mechanism whereby the amount at risk increases over time. That will help some of the voluntary sector organisations become established as well so they have time to build up the learning. We will stretch more as time goes by, but this is a newer area of activity than welfare to work and, because of the orders of the court, you will not expect to see the same level of risk taken in the work programmes. For example, but we will stretch people as time goes by.

Q251 Mr Chope: In Doncaster and Peterborough, the range is between 5% and 10%. Would you expect a higher range related to achievement of results?

Chris Grayling: We will see in the tendering process, but certainly that would be my hope and expectation.

Q252 Mr Chope: How soon after starting an operation will a provider be expected to be delivering on payment by results?

Chris Grayling: It takes about six months from the start to build a cohort sufficiently to begin the payment-by-results approach. Therefore, the payment-by-results element comes in about six months after commencement of the contract. The reason for that is that legally we cannot apply it retrospectively. We cannot say to someone who is currently in jail, “Something different will happen to you when you come out because of the reforms we are putting in place.” It will build up. As to the under-12-month group, when we commence the provisions in the Offender Rehabilitation Bill, people who are taken to court and convicted of a crime will be required to take the 12-month supervision period. At that point, the cohort will start to build up. As soon as the cohort is substantial enough to build payment by results properly, the full mechanism will begin, and we estimate that it will be about six months.

Q253 Chair: Is that a national or contract-by-contract decision?

Chris Grayling: It is a national decision to commence the Bill.

Q254 Chair: But commencing the Bill and beginning to do payment by results are parts of the same timetable, are they?

Chris Grayling: They are part of the same timetable. If there is a grey area around the edges—it is evolution, not revolution—and a small number of under-12-month offenders come into the system before the contract process begins, that does not particularly matter because it is only a small number. It would matter if it was all 45,000 who were released every year. It is not the absolute starting line when the gun is fired, but, from the moment we commence the Bill and the contracts, there is a period of build-up to a point where there is a cohort big enough to begin payment by results, and we estimate that is about six months after the contract has started.

Q255 Chair: What is your current estimate of when that will be?

Chris Grayling: The early to middle part of 2015.

Q256 Mr Chope: Surely, after the contract starts, you will have these people who are still in prison and then they will be released.

Chris Grayling: Yes.

Q257 Mr Chope: They have got a 12-month period.

Chris Grayling: Yes.

Q258 Mr Chope: You are going to judge whether or not they reoffend after that 12-month period has expired aren’t you, or not?

Chris Grayling: Yes.

Q259 Mr Chope: That means it will be a lot longer for each individual prisoner under a contract than six months.

Chris Grayling: If you look at the pattern, from day one of the contract if the two are exactly synchronised, it takes a period of up to six months to build up to the point where you have, for example, 1,000 offenders to work with. We then measure over the year or so that follows whether they have reoffended and the number of reconviction events, and we will then be able to get a picture of whether the reoffending rate has changed.

Q260 Mr Chope: Will there be a payment mechanism to incentivise partnership work?

Chris Grayling: Not specifically. The contracting framework encourages it. We will make it a condition of contract. In terms of the delivery of orders of the court, the statutory bodies and partnerships have an obligation to take part in it, and there will be contractual obligations.

Q261 Mr Chope: How will you ensure that the existing non-statutory partnerships are not damaged by this system?

Jeremy Wright: It is probably worth saying that I think that the expectation will be that those who are delivering these contracts will want to work in those partnerships where they are effective. Why wouldn’t they? Their objective here is to reduce reoffending. We all understand that there are many things you have to do if you want to succeed in turning someone away from crime. Where these partnerships are effective locally, there is no reason to believe that rehabilitation providers will not recognise that there are effective ways of doing that and participate fully in them. What incentivises participation by effective local partnerships, which are non-statutory—because the statutory ones will be required to participate by contract—is that they are all after the same objective, which is the reduction of reoffending. If it is an effective way of doing it, they will take it.

Chris Grayling: Let me explain how I see that working in a very practical way. About a year ago, I went to Holloway and spoke to people working in the...
drug treatment unit. One of their frustrations was that, if they started work on an offender’s drug problem in the prison, at the point of release, there was no mechanism to require them to continue that work in the community. It is a crazy situation. There are two parts to solving that. One is the mandatory period of supervision we are putting in place through the Offender Rehabilitation Bill. The other part is to have a smart provider. The man or woman who meets the offender at the gate and will be working with them should already have, if they have got this right, a close relationship with the local NHS, have worked out who is coming out and when, and made sure that the rehab course can continue in a way that means the individual is much less likely to reoffend. That is the kind of facilitation of a smooth process that is really important to this.

I have not really touched on the resettlement approach. This is also designed to create a proper through-the-gate service in a way that has not been there before. With the creation of resettlement prisons and geographic links between the place of detention in the last few months and the place of release, and the ability of the providers to start planning for release, and be ready for it, precisely that kind of situation can arise. When they have a strong relationship with the local NHS, they say, “We’ve got someone coming out of prison next week. We need them to carry on in rehab,” and can have that fixed up in advance. That plugs a gap in the system which at the moment leads straight to reoffending.

Q262 Mr Chope: Can you explain how this new system is going to work with foreign national prisoners, because an increasing number of them are short-term prisoners? In my view, when they are released it would be better if they went back to their home countries. If they do go back to their home countries, how will you be able to assess whether or not they are reoffending, and will there be any incentives for the contractors to return these people, or persuade them to go back to their home countries?

Jeremy Wright: There are a couple of things to say. First, where you have a foreign national offender—we would both hope that there would be an order for deportation. The majority of cases—the objective is that, when they finish their sentence, they are returned to their home country, so for those people we would not be engaging in long-term rehabilitation work. Secondly, in relation to the return of foreign national offenders to their home countries and being able to engage with the immigration authorities in making sure we keep track of where they are, there is a real advantage in what we are proposing. At the moment, as you will appreciate, those sentenced to 12 months or less come out without any period of licence or supervision and it is much harder to keep track of where they are than under our proposals where, for a period of 12 months after release, somebody will be responsible for keeping track of them and supervising them. Therefore, knowing where they are is a big advantage in being able to move them out of the country.

Our instincts are exactly the same as yours. We would like to make sure that all foreign national offenders return to their own countries as soon as possible. I would go further than that and say we would like to return more of them during the currency of their sentence, which is why we pursue prisoner transfer agreements of a compulsory nature to make sure, where we possibly can, that people are transferred before they are released.

Q263 Mr Chope: Will the potential contractors be incentivised to facilitate early deportation?

Jeremy Wright: We have to be clear about what a contractor could or could not sensibly do. I do not think we want to pass the responsibility of getting foreign national offenders out of the country from the immigration authorities to our rehabilitation contractors. That would be unreasonable. But there is a real advantage in the corporate effort to remove foreign national offenders in enabling us to keep track of those individuals receiving short sentences more effectively. That is undoubtedly what rehabilitation providers will do, and we will want to make sure that they are given every encouragement to work with the immigration authorities to achieve that.

Q264 Mr Chope: If somebody is released from prison and goes back to Romania, for example, how will anybody know for certain whether they have gone back, and, if they have gone back, whether they will not come back to our country again through another entrance? How will they monitor them when they are in Romania?

Jeremy Wright: That is the function of the deportation orders. We rely on our colleagues in the Home Office to make those orders in the expectation that what they mean is that someone goes back to Romania and does not come back again. In those circumstances, they would not be a continuing responsibility of the rehabilitation provider.

Q265 Mr Chope: But where there is not a deportation order and they just leave voluntarily, is the contractor going to be penalised or incentivised if he cannot track where they are?

Jeremy Wright: The Offender Rehabilitation Bill, which is going through at the moment—it completed Committee stage yesterday—includes a requirement for anyone subject to supervision to seek the permission of their supervisor before they move. If you are proposing to go back to Romania, you would be obliged to seek the permission of your supervisor before you were able to do that. If the supervisor denied that permission, you would be in trouble if you went.

Q266 Chair: Why would the supervisor do that?

Jeremy Wright: There are two different scenarios. Either this is someone who is leaving to go to Romania permanently, in which case we absolutely would not stand in their way, but, as I understood Mr Chope’s question, he was asking what would happen if they went for a period and intended to come back. In those circumstances, we would expect that individual to seek the permission of their supervisor, which may well not be forthcoming, if they wanted to
leave the country for a period, assuming they were subject to a period of supervision.

Chris Grayling: If they did that, they would be in breach and subject to recall.

Q267 Jeremy Corbyn: Would the risk also be assessed in Romania or any other country referred to, or would they simply be sent there?

Jeremy Wright: In which situation? In a deportation order case?

Jeremy Corbyn: Yes.

Jeremy Wright: In a deportation order case, of course a risk assessment is always done at the beginning of the process.

Q268 Jeremy Corbyn: Would that be passed on to the Romanians?

Jeremy Wright: Yes. If we have information about an offender, as I understand it, as a matter of routine we pass that on to the Romanian authorities so that they know what they are getting.

Q269 Mr Llwyd: A few moments ago, Secretary of State, you asked me about the significant detriments to union members and the new information at the meeting on 20 November. I have seen a memorandum of the meeting, which was attended by Mark Taylor, an MOJ official. Before that day, he had not seen any documents passing between probation workers and the MOJ. He provided new information, changed the appeal process for staff who were unhappy, said there would be no continuity of service, and also said, “If you change role, then you lose continuity of service.” Not surprisingly, it was a deal-breaker.

Chris Grayling: I am afraid that is not our understanding of the discussions that took place. What happened at that meeting was that, having reached what we thought was an agreement on the appeal process, the unions asked for a further, fourth, condition for appeal, which was so broad-ranging it was something we could not possibly sign up to. That was the reason we were not able to reach agreement that day.

Q270 Chair: This is not a negotiating meeting, but I think Mr Llwyd needed the opportunity to indicate that there was a piece of information upon which he based his previous question. You have had the opportunity to reply to it, and also to respond to his request that you should be ready to see the union again.

Chris Grayling: It remains a hope to me that we will reach agreement with the unions, because I want to provide the staff with a better voluntary redundancy package. The Department’s door will be open to the unions right the way through until April and beyond, and at any point we will be happy to sit down with them and, hopefully, reach agreement on a package which would be good for staff.

Chair: Secretary of State and Mr Wright, thank you very much indeed. That ends the public session, but the Committee will remain for a short time in private session.
Tuesday 21 January 2014

Members present:

Sir Alan Beith (Chair)
Steve Brine
Jeremy Corbyn
Christopher Chope
Mr Elfyn Llwyd
Andy McDonald
John McDonnell
Yasmin Qureshi

Examination of Witnesses

Witnesses: Professor Cynthia McDougall, Professor of Forensic Psychology, University of York, Professor Gloria Laycock, Department of Security and Crime Science, University College London, Professor David Farrington, Emeritus Professor of Psychological Criminology and Leverhulme Trust Emeritus Fellow, Institute of Criminology, Cambridge University, and Professor Stephen Farrall: Professor of Criminology, University of Sheffield, gave evidence.

Q271 Chair: Good morning and welcome Professor McDougall from York, Professor Laycock from UCL, Professor Farrington from Cambridge and Professor Farrall from Sheffield. Thank you very much for agreeing to come and help us today to help us in our inquiry, which I always like to think of as a return to the work we did in our Justice Reinvestment inquiry in the previous Parliament, because, in essence, we are looking to see to what extent the policies have been pursued that were set out there and, if they have, whether they were right or whether they have worked, and what policy developments we should now be looking at. It would be helpful, I think, if I invited each of you very briefly to indicate what your particular field of research and experience is. May I do that? Let us start at this end of the table.

Professor Farrington: Starting with me, I am Emeritus Professor of Psychological Criminology at Cambridge University, and I have been there for more than 40 years. My research has been mainly on identifying the development of delinquency and important risk factors for delinquency, childhood and adolescent risk factors, and the extent to which they can be targeted in programmes to reduce crime. So I am interested in early intervention. I wrote a book called “Saving Children from a Life of Crime,” which set all this out in gory detail. I have also been involved in the Campbell Collaboration, which tries to do systematic reviews of the effectiveness of interventions, cost-benefit analyses and various other things. I believe very much in a scientific criminology. This is one of the questions we were asked. I think we should have observation and experiment. We should have replication and valid and reliable measurement, and we should have randomised experiments to control for selection effects.

Chair: Thank you very much.

Professor McDougall: I am Cynthia McDougall. I am a Professor of Forensic Psychology at the University of York, but I have academic and practitioner experience. I started my career as a probation officer working in the community. I have worked as a forensic psychologist in prisons. I have worked with the civil service as Head of Psychology for Prison and Probation Services. I have worked at the university, setting up a Centre for Criminal Justice, Economics and Psychology. I set up a forensic psychology course at the University of York for training forensic psychologists. I have done quite a lot of research for the Ministry of Justice. I have done consultancy for probation trusts and for the Prison Service. I am very keen on those, also, to rigorous research methods. I am very keen on those, and I am very keen on integrating those with practice. I think that is an essential feature.

Professor Laycock: I am Gloria Laycock. I am Professor of Forensic Psychology, University of York, Professor of Crime Science at University College London. I spent 10 years in Wormwood Scrubs—as a psychologist—and then about 30 years in the Home Office, leading as Head of the Police Research Group. I then went, eventually, to UCL via the United States and Australia and set up the Jill Dando Institute of Crime Science. One of the things I am now doing is directing the consortium of eight universities to support the What Works Centre for Crime Reduction, which is based at the College of Policing. My interests are in crime reduction, crime prevention and particularly policing. I am very keen, as crime science implies, on experimentation and particularly on theorising about how something works—not simply “does it work?” but how and in what context.

Chair: And Professor Farrall.

Professor Farrall: I am Stephen Farrall. I am a sociologist by training. I am Professor of Criminology at the School of Law, Sheffield University. My main areas of research have been on why people stop offending. Like David, I run a cohort study—nowhere near as long or as impressive or large as David’s—of people who were supervised to probation in the late 1990s, following them up. We have recently finished a fifth round of interviews with these men and women and have just about put the finishing touches to a third book in that series on their experiences, charting their progress towards desistance, that is to say away from involvement in crime, and the role in which probation supervision does or does not play a part in those narratives. As well as doing that, which is very much a longitudinal qualitative research strand, I also have started over the last five or six years to explore the long-term impacts of the policies from the 1980s that you might think of as being Thatcherite and the impacts that they had on social economic experiences.
in the UK, and the impact that that will have had on people's experiences of crime, both as victims and offenders.

**Chair:** What I am going to ask my colleagues to do when we start the questioning is this. Except where they indicate that there is a particular person they would like to answer, I hope that you will self-select, and whoever feels they have something to say about it will contribute. Don't feel everyone has to talk about everything, but, if you want to add something to what someone else has said, just make it clear to me that you want to do so and we will do it relatively informally so that we can get the best value from the experience you can bring to us. I am going to ask Mr Brine to begin.

**Q272 Steve Brine:** Thank you very much. Those instructions are very useful, actually, because I probably will direct these questions at Professor Farrington and Professor Farrall, based on what you have just said, but do indicate, ladies, if you have something in particular you would like to say.

Crime is reportedly falling. We did a big report on the youth justice last year in which we said this. To be honest, if you read the report, we were saying in there that we can’t be absolutely sure at this stage why the number of entrants into the youth justice system is falling. We have a lot of witnesses coming in next week and we will be discussing this in more detail then as well, but in your view which aspects of current Government policy do you think are responsible for this fall or does it predate current Government policy?

**Professor Farrington:** If you look at the police figures and the victim survey figures, the decline appeared to start in about 1995 as far as we can see, which coincided with declines in many other countries at the same time. However, the repeated self-reported delinquency surveys do not show a decline. I do not know if you have looked at the report called “A Fresh Start to Tackling Youth Crime,” which came out recently. That reviews a number of repeated self-reported delinquency surveys with young people aged 10 to 17, and shows no decline in offending according to their reports, so I throw that into the mix.

In terms of why there is a decline in crime, it is clearly something that is affecting many different countries because we see the same phenomena in many European countries, and in north America as well, so it has got to be something fairly general. One factor, clearly, would be increasing security. There is no doubt it is harder now to commit property crimes than it was. It is hard to say how far the increasing programmes have had a desirable effect. They may have. We have had increasing numbers of programmes targeting young people and they may have had a desirable effect, but the answer is that it is very difficult to know why crime is falling.

**Q273 Steve Brine:** Professor Farrall, do you have thoughts?

**Professor Farrall:** The question “Why is crime falling?” is the second of the two questions which I would ask. The first would be, “Why did it go up in the first place?” There is an assumption that crime has always been high. In fact, it hasn’t. If you look at crime trends, reported crime, which goes back in England and Wales to the 1860s, pretty much plateaus at a fairly low level until you get to about the 1960s. It then starts to rise gently through the ’60s and ’70s. You get to the early and mid-’80s and you see a real take-off point, rising, as David said a minute ago, to the mid-1990s. Then we see the now familiar decline. So you have, if you like, something that looks a bit like a camel’s back. It is a hump. The question “Why has it gone down?” needs to be preceded by the question “Why did it go up in the first place?”

The modelling which we have done, which takes data from the 1970s through to 2006, suggests that things like levels of unemployment or rates of unemployment, levels of economic inequality, which is the standard measure we use, the Gini coefficient, and social welfare benefits are all associated with property crime. The first of those—more unemployment and more economic inequality—drives up property crime, which is kind of understandable. Increases in welfare spending drive it down, so I think the question as to why crime is down needs to come after the question of why it went up. I suspect that the reasons that it may have gone up in England and Wales at the time when it did go up might be something to do with sudden economic restructuring. Economic historians trace processes of de-industrialisation back to the 1960s, and the 1950s in some instances—and certainly I wouldn’t argue against that. The issue is whether that suddenly accelerated in the early 1980s. Economic thinking suggests that it did, particularly between ’80 and ’81. That really kicked away the last remaining props of the industrial sector, particularly in the midlands and north, producing high levels of unemployment, which led to high levels of economic inequality. I suspect that some of that lump, of which we are now all thinking about the downside, in some respects is good. We are focusing on the positive—“Why is it coming down?” The alternative is, “Why did it go up?” It may be—it may be—about economic restructuring.

**Q274 Chair:** Does geographical distribution support that?

**Professor Farrall:** We are just about to start doing that. The problem with the research that we have done thus far is that it is at national level, that is to say England and Wales. What we are doing now, with money from the Economic and Social Research Council, is using self-report data from things like the British Crime Survey, which is regionally coded, and the British Social Attitudes survey, the Labour Force Survey and the General Household Survey to look at those trends as near as one can do at the Government regions of the offices. So in two years’ time I will be able to give you something of an answer, but right now I can only tell you that we are going to do that.

**Q275 Steve Brine:** You can come back. Just going back to the point you said about welfare spend, you are suggesting then that when the Government hand out money to communities crime falls in those communities, and when the Government make welfare
savings they are all going thieving; acquisitive crime goes up.

**Professor Farrell:** Yes, it is property crime. I am not sure I'd put it quite as crudely as that.

**Steve Brine:** Well, you did.

**Professor Farrell:** Well, no. I said that an increase in benefit spend is associated with a decrease in property crime. That is not necessarily the same—

Q276 Steve Brine: So areas of high benefit spend have areas of low crime.

**Professor Farrell:** Hold on. If you would let me finish, I am not saying there is a causal link. That is an association—not necessarily a causal link.

**Steve Brine:** Okay. It is a matter of debate.

**Chair:** I think Professor Laycock just wanted to mention something.

Q277 Steve Brine: Yes. Professor, I just want to ask you, with the work that you have done on community policing, presumably you have a view on this and crime falling.

**Professor Laycock:** I do have a view on the crime figures. I wanted to take a really radically different point in answering the question that you have raised and stick my neck out, if I may. I hope nobody cuts my head off.

**Steve Brine:** No, no. This is a neck-sticking-out kind of place.

**Professor Laycock:** The answer to “Why did it go up in the first place?”, as far as I am concerned, is substantially because there was much more to steal. We had cars, televisions, mobile phones—all those things that we didn’t have in the 1950s when I was a child. There is far more mobility of young people, who are those at greatest risk of offending, and therefore far more supervision of them in those high risk years. Women go out to work now and I applaud that, being one of them, but it means that there is nobody at home guarding the house all day, so burglaries are a greater risk. That is, in my view, why it went up.

Why did it come down? It started to drop very rapidly in the 1990s. A very rapid change like that is not due to something like better parenting. It is just implausible. I can tell you chapter and verse on why there has been a 70% drop in car crime, and that is because in 1989 the UK had one of the highest rates of theft of and from vehicles in Europe. The Home Secretary called in the manufacturers and said, “Do something about the design of vehicles. You can open any Ford Cortina with any Ford Cortina key,” and they said no, because they were not the victims of the crime and you bought another car when yours had been stolen. The Home Office published a car theft index which ranked the manufacturers by risk of having cars stolen. The manufacturers came into the Home Office, the Home secretary waved it and said, “Next time we publish this we will name the manufacturer at the top of this list”, and they all went away and fitted deadlocks and immobilisers on vehicles. I can show you the figures. It takes 10 years to replace the car pool on the road, so after 10 years the dramatic drop starts to level off and that is what we have seen.

We have also seen a massive drop in what we used to call taking and driving away. If you remember, in the 1980s kids were driving like lunatics, stealing cars. That has virtually stopped. It is now very difficult to opportunistically steal a car, so there is a lot of evidence and it translates abroad as well.

With burglary, the research the ESRC has funded shows the same thing. The reason that burglary has gone down is that homes are more secure. The danger now is that the DCLG are proposing to drop the regulations on securing houses from their agenda because they want to make life easier for builders. If that happens, ACPO are predicting that the burglary figures will go up again. So the policy at national level is vitally important because it creates the context within which we can all live, and it can facilitate crime or it can make it more difficult.

Q278 Steve Brine: Okay, but what about violent crime?

**Professor Laycock:** Violent crime typically drops in a recession, or the rate of growth of it slows down. It is the other way round. Violent crime is also a very small proportion of all crime, don’t forget. The figures have changed. The Home Office counting rules changed quite dramatically so there was a spike in violent crime caused by a change in definition, which is a bit strange. Violent crime hits the headlines, which gives you a totally disproportionate view of its frequency, so we talk about knife crime and gun crime and so on. Those offences can be usefully dealt with. For example, in the United States there is some extremely good work on homicide—young people shooting each other. We can’t do it here because of the way our courts are organised.

**Chair:** Because of the way—?

**Professor Laycock:** The way our court system is organised. In the United States they have far more discretion at court level, so the district attorney can decide not to prosecute even though they’ve got the evidence. In the UK it is very difficult to do that. They use that evidence as a lever over the potential offender. “If you go out with a gun tomorrow, you will go to federal court and we will throw the book at you.” We can’t do that here.

Q279 Steve Brine: Okay. Chair, Professor McDougall says she wants to come in. With your permission, can we just conclude this and then move on?

**Chair:** Yes.

**Professor McDougall:** I’d like to take a corrections view of this and talk about the positive things that we have done to combat crime because a lot of people have done a great deal to try and combat crime. You probably all know now, because it is very famous, that in 1974 Martineau wrote a report saying that nothing works; there is no point in doing anything; there is no point in probation; there is no point in interventions because people do not respond to this and nothing works with them. That was really grasped by all the countries, and in this country too we stopped doing
interventions. We started thinking about humane containment in prisons. We just did that kind of thing. We did not do any interventions with prisoners at all, and this lasted for about nearly 20 years that we just did not try to do anything. Then, suddenly, researchers started saying, “This can’t be right,” and they looked at all the data that Martinson had used, they did studies themselves, and they discovered and concluded that some things didn’t work—that is right—but some things did work if they were done with certain people in a certain kind of way. This was international. It is not just in this country; it happened across the world. People suddenly started to say, “Okay, some things work and we will start implementing the things that work.” It happened in the States and in Canada; it happened here, and it happened in Australia and in Europe—all the countries that started to listen and started to take notice of what was the right thing to do and what would reduce reoffending. That lasted for some time. We had an amazing system in this country where we had an accreditation committee that looked at all the interventions that were proposed; they trained people properly and funded people properly. This happened in other countries as well.

There was such a strong move towards reducing reoffending. Suddenly we all started thinking about it, and now, actually, it is very interesting that we are all in this Committee saying we are looking at one outcome—reducing reoffending. As to all the outputs that we previously used to ask for—counting how many times you saw people and so on—we don’t want that; we want to reduce reoffending.

So I would propose that this is bound to have an effect. It has happened in prisons and probation. They started to co-ordinate what they did. Instead of some people working with prisoners, saying one thing to them and other people when they were released saying something different, we all started saying the same thing. We all started training in the same way; we all started using the same philosophy and the same research evidence. I think that made an enormous difference to our crime across the world.

Q280 Mr Llwyd: Good morning. Professor Laycock, in 2001, in a speech which you gave, you mentioned—and I will quote: “The research literature on crime and criminals is packed with good ideas. Yet the discussion of crime remains doggedly based on intuition, anecdote, received wisdom and untutored opinion. The person on the Clapham omnibus is more likely to direct government policy than is the scientist.” I don’t know whether the person on the Clapham omnibus is still alive but he must be getting on now, I should think. What I would really like to know from you and from all of you—I don’t know what the collective noun for four professors is—is, to what extent is Government policy on crime reduction being informed by research evidence, and can you give any example where this has occurred positively in the recent few years?

Professor Laycock: I still hold to it. I was a bit brave, I think, saying what I said, but I think it is still true. If you have a dinner party, the world and his wife at your dinner party will have a view on what you do about crime. If you say you have cancer, they won’t have a clue; they will defer to the medical profession on that. That is the sort of background to where I came from with the Clapham omnibus man. There is a lot in the research literature, and that is the purpose of the What Works research that we are now doing, funded by the ESRC and the College of Policing—to trawl that out and present it in a way that is far more understandable to practitioners. I do not, when I say that, mean that they are not capable of understanding complex things. Some academics are particularly bad at communicating their research results; they are bogged down in statistics and caveats and so on, and they are not clear about what the results might be. So it is a two-way street. There is a lot there that could be done.

My example of car crime is, I think, a very good example of where—I didn’t bore you with the theory behind it, but it is about leverage. If you have an agency that is competent to change the design of something and it doesn’t, it is probably because they are not paying the price of crime. For example, credit card fraud was very high until Mike Levy pointed out to the banks that if they didn’t do something, in the 1980s and ’90s, they would be losing a quarter of a billion pounds a year. Unlike the manufacturers of cars, the banks got together and worked out what they were going to do about credit card fraud. That was facilitated by research that the Home Office funded, so there are big high-level things that can be done by Government to create a context which makes crime less likely. There are examples where they have done that, like the banking fraud issue and car crime, and there are examples where they manifestly haven’t. I would take alcohol policy as my favourite example of that, where there is a mass of research literature totally ignored by Government.

Q281 Mr Llwyd: Some of us, over the years, have been arguing, for example, on what you have just said—alcohol advertising and so on. We were constantly told that the Russell Group have it in hand; they are dealing with it.

Chair: It is Portman.

Mr Llwyd: I beg your pardon—it is the Portman Group.

Professor Laycock: The Russell Group is universities.

Mr Llwyd: It is all these universities in front of me.

Professor Laycock: I am going to go back to UCL and have a word about this.

Mr Llwyd: If they were self-regulating, it was perfectly fine, but, clearly, that is not the case, is it?

Professor Laycock: This is one of the examples, actually, of what doesn’t work. There has been a really good book written in 2003 by Babor and colleagues called “Alcohol: No Ordinary Commodity.” At the back of that book they summarise what we know about what works in terms of controlling alcohol use. Advertising is a very weak lever. The most powerful way to reduce the consumption of alcohol is to take it out of supermarkets, corner shops, sweet shops, every other which place, and put it back in off-licences that are properly regulated. The Government will not do
that, for fairly obvious reasons. There is a massive lobby. Even increasing the tax—it did not happen. Increasing price is another way of reducing consumption, but it doesn’t happen because of the lobby.

On the question about the extent to which research influences policy, research is only one of umpteen things that influence policy. I don’t blame the Prime Minister for wanting to be re-elected, for example. That is what politicians seem to want. It is perfectly rational. I don’t say it critically, but research, precedent, cost, politics, the media—all those things—influence policy. I would like to see research pushed up that agenda, but that means academics have to get better at presenting the research, and it might mean, sadly, that we have to lobby. I don’t like the idea but that is probably what we will have to do more of.

Q282 Mr Llwyd: Is that the view of the panel?

Professor Farrington: I wasn’t going to address that question but to talk about ways in which research has influenced policy. There are many examples, and I was involved in the Action Plan on Social Exclusion, which was the Prime Minister’s action plan launched in 2006, which was a five-year plan. This was an excellent plan which was based very much on research and it involved a lot of initiatives in the way of parental training, setting up a national academy of parenting practitioners. It involved using programmes which had been shown to be effective such as the Nurse Family Partnership programme and the Multisystemic Therapy and Multidimensional Treatment Foster Care. The Action Plan on Social Exclusion was a major initiative. It lasted five years—unfortunately no longer continuing because of the change of Government—but it is an example of a Government policy which was very solidly based in research and was very good indeed.

Let me give you one other example. My colleague Larry Sherman in Cambridge did a whole series of experiments on restorative justice, which showed that it was effective. Indeed, there was a cost-benefit analysis by Joanna Shapland from Sheffield, which concluded that £8 was saved for every £1 invested in restorative justice. This has very much influenced the Crime and Courts Act 2013. The Home Secretary has approved several million pounds of funding for police and crime commissioners to pay for restorative justice. Here, a series of experiments were carried out by Larry Sherman, which have had a major impact on policy in this country in the way of adopting restorative justice. I could quote other examples but I don’t want to go on.

Q283 Mr Llwyd: I am sure, Professor, that is absolutely right, but of course, restorative justice has been a core item in Northern Ireland for some time. So I dare say that some of the statistics from Northern Ireland have fed into the mix as well. Could I ask you then, on the other side of this particular coin, if there are any examples where policy seemed to be running, as it were, counter to the evidence on crime reduction or where policy could be more effective if evidence and data were better used?

Professor Farrington: I am sorry, I don’t want to be hogging the floor, but I would like to answer that in terms of what is going on in the Washington State Institute for Public Policy, because Steve Aos and his colleagues systematically reviewed what we know about the costs and benefits of different programmes, ranging all the way from social and developmental programmes, police programmes, situational programmes, correctional programmes, community programmes and so on. He made recommendations to the Washington State legislature about how best to invest money to save crime. As a result of all his reviews, the Washington State legislature decided to divert money away from imprisonment and towards early intervention. What has happened in Washington State since this initiative in the last few years is that you can see a decline in crime and a decline in imprisonment; so the two things went down together and they saved a lot of money. This is what we should be doing in this country. Happily, we are because the Youth Justice Board has contracted with the Dartington Social Research Unit—a man called Michael Little—to work with Steve Aos to try to produce a similar system in this country of trying to assess the costs and benefits of programmes and trying to make recommendations, initially to the Youth Justice Board, about where the best bang for the buck is: where you should invest money to save money.

The other thing I would say about this is that, when we talk about diverting money from imprisonment to early intervention, people say the public want money spent on imprisonment; the public are punitive. But if you actually do surveys to ask the public, that is not true. If you give them a choice, and if you say, “Would you prefer youth programmes, or would you prefer more imprisonment”, or “Would you prefer nurse family programmes, or more imprisonment?”, they normally don’t choose imprisonment. If you actually do surveys where you ask the public whether they want more imprisonment or whether they want something else which is, if you like, more preventive or more enlightened, the public will actually prefer the more enlightened approach; they won’t prefer imprisonment. I think it would be very good for us to pay more attention to what has happened in Washington State, to carefully calculate the costs and benefits of all sorts of different ways of reducing crime, and to make rational recommendations about where to get the best bang for the buck.

Chair: It is perhaps worth saying that the Committee, in its previous composition, did look at Washington State when writing its previous report—the “Justice Reinvestment” report—and that drew significantly on the initial stages of what you have described.

Q284 Mr Llwyd: And, of course, when we visited Texas this year we saw a lot of good work being done there as well, avoiding incarceration and so on, with early intervention.

My final question, if I may, is to what extent is evidence on crime reduction well publicised or well
understood by the Government, local policy makers, agencies and practitioners?

**Professor McDougall:** I think the academics have a responsibility here. There is evidence that Government—and this Committee is an example of that—want to know about research evidence. They want clear messages about what works and what doesn’t work. Unfortunately, the academic community doesn’t always agree. I agree with Gloria: we need to communicate that information more clearly, but we need to decide how we are going to explain it as well, because I can understand how people are confused about the research evidence because they hear different things from different academics at different times. We have different views on this panel—a well-chosen panel, I have to say, because we all have different views about things. We really need to make it clearer where we are coming from, because we have sociological approaches, economic approaches, psychological approaches and longitudinal approaches. They all go together, but the way they are communicated, it sounds as if they don’t.

We have lots of ideas and good theories, but that is not research evidence. That is something different. Yes, we want to hear what these ideas and these theories are, but we also want to test them and we want to do a fair test; so we want also industrial research to communicate that and find out what the results are. We want economic assessments, but we need to have good research on which to base the economic assessments, and we need good economic quality as well of assessment.

All of these things tie together, but I don’t think we explain it in that way and I don’t think we explain it to ourselves in that way actually. We are saying, yes, there are all these wonderful theories; we think these things will work, we are trying them and so on, but we should be evaluating them rigorously as we go along, in the same way as NICE does, for example, as the health services do, to test whether the good idea actually works or doesn’t work. We need to get our act together in that sense as well.

Q285 Mr Llwyd: Professor Farrell?

**Professor Farrell:** I think my colleagues are perfectly right. Academics like writing books and journal articles, which very few people read. One of the things which they need to do is to find other media in order to express their ideas. One of the things which I did with colleagues in Glasgow and Queen’s University Belfast, again funded by the ESRC—I have left a copy of it with the Chair—was to make a film about why people stop offending. We took a guy who now works as a criminal justice social worker in Scotland, but who himself had been involved in crime and been through prison, on a kind of “Who Do You Think You Are?” journey, in which he went to the States and spoke to people there, spoke to colleagues in the UK who work in prisons and probation, academics, policy makers, and people who themselves have been through the prison system, in order to put together an understanding of how it is and why it is that people stop offending. That was made with a professional film company, with the idea of showing it to practitioners, to give them a better understanding of the ideas around the concept of desistance. It has also been used in practice, not just in England and Wales but across the world.

Whenever I talk at probation trusts up and down the country I am always amazed at people who come up and say, “Yes, we have shown your film to people in Jamaica.” They all struggled with the thick Scottish accent, but, other than that, it is those kinds of vehicles that academics need to get better at using. It won’t or might not surprise you to learn that, with regard to the grant which we have just started on, on Thatcherrism, we have money to make a film for that because that is a really good vehicle. It is 30 to 45 minutes long and it is quite punchy. You do it with a professional company so you get your messages across clearly. Lots of stuff ends up on the cutting-room floor, but that is okay. To reinforce what Cynthia and Gloria have said, we academics need to get better at doing non-traditional civic engagement.

Q286 Mr Llwyd: Going back to pure research—Professor McDougall may have been a bit too hard on herself there—your research papers are all peer-reviewed, aren’t they?

**Professor Farrell:** By and large, yes.

Q287 Mr Llwyd: Really, it is up to people like us to read these peer-reviewed papers if we want to—or is it?

**Professor Laycock:** I wouldn’t recommend it, no. Mr Llwyd: Or be given an understandable copy thereof.

**Professor Laycock:** It is for us to summarise those papers into packages for you. To answer your question, the reason I like science—well, the thing scientists do is, first of all, they are very clear on what the problem is, then they hypothesise about the solution, and then they test it. That is what we need to do more of. If the problem is how you make crime go down and you are worried about cost-effectiveness, in my opinion the best way to do that is to look at the situation, because the immediate situation determines human behaviour. In other words, opportunities cause crime. Imagine we took away all the locks and bolts and things. If you think crime would go up as a consequence, then you believe that opportunities cause crime, and I think most people would expect crime to go up if we took all our locks and bolts away. I am not saying we want to live in Fortress Britain; don’t get me wrong. It is about getting the balance right.

Q288 Mr Llwyd: As with the car crime?

**Professor Laycock:** As with car crime, but also as with alcohol policy and as with all these other major Government policies. When you have done the best you can on designing cars, you are then down to the local level to get car parking right and all the rest of it, and to get people to make sure they lock their cars and so on. That is fair enough to delegate, but you don’t delegate responsibility for alcohol control when you still have this ridiculous system. That doesn’t mean that I don’t think we should be offering
treatment programmes for offenders. We are in a civilised society and we totally should, because that is what civilised people should do. I also think we should be educating our children as well as we can and supporting parents because we are civilised, not because if we don’t we might have a crime problem. In other words, it is the reason. Implying that we are educating our children because we are worried about our crime problem is a bit kind of hedonistic. It is not the kind of society I would like to be in. I want to educate children because they have a right to a good education.

Q289 Chair: Can I ask another question at this point? The Government are trying to incentivise and draw the voluntary and private sectors further into stopping reoffending. I don’t want to get into the argument of principle around that, but to establish whether the kind of process we are talking about here, doing innovative things but evaluating them and deciding whether they work and then moving on, is a process which can readily happen under this kind of system. Is it more likely to be feasible under this kind of system, or less likely?

Professor Farrall: I would imagine there might be situations in which it would be less likely to be feasible. If data on reconviction and reoffending rate are now, if you like, something which an organisation has a commercial interest in, then I am not entirely sure that they would necessarily want their rates of reconviction too widely publicised at some level. I am not entirely sure, if you like, of the level of ownership of the data in terms of reconviction, but I could imagine—

Q290 Chair: But that is something that could be got right; that is about how much information.

Professor Farrall: Yes, it could be something that is got right if you regulate it in a particular way. The data you regulate are only as good as the data that are reported to you. If people have a vested interest in making it look like it has gone up or look like it has gone down—and people may have vested interests in one or other, or in some instances both—then you can see obvious drivers towards what might be referred to as data manipulation. There is probably enough evidence in the recent past in criminal justice to suggest that that has happened and I can’t see any reason why it shouldn’t happen again.

Chair: In that case I will turn to Mr McDonnell.

Q291 John McDonnell: I was going to ask you a whole series of questions about what crime science is—but you have just demonstrated it, basically—about bringing it together and asking for examples of it. You have done that perfectly well. Can I ask you a general question and then get down to a couple of specifics? How do you think we can move forward then, just going back to the previous discussion you had? How can we move forward, both in terms of Government and politics generally, in getting a more coherent, evidence-based approach in this area, both in terms of what you can do as academics and also what Government can do?

Professor Laycock: One of the problems, I think, is that every time there is a change of Government there seems to be a change of policy. David sort of referred to it earlier: “Oh, that’s what the last lot did. Now we are going to do something else.” For example, when the Labour Government came in in ’97 or whenever it was, they had the Crime Reduction Programme. That was a quarter of a billion pounds into crime reduction. I was in the Home Office at the time. I was speechless. We’d never had that much money. David Omand described it as half an aircraft wing because he had come from the Ministry of Defence. It was an extraordinary amount of money. The problem was we got too much too fast. We couldn’t spend it sensibly. Then the Treasury had this annuality nonsense that, if you did not spend it, you lost it, so there was a stampede to spend all this money. It was just nonsense. To have that kind of money but spread over maybe three or four Administrations would have been absolutely fantastic and we could have funded exactly this kind of research. I had £25 million for research and I hadn’t enough academics to give it to. It was just absurd. So I don’t know how you get the consistency. Interestingly, we have it in relation to terrorism because all the parties agree that we can’t have terrorism, so you get a consistent policy across Administrations. We need the same attitude to crime. It is sufficiently serious. The public cares sufficiently about it, and cross-party consensus on what you are actually going to do is really important. I think they will all sign up to the idea of evidence because who is going to say they don’t want to know about what works? You couldn’t plausibly do that, I guess—well, maybe you could. I really am optimistic that the whole thrust now is of getting evidence-based everything. It has become the buzzword—evidence-based management, evidence-based medicine, evidence-based policing—but let’s hope we stick with it for a little bit longer than some of the Government ideas.

Professor McDougall: It needs to be independent, actually. That’s the point. The decision about the evidence base needs to be that the evidence has to be unbiased by reliability, by vested interest and current interest and so on. I know that is very difficult because it is a subject that, as Gloria says, everybody at a party has a view about—what you do with criminals and so on—and so you have to take public views into account. Nevertheless, now, in healthcare services, people now really, really accept that the evidence is important and, no matter what someone’s opinion is, you’ve got to go by the research evidence and follow that. We need to get into that situation with criminal justice but we are a long way off. Research in criminal justice is a disposable commodity. I mentioned earlier the What Works ideas. We have had great success in developing What Works, and now we are about to throw it away because we are a bit bored with it and we will go on to another thing shortly. We don’t add desistance to what we are currently doing. We don’t behave like scientists and build up a body of knowledge; we chuck something out and start again with something else. It is the latest fashion and that really has to stop. It has to become
very much a science and it has to build up the level of information, test it, discard the bits that don’t work through evidence, through evaluation, and add things that do, so that we end up with a very, very solid evidence base, which is not political, and politicians can defend themselves in making the decisions that they are being called on to do. The one thing that exists for ever is prisons. That is the one thing where everybody will say, “That’s great; we’ll always keep prisons,” and yet we should be saying, “Let’s use prisons for the people who need to be there and use them less for the people who don’t need to be there.”

Q292 Chair: Can I make it clear that the Committee, in its previous report, was seeking to do precisely that—that is, to move in some very, very rational evidence basis and to create some political space and consensus around the idea that that is what we should be doing? What we are looking at now is how far that was done. My own initial impression is that it did have some impact at the time, but it is always under pressure from some of the other political pressures that you describe.

Professor McDougall: There is always a military regime waiting round the corner to be imposed, isn’t there—short sharp shocks and detention centres?

Q293 John McDonnell: Stephen?
Professor Farrington: To take you back to your question about going forward, the answers are more primary research, better funding of primary research, and also funding projects that in academia we refer to as blue skies: fields which are, if you like, untouched or relatively unexplored or haven’t been explored for several decades—going back and seeing what can be learned or seeing what has changed, those sorts of things. Another thing that I would recommend—and I know that Professor Laycock has done this, really, in some respects—is to try and summarise research for them. That is often more efficient for them than reading things because they are busy people and it is easier for them. If we can tell them something in half an hour, it is actually more effective than saying, “Read something.” It is important to summarise knowledge for the Ministers but we need the civil servants to tell the Ministers to ask us, because otherwise we can’t get access to them very easily. I would certainly say we need more primary research and, particularly, we need more randomised trials. It is absolutely ridiculous the few that we have had in England in the last 30 years. As an example, we have had no randomised trials in prisons for 30 years with recidivism outcomes. Cynthia did one but she hasn’t yet got recidivism outcomes, but there have been no randomised trials evaluating any sort of prison programme for 30 years with the recidivism outcomes. It’s madness. In medicine, we are doing randomised trials all the time to evaluate new drugs. In criminal justice, we are implementing new policies all the time and we are not evaluating them, so it’s no wonder we don’t know what works half the time. We need more primary research, really.

Q294 John McDonnell: Can I just follow that up? Are the structures in place in terms of Government engagement—feeding research into Government? Are there sufficient structures?
Professor McDougall: No.
Professor Laycock: No.
Professor Farrington: No. I’m not sure there are.

Q295 John McDonnell: It is the way in which information is communicated and properly commissioned—
Professor Farrington: It’s haphazard, I think.
Professor McDougall: This Committee does it. That’s about it.
Professor Farrington: It depends, often, on the civil servants advising the Ministers—so, call this person in or ask that person for evidence. It is very haphazard. There is no real system.
Professor Farrington: There is anecdotal—well, it’s not anecdotal, but it is patchy when it works. What universities have had to do over the last five or six years is get good at what we now term “impact,” that is, changing the real world—for the better, I hasten to add. Therefore, universities are much more outward-looking in terms of disseminating their research findings. In some respects what we need is something at the other end that we can sort of plug into. We need an organisation, a branch of the civil service, even at Department level or across the whole thing, that actually looks away from Westminster and Whitehall out to universities, not just in England and Wales or the UK but across the globe—because we might have 20 or so top-notch universities in the Russell Group, but there are a whole load of other universities elsewhere that we should be talking to as well—that actually starts to try and bring academics in, because I think the academic community and large want to engage. It is one of the reasons that people go into academia—because there is something they feel passionate about, that they want to know more about, that they want to have some kind of transformative
effect on, and so to have somebody trying to pull you into Government is great.

Q296 John McDonnell: Professor Laycock, you have been in the Home Office. Has there ever been a model that you would recommend of engagement in that way?

Professor Laycock: A formal structure. I don’t think so, no. One of the problems with crime prevention is that it is cross-departmental. Some of my favourite examples of where we actually got something done is that it actually took the Prime Minister to get them done because Departments were arguing with each other. That is absolutely absurd.

Q297 Chair: We found, as a Committee, when we were in Germany a few years ago, that UK academic research was being quite widely used by Administrations there, and one or two other countries, and referred to. Of course, that did not depend on there being some formal structure of engagement between UK academics and foreign Governments; they simply saw that it was good research and made use of it.

Professor Laycock: We were talking outside about what had happened to the Home Office Research Unit, where the money had gone and why it wasn’t there any more. I was in it and I was also in the Police Research Group, which was independent of the Home Office Research Unit. With regard to the Police Research Group, I had more or less direct access to Ministers through the head of the police department and I could feed all the research straight through. All the work on repeat victimisation, for example, which was done, funded by the Home Office, went to Ministers. We were determined it was not going to go away and we made the police pay attention to it because we could. We had leverage over the police. That is not there any more. I don’t know how my colleagues feel about that, but I think it is a great loss.

Q298 Steve Brine: Professor Laycock, I am still reeling from your comment earlier that you had £25 million to spend. “we couldn’t find enough academics to give it away to.” No wonder this country is broke, but that is a political point.

Chair: For another day.

Steve Brine: For another day, yes; I’ve made it. Isn’t it better now that we have quality over quantity of research, in a time of restrained budgets? Doesn’t the taxpayer get better value for money?

Professor Laycock: I think we have gone far too far in the wrong direction. There is a balance here between absolutely nothing and what you might call too much too fast. There is nothing wrong with a quarter of a billion pound investment in how you control crime, but you can’t spend it within the time frame they expect you to spend it in. If you said £5 million a year on investing in crime, that is not a lot of money in Government’s terms at all.

Q299 Steve Brine: But when you had all that money and you said you couldn’t give it away quick enough—it’s like that film “Brewster’s Millions”, isn’t it?—did you and Ministers not push back to No. 10 and No. 11 and say, “This is crazy”?

Professor Laycock: We did get permission from the Treasury to waive annuality, but, to be absolutely frank—if I’m going to be really frank with you—

Steve Brine: Be frank.

Professor Laycock: I was in research, pushing the research bit. There were policy makers who had control of the whole programme. I had to persuade them to persuade Ministers. I couldn’t go over their heads. You get shot for that and I wasn’t prepared to—it’s rude, apart from anything else.

Steve Brine: Of course.

Professor Laycock: There are all sorts of reasons.

Q300 John McDonnell: Just to finalise that, I would welcome your ideas on how you would structure academic engagement with the Government in this area so you can have a planned approach and a consistent approach over time so you don’t go through this ricocheting.

Professor Farrall: I think of secondments. Universities are quite used to selling staff across universities, almost.

Professor Laycock: Nick Tilley was exactly that. He was in the Police Research Group from Nottingham Trent University and he was there for more or less 20 years.

Professor McDougall: Any ideas that you have would be really, really helpful.

Q301 John McDonnell: Can I say I think we have got a good research team in NOMS at the moment. They are producing wonderful stuff with, for example, the Offender Group Reconviction Scale and being able to say this is how we are going to assess risk. They are following instructions and answering questions about research. What they don’t have is a wide enough scope. They are working under a very narrow scope about particular questions that are being asked in NOMS. The difference with the Research Unit was that it could be wider, and it could go and seek out what is happening in universities and find out about that.

Q302 John McDonnell: It is the breadth across Departments, but I am also interested in what you think—don’t answer it now because we are obviously stuck for time—about how you get that political engagement. The point you make about the Prime Minister leading on some issues is fundamentally important, so from your experience—

Chair: Is this a question, Mr McDonnell?

John McDonnell: Yes, it is. I will come back to a specific question, which is drilling down into it. I am interested in the issue of desistance because you have dealt with some issues around the opportunity to
commit crime. We also have to look at the motivation in some ways as well, so I just want to know what you think are the key factors in supporting offenders to stop committing crime.

**Professor Farrall:** Most of the evidence at the moment, I am afraid to say, provides answers which suggest you need to look away from the criminal justice system. One of the big relationships between involvement in crime is age. It is what we referred to as the peak age of reoffending—David contributed to this significantly, producing these kinds of, if you like, baseline findings. Generally speaking, between the ages of 10 and somewhere between 19 and 21, people’s involvement in crime is going up. Then, depending upon the nature of the offences they are committing, the period and the cohort that they are in will peak and then start to decline. It is in the kind of post-21 to 25 that we really start to see processes of desistance kick in. The factors which are most strongly associated with that are things like engagement in the labour market and in common social institutions like families. There is also, if you like, an interaction with age, so, if you are engaged in crime and get a job before around about the age of 21, that tends to actually accelerate or increase involvement in crime because money is used frivolously to buy drugs and drink and things like that. After 21 to 25 you see that process flip and it reverses, and you get a much stronger relationship between employment and desistance from crime. They are the three big ones: age, employment and marriage.

We have other things that are much softer processes, much more internalised. For example, finding the motivation, finding a reason to want to stop and believing that you can indeed stop are important factors or processes in driving people towards desistance from crime. For some groups who have offended, the desire to give something back is very prominent. I think this is true of almost all people but probably not true of absolutely all people, although it is painful to say, people like to say sorry when they realise that they have done something wrong. It may take them a very long time to realise that they have done something wrong. It may involve crime, and they then start to draw down some and that is going to produce a child. At that point they have to deal with are pressing when they realise that they have done something wrong. It may take them a very long time to realise that they have done something wrong, but there is something good and restorative about saying sorry and then being reaccepted. People want to apologise when they have done wrong and we have to find avenues to enable people to do whatever they consider to be an apology, which may not be apologising to their individual victim, because that may be impossible or in some instances inappropriate, but some way of giving something back.

For some groups, one of the things that drives them out is fear of who they will become: that if they carry on down that route, not necessarily that they will be incarcerated—although there is evidence to suggest that some people think like that—but they will become somebody who is targeted by other people in the local community because they are a known fence or a known face or encroaching on someone’s turf, as it were.

The break-up of the peer group is another key factor, particularly for young men. There is moving away from home; again, this is another study that came out of David’s research. Those men who left London and went to live elsewhere were more likely to stop offending. The explanation, which I think is still the current thinking—David will, I am sure, correct me if I am wrong—is that, by moving home, these men severed that peer group and, also, they had a loss of the label of somebody who was involved in crime. They could start afresh, as it were.

In terms of what the criminal justice system can do to help people—I am sure Cynthia is much better able than I am to talk on this—the research which I have conducted on this cohort of 200 men and women was very depressing to start with because they said some frankly unrepeatable things about the probation supervision they were getting. They liked their probation officers but they thought it was just a complete waste of time.

That view largely persisted through the first three waves of interviewing, so that is during the first two years that they were on probation supervision. They always remained in the community, by and large, but, when we followed them up afterwards—probation had ceased and they were no longer being supervised—after about five or six years, you started to see, among some of the individuals, the recognition that they had taken something from probation supervision. Then we finished interviewing them for a fifth time about a year ago—it took about three years to interview all of those that we could find—and there we find far more people saying, “I have changed,” which they could demonstrate in lots of different ways, but also that they were now acknowledging that the things that their probation officer had said to them 10, 12 or 13 years earlier actually had been the seed, the starting point, of why they had started to change, as it were. Our explanations of why people change need to become much, much more complex, much more nuanced and much more stretched over time.

What happens—and I have talked to probation staff about this—is that things that they say in supervision sessions get lodged in people’s brains; they just remember them. I do not think offenders are particularly different from other people. I can remember things that my family and friends said to me which I have stored as good bits of advice. Lots of what probation is about is aspirational and, for the individuals who have been supervised, quite often the problems that they have to deal with are pressing and so their aspirations are, if you like, delayed. When you fast-forward over a few years, you then find individuals who are in circumstances or situations in which they are better able to start thinking about change, maybe because they have embarked on a relationship, or they have already had a child with somebody and they have started another relationship and that is going to produce a child. At that point they start to cast around for new ways of being that don’t involve crime, and they then start to draw down some of what they can recall that their probation officer had said to them in the past. The complexity of this is quite great. It is unpicking it just at an individual level.

The problem, therefore, for the criminal justice system is this. Probation staff get this; whether managers and
people in policy share this view I am less certain of, but probation is an investment in the future and it is a bit like a mortgage or a pension scheme. You have to wait for it to mature. You are not going to get, in very many instances, dramatic turnarounds straight away. There will be some, but for those people—

Chair: We have to let somebody else contribute. This is a very full and—

Professor Farrall: I was going to say that those people who are very heavily entrenched will need to go through a very long process of change, and that takes time.

Chair: I think Professor Laycock wanted to say something.

Professor Laycock: Just very quickly, absolutely all those things are right: marriage, family being held together and so on. They are not helped by people being put in prison, partly because the prisons are a gazillion miles away from where these people live, so community prisons are a really sensible idea. Mega, great big prisons are a disastrous idea. Titan prisons have gone but the next biggest prison is also a bad idea. You want small prisons that facilitate ties with families, jobs and so on.

Professor Farrall: There are very few of those for women. There are none in Wales.

Q302 Chair: We debated our report on women in the criminal justice system only last Thursday. I really want to give Yasmin Qureshi a chance to come in.

Professor McDougall: Could I add something about the probation debate? It is important to say that probation has evolved as a profession and it is a mix of all kinds of different theories about how you do probation. Faye Taxman, in the States, says that it is completely atheoretical, and it is. It is built up with a lot of ideas of people with different kinds of learning that they have had over the years and so on. It has built up in that way. However, we know that we can make successful interventions if we do them in a structured way. Now, in the States, in Canada and certainly in the UK in small pockets, we have been looking at doing structured probation and being very clear what it is that we are doing. I have just been involved in an evaluation—a randomised control trial—which showed that this was effective with high-risk offenders. Structured probation was more effective than people who did not have that particular intervention. In Canada they have shown that, if you train probation officers to do the structured probation, and they randomly allocated offenders to those who were trained and those who were not trained, there was a big improvement in the offenders who were being supervised by the probation officers who had been trained. There is a lot of evidence to say you can make probation better or quicker, actually, rather than, as Stephen was saying, having to wait rather a long time for it to work. You can actually facilitate that process. That is what desistance is trying to do—to speed up the processes that would happen naturally, but we are trying to give it a bit of a hand.

Q303 Yasmin Qureshi: I just wanted to continue the discussions about cost-benefit analysis and the economics of it. I agree with you, Professor Laycock, when you say that we should not be thinking about the money aspect of it. Of course, at the same time what tends to happen is we know that certain sections of our media seem to suggest that the only way to deal with crime is to bang everybody up in prison for as long as possible and throw the keys away. I just want to say that I do not agree with that. I spent 20-odd years prosecuting and defending people charged with criminal offences, and I saw, in those years, casework from young children, the middle-aged, young adults—all sorts from different economic social backgrounds, charged with different types of offences. I just want to say that, although that might be anecdotal evidence.

Chair: I am losing track of the question, I am afraid.

Yasmin Qureshi: I agree with what you were saying that your research has shown, because it confirms a lot of what people like me would consider to be anecdotal evidence, just from my experiences. I wanted to set out my stall, as they say. Some people believe in this concept of throwing people into prisons, but what you all said is that a lot of policies have worked in different ways, whether it is the fact that cars are more difficult to steal now or hot wire, or burglary is more difficult because windows are now double-glazed, etc. You can’t just break a window and steal things, and there are also some of these intervention policies, but then people say this costs too much. That is one of the reasons some people say—

Chair: I am struggling, and I am sure our witnesses are, to find out what the question is.

Yasmin Qureshi: Just bear with me for one moment because I am just trying to explain my thinking and then the question will make sense, because if I just ask—

Chair: Could you please arrive at it fairly soon?

Yasmin Qureshi: Yes, I will; I will. Just bear me with me for a few seconds. I have just lost my train of thought there. Anyway, the intervention policies have been working.

Professor Farrington, you have given the example of Washington State, and you have, in very recent articles, talked about the issue of the cost-benefit analysis. Is there enough evidence in this country for the Government to be able to say, “Yes, we are happy to spend this money on interventions and all these policies, and at the end of the day we will get not only reduced crime rates but the cost of dealing with criminal activities—prosecuting, sending people to prison—will actually go down”? 

Professor Farrington: You can’t draw that conclusion from the UK evidence. You would have to draw it from evidence in the United States, for example. We need our own evidence. We don’t have enough well-designed primary studies because any cost-benefit analysis is only as good as the primary study on which it is based. So it needs to be based on a high-quality evaluation. The answer is that in this country we don’t have enough primary knowledge, but, based on knowledge from other countries, we could certainly draw the conclusion that it would be better to invest in early intervention rather than imprisonment, for example. But I have to say we don’t have the
knowledge in this country; we haven’t done enough of the primary research.

Q304 Yasmin Qureshi: Can I then ask all the professors this? Say you were given the money now to be able to carry out some of the research that you think needs to be carried out. What kind of research would you carry out? What would be the methodology in order to get the answers that you need, so that you can submit them to a Minister or Home Secretary and say, “This needs to be”—

Professor Farrington: I would embark on a programme of randomised trials to evaluate the impact of all sorts of interventions ranging from, for example, cognitive behavioural skills training programmes in prisons or probation, which we are using at the moment. Cynthia did a trial on it but with no recidivism data as yet. Basically, we have had no real evaluation of that. We could have more randomised trials on parent training. We have had some of those but not too many. We could have more randomised trials in court on, let us say, fines versus imprisonment. We have had some randomised trials in courts, such as restorative justice, but we could have more fundamental randomised trials in terms of what the relative effectiveness is of community penalties and fines. We don’t know that. There are all sorts of things. The randomised trials we have had have tended to look at new innovations like restorative justice. They have not looked at the things we have been doing for years such as prison and probation and fines, and all these other things. If I had lots of money, I would embark on a whole connected series of randomised trials to evaluate the things we are doing now and also things we might do in the future.

Q305 Chair: Can I then ask all the professors this? Say you were given the money now to be able to carry out some of the research that you think needs to be carried out. What kind of research would you carry out? What would be the methodology in order to get the answers that you need, so that you can submit them to a Minister or Home Secretary and say, “This needs to be”—

Professor Laycock: We do not know what the things you have described we have existing analyses based on them. In the Perry Program, for example, which is a pre-school intellectual enrichment programme, the latest claim was that $17 were saved for every dollar that was expended on this programme when you followed up to age 40. It was a programme of randomised trials to evaluate the impact of all sorts of interventions ranging from, for example, cognitive behavioural skills training programmes in prisons or probation, which we are using at the moment. Cynthia did a trial on it but with no recidivism data as yet. Basically, we have had no real evaluation of that. We could have more randomised trials on parent training. We have had some of those but not too many. We could have more randomised trials in court on, let us say, fines versus imprisonment. We have had some randomised trials in courts, such as restorative justice, but we could have more fundamental randomised trials in terms of what the relative effectiveness is of community penalties and fines. We don’t know that. There are all sorts of things. The randomised trials we have had have tended to look at new innovations like restorative justice. They have not looked at the things we have been doing for years such as prison and probation and fines, and all these other things. If I had lots of money, I would embark on a whole connected series of randomised trials to evaluate the things we are doing now and also things we might do in the future.

Q306 Chair: Can I then ask all the professors this? Say you were given the money now to be able to carry out some of the research that you think needs to be carried out. What kind of research would you carry out? What would be the methodology in order to get the answers that you need, so that you can submit them to a Minister or Home Secretary and say, “This needs to be”—

Professor Farrington: We do not know what the effect of fines versus imprisonment on reoffending is.

Q307 Chair: Can I then ask all the professors this? Say you were given the money now to be able to carry out some of the research that you think needs to be carried out. What kind of research would you carry out? What would be the methodology in order to get the answers that you need, so that you can submit them to a Minister or Home Secretary and say, “This needs to be”—

Professor Farrington: We do not know what the effect of fines versus imprisonment on reoffending is.

Q308 Chair: Forgive me—again, hasn’t that been done in north Liverpool?

Professor Laycock: It needs to be tested more widely. It has been done in relation to drugs courts, for example; domestic violence courts have been looked at, but it is the whole notion of “What’s the problem here?” I mean, assessing the problem in a very wide sense. Is the problem that it is just so easy for this person to carry on committing crime? Is the problem that he has no alternative? Is the problem that he is taking drugs? What are we going to do about it? There has to be a consequence for that individual, so he has to come back to the court and there has to be a treatment programme out there that he can be frogmarched to and start the next day. We do not have that in place. There is a queue to get on a drugs treatment programme.

Q309 Yasmin Qureshi: Just to continue, you have mentioned about different measures of early interventions or intervention methods to help people committing crimes. Has there been a detailed study done on the fact that early-years intervention—i.e. the three or four-year-olds who come from broken homes or are socio-economically disadvantaged—could actually prevent a whole series of criminal activities later on?

Professor Farrington: We have had quite a few randomised trials on that in different countries, including some in this country, which show that the Nurse Family Partnership, which involves giving advice to mothers in the first years of life or in pregnancy about how to bring up children, about infant development, avoiding smoking, drinking and drug use and such like, is effective. We know that high-quality pre-school education and pre-school intellectual enrichment programmes are effective. We know that parent training is effective. There are a lot of things that we can do in the first five years of life which we know reduce offending later on in life. We have had quite a few long-term follow-ups which show that, plus we have had quite a few cost-benefit analyses based on them. In the Perry Program, for example, which is a pre-school intellectual enrichment programme, the latest claim was that $17 were saved for every dollar that was expended on this programme when you followed up to age 40. It was a programme
given at ages three and four. There is lots of evidence, again mainly from other countries but some from this country. We have had some trials of early parent training in this country, and we have had some trials as part of the Action Plan on Social Exclusion, on Nurse Family Partnerships and other related things.

Q310 Yasmin Qureshi: Some of these projects have now dwindled, have they not, or are they still—

Professor Farrington: As I say, the Action Plan on Social Exclusion was only for five years and it stopped in March 2012. I don’t know whether it will continue. I used to be on the advisory board of the National Academy for Parenting Practitioners, but that seemed to close down in 2012. So all these things have a limited life. In our book on “Saving Children from a Life of Crime” we recommended the need for a national crime prevention council in this country, modelled on Sweden and Canada, where they do have national crime prevention councils. This could give advice to the Government about effective programmes, but, more importantly or equally importantly, it could give advice to local people because the problem is, when local people sit around and discuss, typically they lack knowledge and they need technical assistance in knowing what are effective programmes. Also, more importantly, a national council could provide continuity over time. You would not have this business of programmes starting and then finishing. If you had a national council, it could do a lot of things which would greatly help this country in having a sensible programme of crime prevention, crime reduction over time, helping the Government upwards and helping the local communities downwards.

Professor Laycock: One of the six What Works centres the Government is funding is the Early Intervention Foundation, which is looking at all sorts of effects of early intervention. There will be a crime element to that, I suspect. I totally agree with David’s point about the need for a national crime prevention council. We have one, then we don’t have one; and we have one and then we don’t have one. We used to have an inter-ministerial group on crime prevention and that fell by the wayside. It needs to be independent of Government but an advisory group, because then it can be cross-departmental and independent, and it will outlive the political—

Chair: In which case I will turn to Mr McDonald.

Q311 Andy McDonald: Thank you, Sir Alan.

You rather called the point that I wanted to address. It is interesting that everybody can have a comment and an opinion about crime reduction, as you quite rightly said. Sometimes the media has a lot to do here because it is an easy issue to chip in on and express an opinion about. In terms of the standards of excellence, rigorous standards, the assessment of research and other evidence and its implications for the delivery of service protects the public and rehabilitates offenders. We have several bodies all pointing at the same thing. I know we have addressed it to some degree, but are we saying that the best way forward is to bring everything together in one singular centre of excellence that is going to inform us? Is that our collective view?

Professor Farrall: My thoughts are that it is great having lots of people interested in the same thing in the same place down the corridor, which is why I like working at the University of Sheffield because we have all of that there. The problem is that, if it is all corralled into just one place, you run the risk—I am not saying that this would happen—of having a homogeneity of thought in which only one model of research is considered to be sufficiently robust, or only one theoretical approach is ever properly dealt with. Just to chip in at the beginning, that is all laudable, but there are some things which you have to ensure don’t become embedded in it. Plurality of approaches and plurality of thought and an open-mindedness are one of the things which academics guard fiercely—and rightly so. I think that that should work almost more so in policy-related environments.

Professor McDougall: David and I would probably disagree with that because we think that there are very robust methods—experimentation methods—that are recognised as being scientific and should be used. There is a large body of people who don’t want to use them and I am not quite sure why. There are a lot of reasons given, and a lot of practical reasons why randomised control trials won’t be used, but I sometimes think that they are not used because they don’t give the answers people want. Randomised control trials are sometimes very, very unforgiving. People have a pet theory of what they want to do when they do a randomised control trial and it says it doesn’t make any difference. That is the problem. Some of us are committed to saying we need to know that; we need to know if things don’t work; we need to face up to it and we don’t need to be emotional about the methods that we choose. We ought to be using methods that work, but a lot of people don’t agree with that. Therefore, we will have a problem, because with research evidence that is presented it can be of different standards. If we have a bar lower than the international community of researchers accept, then we would be ignored, really. The UK has a lower standard, in some senses, than other countries.

Professor Laycock: My comments are against the backdrop of directing the What Works crime reduction research to support the What Works Centre in crime reduction, which is based at the College of Policing. I share Stephen’s concerns about the danger of having the ideas in one place, and particularly something about crime reduction in the College of Policing because it is necessarily going to skew the work towards policing; so it is important that we make sure that doesn’t happen. On the point that Cynthia makes and feels David shares about randomised controls trials, my feeling is if you want to know what works you need to know...
three things. You need to know that the methodology that determined the outcome of the experiment is appropriate and proper, and it has to be appropriate to test the hypothesis that you want to test. That may or may not be a randomised control trial. It depends. You need to know the mechanism; in other words, you need to know how it did work? You need to know the context; in other words, in what context does it work? For example, CCTV might work great in car parks to stop car theft, but it will do absolutely nothing to stop antisocial behaviour on a Friday night because everybody is drunk. It just won’t work there. You need to know the context, you need to know the mechanism and you need some reassurance about the methodology. Those three things are necessary. Just the methodology alone is not sufficient.

I will give you a very quick example. There was research on mandatory arrests for domestic violence in the United States, a project that Larry Sherman did: randomised control trial, mandatory arrest, best way to deal with domestic violence, roll it out across America. Three attempts at replication failed to replicate it. Why? Because, in some areas, if you arrest the offender and he already has a criminal record, the arrest means nothing to him and he goes home and beats his wife up even more for calling the police. In other words, mandatory arrest works best for people in a job—“middle-classy” people who care about being arrested because they are embarrassed by it, and you will see what the mechanism is. In that context it works, but it doesn’t work everywhere for everyone and the research needs to tease that out. My phrase at the moment is that senior police officers, for example, need to have evidence-based judgment. They are still going to have to make judgments. It is for example, need to have evidence-based judgment.

Professor Farrington: I would be surprised. I think we should move on.

Professor McDougall: Even then, it is—

Professor Farrall: My point is that I suppose you don’t want only randomised control trials. They are fine, but some of David’s best work has been his longitudinal study, which is not a randomised control trial. There is qualitative research that has brought all sorts of things out. Ethnographies, historical research—all of these things have a part to play. My warning was only a warning. It is a caveat that all of these methodologies should be embraced and used because all of them have advantages, but they all have flaws.

Chair: We are starting to run a bit short of time, so I think we should move on.

Professor Farrington: I would like to answer your question, which is, “Should we have a national centre for crime prevention?” I think we should. As I say, I have said it before because it can be a centre of expertise, it can advise the Government, it can provide technical assistance to the local people who need it. We have two models in the world in Sweden and Canada, where they have a national crime prevention centre and this feeds lots of information to local crime prevention centres. We could build on our Crime and Disorder Reduction Partnerships, which we have in all the local authorities, and we can have a national centre which would advise them on how to more effectively reduce crime in their communities, because at the moment they don’t have the knowledge that they need.

Q312 Chair: We have that point as well. I just want to clarify the value or otherwise of the Justice Data Lab. Does anyone have any experience of that?

Professor Farrall: My understanding is that it is going to encourage people to use PNC data. The PNC data which is currently given out by the Home Office and the Ministry of Justice is unsatisfactory because it is very difficult to work out if the person who they send you is the person that you are trying to find. It is okay if you are following up ex-prisoners who have a PNC number because then they can be linked with a number, but, if you are searching a sample of, say, 500 people from the community and you want to know how many of them have a criminal record, very often there is no way of knowing whether the person they give you is the real person that you are looking for. So we need improvements in the PNC data that we have now if this is going to be the basis of a data lab because we need to be sure that they will give you back the person that you are looking for.

Q313 Chair: Isn’t there more generally a problem that sentencers don’t have this knowledge of the outcomes of their sentences?

Professor Farrington: That is true, yes.

Q314 Chair: Have any of you been involved in talking to sentencers, conferences for judges and magistrates and so forth?

Professor McDougall: Yes. They certainly don’t know the outcome. There is no feedback on that. They do not know what works with the offenders or what doesn’t work with the offenders. Similarly, they do not think about the costs and benefits either. They don’t think about costs of a sentence; they don’t think of what it costs to send somebody to prison. In fact, maybe committing a crime would be much less of a problem than the cost of running a prison sentence. So they never look at the costs and benefits of the sentence that they are giving.

Professor Farrall: I must say I had not heard of the Justice Data Lab until I spoke to one of your colleagues on Friday, which I am sure is my failing and not theirs. When I looked at it I got the sense that it was entirely quantitative data. That is fine, but there are a whole load of other data sources that should be used as well. I also got the impression that the data that it had related largely to what the criminal justice system knew about itself and what it did to people. Therefore, they don’t include any of those things that we refer to as dynamic factors, like whether somebody has a job or got married—all those sorts of things.

To go back to Yasmin’s question about what I would spend my 25 million quid on, this is what I would
do. When an individual is sitting with a member of probation staff who is assessing them for a sentence plan, they fill in a form. That form is negatively loaded so that if something is not a problem it is zero and if it is a problem it is 10. That way of thinking constructs that individual sitting in front of you as, if you like, the physical embodiment of a whole series of social and economic problems. What it also needs to do is to have a way of capturing the strengths that that individual has. The criminal justice system sees people as problems. There are problems; that is why they are there in front of you. But individuals also have strengths, or at least they may have strengths or things that you can develop. We need a criminal justice system that accepts that individuals have failings and also accepts that there may be strengths that can be built upon. It could be a relationship or a particular interest, and it is that thing that probation staff or people working in prisons need to latch on to. You need to find a reason for somebody to stay out of the system. Continually just focusing on their deficiencies just reminds individuals of their own weaknesses and that is not going to bring them away from crime. 

Q315 Steve Brine: Some of this has been touched on, so we will be brief here. I just want to turn to local approaches to crime reduction. As part of this inquiry, as you would expect, we had some of the police and crime commissioners in. A former member of this House, Alun Michael, who is now a PCC in South Wales, was one of those who said—and I can almost feel Professor Laycock sighing as I say this—that they wished to take an evidence-based approach. You would be surprised if they did not say that. He was specifically referring to reducing alcohol-related violence using A and E data.

Looking at the way that policy has moved since 2010 with respect to the creation of the police and crime commissioners—there is a question mark over how long they will be there—Health and Wellbeing Boards, and now the new providers of probation services, the CRCs, do you believe that there is sufficient evidence to inform the PCCs, the Health and Wellbeing Boards and the new CRCs to commission local services on a very local level? Who wants to dare to start on that one?

Professor Laycock: I really don’t think there is. It is terribly difficult to generalise. Some of them are ex-chief superintendents; some of them have a business background; some of them don’t know anything about crime; some of them used to be involved in the police authority. So it is terribly difficult to generalise. Commissioning, in effect, research, which is what we are all advocating, notwithstanding our minor disagreements about how you do it, is actually a skill in itself. The PCCs need some advice on how to commission that and how to ask the right questions of some of the demands being made by the police. For example, the PCC in Sussex, whom I was speaking to recently, said she had been asked by the police to fund ANPR cameras in Brighton to stop burglary. She said, “How will that happen? How will it work?” It was exactly the right question.

Steve Brine: I think she was here, wasn’t she? We discussed this.

Professor Laycock: Yes—Katy Bourne. It was a really, really good question. They need to ask that kind of question—how will that work?—before they do go doing it. Then, as I said to her when we were talking about it, do it experimentally and see if it works, but I can tell you right now just—this is why it is important to know about “how” and “context”. I wouldn’t put money on that particular experiment, personally.

Q316 Steve Brine: Have any of the other members of the panel had any experiences of PCCs, with similar examples to Professor Laycock’s, which would be useful for us in putting our report together?

Professor McDougall: Not of PCCs but of just ad hoc approaches from charitable agencies, community support agencies, which come and say, “Please can you tell me what I should do? Somebody knows your name and maybe you can help and advise us, because we think we should be looking at whether we are effective or not because we are going to be paid by results. What do we do?” That is by chance that they come. They look you up on the internet or somebody tells you their wife knew you before, and things like that. So it just seems to happen in a very, very ad hoc fashion and it does not seem to be sufficient.

It seems to me, again, that we can learn such a lot from the healthcare services, because they have a centre of reviews and dissemination—at York University actually. All the information is available there on all the different interventions, and people can look at that for free and say, “What do you do for ingrowing toenails?”, or something like that, and there is all the information, the best information, and it is provided. We need some kind of centre of reviews and dissemination for criminal justice interventions and things to do, things that would be helpful and that will help with research.

Q317 Steve Brine: For PCCs that has been difficult because they have not been a body. They have been a set of disparate people in their areas, which in some ways is the policy intention, but they have now started to come together as a group with more of a national association.

Professor Farrall: I have not had very much contact with PCCs, but I was going to say that I suspect they are moving in the direction to be more interested in research. Sheffield is one of eight institutions known as the N8, which is a subdivision of the Russell Group, which has recently started work with PCCs, looking at a whole range of policing issues. If you would like more information on it, the person to contact, who is leading the programme, is at Leeds University and his name is Adam Crawford.

Chair: We have a couple of quick supplementary points from Mr Corbyn first.

Q318 Jeremy Corbyn: Thanks for the evidence this morning. I represent an inner-city area, and every couple of months I have a meeting with the police and we go through the crime hotspots map, etc., etc.
know this map very well because it does not change very often. In your research, how much do you factor in, obviously, poverty levels in particular areas of high crime? Also, what bedevils my community perhaps more than most is an enormous population turnover. We are looking at 35% a year in some wards. Do you factor this in in your crime reduction ideas?

Professor Laycock: I think it is part of the reason that that is a hotspot, because you need three things for a crime: you need a motivated offender, a vulnerable victim or object or something, and the absence of capable guardians. In my area we kind of know each other, but where there is a very high turnover people do not know each other and there is a certain anonymity of people there—young people in particular—so they feel that they can offend with impunity because they aren’t going to be caught, as it were.

Q319 Jeremy Corbyn: Have you robustly looked at the neighbourhood watch schemes? Do they actually make much difference? Are they effective?

Professor Laycock: I was once asked that question by the Home Secretary’s secretary. She wanted an answer now and she wanted a yes or a no. I ended up saying yes, but I said yes because I believe the mechanism works. If offenders believe that, if they are seen committing a burglary someone will phone the police, that will put them off. The problem in your area, first of all, is that the offenders don’t believe anyone is going to see them and they don’t believe, if they do see them, that anyone is going to phone the police. In other words, in inner-city high-crime areas neighbourhood watch can’t be implemented. In my area it can be because we all phone the police if we see a burglary in progress, whether we have neighbourhood watch or not. The problem in your area, first of all, is that the offenders don’t believe anyone is going to see them and they don’t believe, if they do see them, that anyone is going to phone the police. In other words, in inner-city high-crime areas neighbourhood watch can’t be implemented. In my area it can be because we all phone the police if we see a burglary in progress, whether we have neighbourhood watch or not. But if that is the mechanism, if that is how it is supposed to work, then it depends on the context. The big challenge in a high-crime area like yours is to implement it.

It was done in relation to repeat victimisation on the Kirkholt Estate, very famously. What Ken Pease did was to take every known victim of burglary and ask their immediate next-door neighbours to wrap a mini-cocoon around them and they called it Cocoon Watch. “Watch out for them; they might be burgled again,” and they introduced the neighbours to each other. Every time there was a burglary on this incredibly high-crime estate they had another Cocoon Watch. After 12 months they launched a proper neighbourhood watch, but it was from the bottom up and they had a 75% reduction in burglary over three years. But that was a very particular kind of neighbourhood watch and it required thought.

Q320 Jeremy Corbyn: In my area, the crime is incredibly localised. If you go 500 metres away from a high-crime area, there is no crime at all.

Professor Laycock: There is a lot of work on hotspots, which we do not have time to go through.

Q321 Mr Chope: Can I ask a separate but related matter relating to foreign national offenders? There are an increasing number of foreign national offenders in our prisons. What can we do in relation to crime reduction policies related to them? Do you think just the same principles apply to them, or do you think there should be a particular focus or a different type of crime reduction policy addressed to foreign national offenders?

Chair: That is a question that silences the panel.

Mr Chope: Pass it down the line.

Professor Laycock: I am not often speechless. I would want to unpick that assertion a bit and find out how many exactly are there, and where are they and where are they—

Q322 Mr Chope: A lot of them are in prison but a lot of them have not been detected yet.

Professor Laycock: If you talk to British Transport Police, for example, about crime on the underground, they will tell you that there are a lot of foreign nationals stealing from people on the underground. It is a big problem for them and they make every effort to deal with that, so they are aware of it. This is why the problem definition is so important. I don’t know of anyone who has actually looked very closely at it, but it is a very good issue to look at.

Chair: We are very grateful to the four of you for your help this morning. It has been really interesting and will feed into the work that we are now doing. Thank you very much indeed for giving us your time.
Tuesday 28 January 2014

Members present:
Sir Alan Beith (Chair)
Rehman Chishti
Jeremy Corbyn
Nick de Bois
Mr Elfyn Llwyd
John McDonnell
Yasmin Qureshi

Examination of Witnesses

Witnesses: Richard Garside, Director, Centre for Crime and Justice Studies, Ben Page, Chief Executive, Ipsos MORI, Professor Andromachi Tseloni, Professor of Criminology, Loughborough University, and Professor Mike Hough, Professor of Criminal Policy and Associate Director, Institute for Criminal Policy Research, Birkbeck, University of London, gave evidence.

Q323 Chair: Good morning, everyone, and welcome. We are very grateful to you for coming along to the Committee today and giving us the benefit of, respectively, your experience, your research or your polling in an area that we are studying carefully at the moment. We have Richard Garside, director of the Centre for Crime and Justice Studies; Professor Tseloni, from the University of Loughborough; Professor Hough, from Birkbeck; and the chief executive of Ipsos MORI, Mr Page. It might be helpful if you could go along the line and give a quick indication of your areas of experience and expertise before we start.

Richard Garside: I am Richard Garside. I am the director of the Centre for Crime and Justice Studies. The centre was originally established in 1931, so we go back quite a long way. We are an independent, non-party political educational charity. Our real focus is on informing the public and policy makers about the operations of the criminal justice system, the causes and consequences of, and solutions to, crime, and social harm. We very much ground our work in evidence, so we have strong links with the academic and research community. Finally, in addition to my role as director of the centre, I am professor at the University of Loughborough; Professor Hough, from Birkbeck; and the chief executive of Ipsos MORI, Mr Page. It might be helpful if you could go along the line and give a quick indication of your areas of experience and expertise before we start.

Ben Page: I am Ben Page. I am the chief executive of Ipsos MORI. We are one of the largest research organisations in Britain. Among other things, we have looked extensively at public perceptions—or misperceptions—of crime and why that might be.

Professor Tseloni: I am Andromachi Tseloni, professor of quantitative criminology at Loughborough University. I am an econometrician by training, but for the last 24 years I have been working with large crime datasets, both national and cross-national. I have worked at universities in the States—the University of Maryland—Greece and here in England: Manchester, Hull and now Loughborough university. My research focuses on identifying risk and protective factors for criminal victimisation and fear of crime, and how these may interact or be conditioned by context or neighbourhood characteristics. More recently, for the last five years or so, I have worked with colleagues from UCL and Simon Fraser University to try to explain the recent crime drop.

Professor Hough: I am Professor Mike Hough from the institute for criminal policy research at Birkbeck. I started my career as a Home Office researcher and was on the team that designed the British crime survey, now the crime survey for England and Wales. Since then I have done quite a lot of research on policing and on attitudes to crime, sentencing and policing. Most recently I have done comparative work looking at trust in justice and perceptions of legitimacy of justice across Europe.

Chair: My colleagues may sometimes identify a particular witness they would like to answer, or it may be obvious to you that this is your own area, in which case please jump in and answer that question, rather than feeling that everybody has to speak on everything.

Q324 Mr Llwyd: Good morning. May I start with Professor Hough? Recently you have said that both the indicators—that is to say, the official crime survey and the police-recorded statistics—point in the same direction: that there has been a substantial decrease in crime over the last few years. However, you have since expressed an opinion that possibly the fall as recorded by the police is not quite as dramatic as they have been saying, for various reasons. There is now a debate about how much crime has fallen. I think we all agree that crime has fallen. The question is: by how much and to what extent? Do you have a view on that?

Professor Hough: Yes. I think the crime survey for England and Wales is probably a more reliable indicator over the last—

Q325 Chair: But you did design it.

Professor Hough: Because I designed it? No, but you must bear in mind that I am attached to the survey—although not in a work capacity any more. Nothing changed about its design over the noughties, from 2001 or 2002 onwards, and there is every reason to think that it is a stable indicator. There is every reason to think that the police-recorded crime system has changed, specifically in the proportion of crimes reported to the police that get recorded. ONS has given estimates of the shrinkage in the proportion of crimes recorded, which is quite marked. It was up at around 90%, but it is now 70%. It is fairly clear what the reasons for that are.
Q326 Mr Llwyd: Could you elaborate on that?

Professor Hough: Between 2003 and 2007–08 the Audit Commission audited police-recorded crime processes quite closely, and it was clear that the new national crime recording standard was being increasingly more accurately observed. The audit stopped in 2007. There were things like Sir Ronnie Flanagan’s report on bureaucracy and Jan Berry’s later report on bureaucracy, all of which were signals to the police that crime recording was not quite as important as it was in 2002–03. The consequence was that there was a lower recording rate of crimes reported to them. I think the evidence is fairly clear on that.

Q327 Mr Llwyd: I think we would all agree that there is a downward trend, which is good, but none the less there are some offences that—if I can put it this way—buck the trend; in other words, they have gone the other way. There has been an increase in some areas. Could you, or anybody else on the panel, describe what they are, and say why you believe this is?

Professor Hough: It is clear that e-crimes—e-enabled crimes, crimes of identity theft and so on—are growing, because that is a new area of criminality. There are some crimes that are probably better reported to the police now; sexual offences are the obvious example. There may be something in the argument that shoplifting is increasing now, according to the police statistics, because of simple need—but we need to look at the trends for longer before we can be certain of that.

Richard Garside: I agree almost entirely with what Mike has said, but I want to introduce a couple of caveats. First, if we look at the very long term, all sorts of crimes have fallen. Homicide in 14th-century England, for example, was about 20 times as high as it is now. There is a good news story, both in the long term and, as Mike indicated, in the shorter term. Over the last 20 years there have also been significant falls, burglary and car crime being really good cases in point. But in some other areas we have seen rises. Street crime, for example, is higher now than it was in the early 1980s—probably; we do not know that for sure. Although the public are often portrayed, at least in some circles, as somehow foolish for not understanding the good news about crime, the experience for some people will be that it has got worse—in the case of street crime, for example.

The distribution is also very lumpy. If you look at, for example, homicide between the early ’80s and the late ’90s, on average homicide rose, but in the richest areas your risk of being a victim of homicide fell. In the poorest areas, your risk of being a victim of homicide increased sixfold, so there is quite a significant difference in terms of both locality and different crime types. One of the things that I often say is that, when we are talking about crime, talking about overall crime does not make a lot of sense. There is a lot of difference between shoplifting, on the one hand, and mass murder, on the other. Unless you think they all have the same underlying cause, it is important that you think about different crime types—how they may have changed and shifted over time, and what the underlying causes of the shifts might be.

Q328 Chair: Professor Tseloni, do you want to come in here?

Professor Tseloni: Coincidentally, we were in a meeting yesterday at the Royal Statistical Society that examined exactly the difference in the slope of the falling trend between recorded police crime and the crime survey data. While it was clear that for serious crime there is not any difference, there is, perhaps, a difference where the crimes are less serious. It could, therefore, be an effect of the targets policy of the police. The police officer would have the discretion to move on to the next call if they thought, for instance, that they were not needed there, and that the victim did not want to prosecute further. That is one reason. For serious crimes, the two datasets are not very different. This is also the case cross-nationally. If we look at the comparative cross-national data, when it comes to serious crime police recorded data and crime survey data, the trends are pretty close. With regard to the trends for different crime types, I agree with both speakers so far. We have to examine different crime types in isolation, not just the overall crime trend, because that is simply the average. For instance, theft of mobile phones increased up to 2004–05, when everything else was going down. There is a slight increasing trend again in the latest dataset. When we look at violence, domestic violence and acquaintance violence have been decreasing, but stranger violence has been pretty much stable since 1995.

Q329 Mr Llwyd: We know, for example, that fewer cars are stolen nowadays because of increased security—the cars are more difficult to steal than they were. What other categories or persons seem to benefit from the fall?

Professor Tseloni: With Professor Nick Tilley from UCL and Graham Farrell from Simon Fraser University, and the kind support of the Economic and Social Research Council, we have examined specifically the reasons for the fall in car theft, and we are now in the process of examining the reasons for the fall in burglary. For car theft, we have distinguished between theft of cars, where the main reasons were the introduction of in-built central locking and immobilisers, and theft from cars, where in-built alarms and central locking were more effective in thwarting these crimes. This is so cross-nationally, because there has been independent research done in the US, by Mike Maxfield, and in the Netherlands. We have also looked cross-nationally at the US and Australia. In all of these countries, car theft started dropping when in-built car crime security was introduced, allowing also for time to renew the car fleet in a country. With regard to socio-economic groups, in analysis we did with Louise Grove from Loughborough University, we found that those who have benefited the most are people living in owned accommodation on higher incomes, not lone parents. I am sorry—can I look at my notes?
Q330 Chair: Of course. If afterwards you think of a point that you wish you had made on something like this, by all means write to us after the session.

Professor Tseloni: We examined exactly this question, which is important. People who own cars are another group who have benefited. You have to have a car to be more protected.

Chair: Yes.

Mr Llwyd: I think I follow that.

Professor Tseloni: What is important now is that people in the most vulnerable population groups are much worse off compared with others than before the crime drop. It seems that crime—or criminal victimisation—is concentrated on very few population groups. As a consequence, in my view, it is much easier to target and, if possible, to eliminate.

Richard Garside: I want to pick up on that point. If you look, for example, at the long-term violence trend according to the British crime survey and other crime surveys for England and Wales, roughly speaking from about the early-mid-1980s it went up, until about 1995, and then dropped back down again. However, if you break down the different violence categories you see a very striking picture. Andromachi mentioned earlier that stranger violence has not really changed. Across the whole period, stranger violence was just level—you were no more or less likely to be attacked by a stranger. Domestic violence, on the other hand, went right up—and back down again. It is worth bearing in mind that your gender, as well as where you live, has an impact on your risk of victimisation. Most victims of domestic violence are women, and most perpetrators of violence are men, so there is a very strong gender effect in relation to forms of violence. If you just look at violence overall, you will miss those very important distinctions.

Q331 Mr Llwyd: I do not know whether this is a fair question, but is it possible to map out geographically where the greatest fall has been? I dare say it is a very difficult question. I was told by a colleague who is a member of the Committee that in his constituency, in Islington, on one side of the road there is a high crime area but on the other side of the road there is not. Is it possible to give some kind of snapshot of where, across England and Wales, we are now seeing the greatest decrease?

Professor Hough: It should be possible to do that analysis. I do not think that the Home Office or the Office for National Statistics has done it, but Professor Tseloni may have.

Professor Tseloni: You can do it at the regional level or, possibly, at the level of police force areas, but with a very large error for police force areas. We have done it at the regional level.

Q332 Mr Llwyd: At the level of police force areas, obviously you would be looking at the police-recorded crime figures.

Professor Tseloni: No—it is with the crime survey for England and Wales data. Originally, when the sample was increased back in 2001–02, it was done so that it would be representative for each police force area. Now it is down again slightly, which would affect sampling error.

Q333 Chair: Don’t insurers collect this information by postcode?

John Muscatelli: They published burglary rates for towns last week. I know, because my town came in the top 10, unfortunately. I think that was for insurance.

Ben Page: That will be helpful, but of course it will focus on people who are insured, so there will be some coverage issues.

Q334 Chair: But they make an analysis of where they think the risk levels are higher. That can be a bit arbitrary because, as in the example given earlier, the same postcode will include high crime and low crime areas.

Ben Page: In our work—looking at about 25,000 interviews last year—interestingly, it is older people, wealthier people, white people and Welsh people who are least anxious about crime at a whole. This is when we ask people whether it is a problem facing Britain, rather than a personal problem. Young working-class and, particularly, black and Asian people are most worried. Of course, in some ways young people are most likely to be victims of violent crime.

Q335 Chair: Has anyone studied the figures in an attempt to establish more clearly what displacement takes place from those crimes that become more difficult to do? We have had the example of car crime. Do we know whether there is significant displacement to another crime?

Professor Tseloni: We looked at car crime, and there was no significant displacement to older cars. Colleagues from the Netherlands have also produced a study, which I have submitted here, in which they looked at the effect of in-built burglary security devices in new homes from 1999, when those became mandatory. They did not find any displacement to older homes. What they found was that there was a 26% drop in burglary for the areas with newly built homes, compared with the older building stock, but this was diluted nationally. Over a period of 10 years, there was a 5% drop in burglary at national level, just because the housing stock was replaced. They did not find any significant displacement.

May I introduce here something that is close to my heart? The Secured by Design standards are now at risk of being removed from the planning and housing standards. Although it is really nice to have simple guidance, I wonder whether we should not also have mandatory standards for burglary security in newly built homes. Without those, we may see burglary go up in the future.

Q336 Rehman Chishti: On the issue of burglary, you said that it is a lot to do with housing and new build. In Medway in Kent, the area where I live, which has a population of 270,000, there are only two burglaries a day, according to Kent police. Does that mean that it is less to do with Kent police and more to do with housing development?

Professor Tseloni: Two a day, according to the police?

I need to compare that. How large is the area? What does it mean in terms of risk?
Q337 Rehman Chishti: In terms of risk, it is 50 miles from London and has a population of 270,000, with high levels of deprivation, so it is not a leafy green area. Kent police say that there are only two burglaries a day in that area. Is that to do with policing or is it more to do with house building and the criteria you have just outlined?

Professor Tseloni: Because it is police-recorded crime, it would have to have some input from the police, because the police have to be notified and attend; that is the usual caveat. It would be interesting to see what kind of security there is for the houses that have been burgled and for the houses that are close to the burgled households.

Professor Hough: May I come back to the point about prevention and displacement? You can have displacement, but it is important to remember that you can also have diffusion of benefits. If you prevent one form of crime, you may have a spillover into other forms.

Q338 Chair: That is what I was thinking about; that is what I meant by displacement.

Professor Hough: No, I mean a spillover of benefits. If you remove a form of crime or reduce the opportunities for crime—say, for car crime—people may have the lower rungs of their career ladder removed, and they cannot climb further up the ladder.

Chair: I see what you mean.

Professor Hough: So yes, there may be displacement, but there may be benefits for other forms of crime when you squeeze down.

Q339 Chair: So you have undermined the career structure of crime.

Professor Hough: In a way, yes.

Professor Tseloni: This is a possible hypothesis to explain the drop in violence, which happened a few years after the drop in car crime and burglary. It could be due to the spillover effects from truncating offending careers at the car crime level. In the '80s and early '90s, it used to be very fashionable for young lads to go joyriding. If this is now impossible and opportunistic car theft is out of the question, they may turn their attention to something more legitimate, like playing sports.

Q340 Rehman Chishti: I want to move on from the category of “Is recorded crime really falling?” to “Why is recorded crime falling?” Can I get some explanations for this? To what extent can we now adequately explain why crime has reduced—first, in the United Kingdom, and secondly, internationally?

Professor Tseloni: It is important to note a few things. First, crime dropped internationally. This means that the drop cannot be explained by criminal justice changes within any specific jurisdiction. For instance, work by Professor Zimring found that crime fell in the US and Canada similarly, but in the US sentencing went up during the same period, whereas in Canada it stayed stable. Sentencing, therefore, is not an answer. It should be something that modern societies have introduced—changes that have happened in all those societies during this period. It should also be something that explains the previous crime rises—the hikes from the '60s up to the mid-'90s.

It is also important to notice that US crime fell earlier than in Europe, so the explanation would be based on factors that appeared first in the US. One such explanation is opportunity. From the '60s onwards, the economies were thriving and there were more consumer goods around, so there was more opportunity to steal things. This created a circle of fear of crime and then more target hardening, which appeared first in the US and subsequently in Europe. That is responsible for the crime falls we have seen since 1995 in Europe and since the 1980s in the US. It is explained in our statistical analysis of car theft and burglary.

It is also important to notice that, cross-nationally, car theft and burglary started falling first, at the beginning of the 1990s. Then, from 1995, it was theft from the person and theft from cars. Finally, from 2000 onwards, there was a fall in violence. This time line for the falls in different crime types could again be explained by the debut crime hypothesis, which Nick Tilley introduced, that removing the opportunity for car theft and burglary may truncate criminal careers. There is also less opportunity for violence related to the stolen goods market.

Ben Page: Obviously there is what the professionals around the table would call target hardening, but there is also the point—Mike will probably pick this up—about social change and acceptability. Societies have become more intolerant of violence, and more tolerant generally. I think you can see some of that. There are issues around the birth rate. There are even suggestions by some of my colleagues that mobile phones distract teenagers more than was the case when, say, I was growing up in the 1970s. It is a global phenomenon that is enormous in terms of its impact on society, but we still do not understand it as much as we might. There are things that you would notice, like better regulation of certain environments, but undoubtedly social change plays a part. Just look at attitudes to drink driving, homosexuality or anything else. There have been massive changes, generally in one direction.

Professor Hough: I think there are very long-run trends that reflect a trajectory towards civilisation; I am quite an optimist. There are specific factors driving particular forms of crime up and down. For example, the reduction in the consumption of alcohol in the UK from about 2005 is very probably a factor in explaining the reduction in violence. So you can look to crimes for specific explanations. These seem to interact with more general ones at the same time.

Richard Garside: I urge the Committee not to look for a general theory of why crime as a whole is falling, because except at a very abstract level—which from a policy point of view is not particularly helpful—I suspect that you will not shed much light on the problem. I would break down the causes of crime falls—or, indeed, other crime changes—into three broad categories. There are the superficial factors. Why is burglary falling? One of the reasons is that houses are more difficult to break into and cars are more difficult to steal. So there are some important but relatively
Q342 Rehman Chishti: So when you see an article that says, “Crime has gone down by 10%”?

Professor Hough: No, that is the measurement of crime. It is the explanation of the 10% fall that is the problem.

Professor Tseloni: With regard to car crime and burglary, the explanation is that there are now fewer opportunities. My research team is pretty clear about that; I do not know whether it is clear to everybody else. One reason that confirms that is that the population groups with less security than others are now much more at risk of burglary than they were before the crime drop in 1995.

Q343 Rehman Chishti: Moving on to a final question, if I may, why has the recession not caused an upturn in the crime statistics, as many criminologists had expected? Professor Hough, I refer you to a quote that you gave in 2013: “This fall is striking and unexpected, especially in view of the fiscal crisis, whose impact is bearing down sharpest on the poorest and most marginal social groups.”

Professor Hough: I was one of the people who said that the recession would kick crime up at some stage. I have yet to be proved right. I suspect that different recessions have different cultural meanings, and that the ‘70s and ‘80s recessions meant different things to the people at risk of crime, compared with now, but I have not really got much further than that to explain it. I may be proved right, too.

Richard Garside: If you unpack the different crime types, the largest single crime type in the crime survey for England and Wales—Mike will correct me if I am wrong—is car crime. When you have such a large volume of that particular survey on a downward trajectory, which is probably nothing to do with the recession but is to do with changes in technology, even if other crime types were going up they would have to be big volume crimes to buck that overall trend. Some changes in crime types are probably counter-cyclical. They are not necessarily related to economic processes, at least not directly. They may be in the long, long term, but not directly.

This may be the case more for other things, such as violence. I will not be overly surprised if we see increases in levels of domestic violence, in particular, in the coming years, but that is not necessarily the case. Partly, it will depend on other factors, such as the degree to which cultural attitudes have changed and it is just considered to be less acceptable to hit women, and the degree to which women are more economically independent of men and so do not have to stay in an abusive relationship. Those kinds of things will cut across other factors.

As I said, if you try to answer the question, “Why has the recession not led to a rise in crime?” I think you are asking the wrong question. The question is, “What is the relationship between certain economic processes and certain types of crime?” You can then see some possible relationships—but, as Mike said, it is not at all clear.

Chair: Mr de Bois has a supplementary point.

Q344 Nick de Bois: Professor Garside, notwithstanding your warning not to look for
generalties, are there any specific crime areas where the changing age demographic has meant that there are fewer younger people and more older people? Do you think that has an influence on figures? I may be wrong, but I am assuming that more younger people commit crime than older people.

Richard Garside: Certainly more younger people are drawn into the criminal justice system and processed as offenders. That does not necessarily mean that more young people are committing crime. There are people who regularly try to get my credit card details from some kind of dubious place in the world; I do not know how old they are. We have seen in relation to some issues around financial crime, corporate corruption and, indeed, state crime, that the people doing that kind of stuff are not necessarily 25-year-olds. For sure, those types of offences that may be related to younger people—

Q345 Nick de Bois: Car crime, for instance.

Richard Garside: Car crime, potentially—and forms of homicide. The largest age group for victims of homicide is the late teens and early 20s. Probably a lot of people are doing it and killing one another. It is worth bearing in mind that it is a relatively rare offence; none the less, changes in age profiles can have an impact. However, that will be offset by other policies. If you have a very inclusive education system, that will tend to offset some of the issues relating to youth crime, for example. Likewise, if you have a healthy jobs market, that will tend to offset some of the issues relating to youth offending and youth crime.

Ben Page: We have fewer young people, and they are actually better behaved than they have been for a very long time. They are drinking less and taking less drugs. Our young people today are just not as revolting as they were in the 1970s. That is almost certain. We may or may not be around to look at it in the 2020s—or we may be doing different jobs—but the population profile is changing. You have this cohort going through school now. With more young people again, will you see the figures go up? We do not know. We will wait and see.

Q346 Chair: I will come back to Mr de Bois shortly on another point. From what several of you have said in the last half an hour, one could draw the conclusion that there is not much point in the Government thinking better parenting reduces crime.

Professor Hough: We have been talking as if the criminal justice system had no impact on trends. I think it does have an impact, but a smallish one. We should not forget the fact that you can buy reductions in some forms of victimisation. Again, that is at the bottom of their list. They believe better parenting reduces crime. That is probably as important as the quantity of the criminal justice system—how it relates to people—is probably as important as the quality of the criminal justice system. We should not forget that there is important that you can buy reductions. The quality of the criminal justice system—how it relates to people—is probably as important as the quantity of the criminal justice system. We should not forget that there is important that you can buy reductions in some forms of victimisation.
the interests of every society to raise a well-rounded new generation of citizens. If we look at this as a very narrowly focused crime reduction policy, perhaps we are missing a point. There are a lot of unintended crime reduction consequences of policies we would need to have as a modern, welfare-based system society.

Q348 Nick de Bois: Professor Tseloni, is the public’s fear of crime proportionate to the levels of crime? Could you summarise? In your opinion, what explains any disparity that I suspect exists?
Professor Tseloni: There has always been this idea that, on average, fear of crime is disproportionately higher than crime rates. Work by Brunton-Smith and Sturgis from the University of Sussex—I did not do this work, so I have to reference the people who did—it has analysed fear of crime. They examined the exact relationship between different socio-economic groups and fear of crime, as well as how that is shaped by the neighbourhoods in which they live. According to their results—which I find totally trustworthy, following the analysis they have done—it seems that the public are very rational about fear of crime. Their analysis shows that, as crime rates in a neighbourhood rise, fear of crime rises. It rises more for single victims. If non-victims live in a no crime area or a very low crime area, they have no fear of crime. If they live in a high crime area, they have a certain level of fear of crime, but with single victims, as the crime rate in their neighbourhood increases, their fear of crime increases further. In the very high crime areas, it is double that of non-victims. The interaction between personal experience of crime and neighbourhood crime rates creates this level of fear of crime. For repeat victims, it does not really matter whether they live in a criminogenic area or in a non-crime-ridden area. They have a high fear of crime because they have experienced crime quite frequently.

Q349 Nick de Bois: To press the point, are you saying that whether a group of people are more fearful of crime is more dependent on whether crime has come to or exists in their area, or whether they live in an area where there is no crime? There is no other grouping you could think of—not younger, older or whatever it may be?
Professor Tseloni: Vulnerable people such as females and those with long-term illnesses are also more fearful of crime if they live in neighbourhoods with visible signs of incivility, such as low-level violence. It is more accentuated.

Q350 Nick de Bois: That is right.

Q351 Nick de Bois: Mr Page, do you want to come in?
Ben Page: We all know this, but it is the difference between the national and the local. Richard Garside is rightly pointing out that we need to look at specific sorts of crime if we are trying to know what will reduce them. If you really want to dig into crime, you need to start talking about people’s lived experience and what they think about locally, as well as the national debate about crime. The two are interconnected. People who read tabloid newspapers are much more concerned about crime than people who read broadsheets. Is that because the tabloid newspapers cover crime, or sensational crime, more, or is it because those people turn out to be more working class and live in more deprived communities, and might be more likely to be victims of crime? That is certainly there.

Q352 Chair: So there is a correlation; you have established that.
Ben Page: Oh yes. It is the same on immigration. The gap is bigger on immigration than it is on crime, but certainly the media have an impact. In the monthly survey that we do—the report we do every month, in which we just ask Britons, “What is the biggest problem facing this country?”—overall mentions of crime as an anxiety peaked in 2007, long after the actual peak in crime, with the murder of Gary Newlove and the shooting of Rhys Jones. Those were two signal crimes at the national level. We have not talked about signal crime yet, but it is hugely important. That leads to these sorts of gaps, so that 58% of people in Britain don’t think that crime is falling; they disagree with the figures. There are all sorts of reasons for that, and I guess there are all sorts of solutions that one could postulate.

Q353 Nick de Bois: Let me link the two points, if I may. Your organisation, Ipsos MORI, looked at the UK media disproportionately focusing on serious and violent crime. I think you demonstrated that 45% of crimes reported in newspapers involved sex or violence, compared with only 3% of crimes taking place. Are you saying that, apart from the localised groups Professor Tseloni talked about, we have a greater fear directly because of what we are reading in the newspapers? In your opinion, is that something that will drive policy?
Ben Page: It is certainly true that you cannot say for one second that there is a completely dispassionate reporting of crime by the news media. However, another report that we did looked at the views on a whole range of issues of people who never read newspapers and of those who read them, to look at what their overall levels of anxiety were. There we did not actually find much difference. Certainly media reporting of crime could not be described as balanced. Whether or not one believes in greater regulation—personally, I do not—there is a huge debate. There are so many issues on which the British public are way off-beam in terms of the facts of the country they live in.

Q354 Chair: Can you clarify what you have just said about the non-newspaper readers?
Ben Page: We looked at the people among the population who read newspapers—people who reported reading a daily newspaper. It is a report called “You are what you read”: it is on our website and was written a few years ago. We looked at those who never read print media but may rely on TV news or radio news, which are slightly more regulated than print media, and at those who looked particularly at
newsletters. We found that there was one issue where there was a big gap, but it was not crime.

Q355 Nick de Bois: I am conscious of time, so may I move on to Professor Hough? I do not tweet Government statistics very often, but recently I did tweet the British crime survey statistics, which turned out to be a bit of a mistake. I was reinited in by people telling me how disconnected I was from reality, saying that these statistics were absolute rubbish and so on; we have touched on this. In your opinion, to what extent is the perception among members of the public that crime is not falling related to a mistrust of statistics? Are we beyond saving? Will anyone believe statistics? What is your experience, and what are your thoughts, on that?

Professor Hough: I suspect that people are pretty suspicious of Government statistics across the piece, and that this is part of that general problem. The media focus on good stories—and good stories are about crime rising. They do not focus—at least, not until very recently—on crime falling. I suspect that is the driver of this extraordinary statistic that most people think crime is rising when it is not, except in their area. In their area, people have a sense that crime is going down.

Q356 Nick de Bois: But it seems that that is a phenomenon we are going to have to live with. Mr Page, it will not go away even if we say that no Government spokesman should ever comment on figures and they should all be independent. Is it too late?

Ben Page: I think it is incredibly hard. You have 7% of the British public who believe that politicians use official statistics accurately. Asked whether they have confidence in their own ability to understand statistics, 36% admit that they do not, and we suspect that that is an underestimate. However, I think there are things that can be done. One habit of politicians of all parties is to focus on what we would call vanishingly rare statistics. An example from another area might be the very small number of households claiming over £100,000 a year in housing benefit. I think the figure was five. Of course, that gets reported. It is five, but it is five out of a population of 63 million. Of course, it helps a politician make the arguments, but you could not really argue that it is balanced. It is the same with murder. Humanity is naturally drawn to bad news—literally, and we go and deal with it, but I think there are things to be done about trying to call for a more balanced argument. You might argue that pensions is a less exciting topic than crime, and the parties have managed to talk about that without some of the “he said, she said” type of activity that makes things worse, because you end up with reputable sources such as the British crime survey just being seen as yet another statistic. However, we have found that it is incredibly difficult to shift people’s views. If you show them the actual numbers and tell them that they come from an independent charity, they do believe them a little bit more than if they are from the Government, which may or may not be the right thing to do; official statistics are very carefully compiled.

I think organisations such as Full Fact and the UK Statistics Authority should be encouraged to try at least to create a level playing field and some basic facts we can all agree on. What I would find unpalatable is our becoming more like America. There was a great piece in the Chicago Tribune during the 2012 presidential election that talked about the death of Facts, along the lines of “He was ill for a very long time, but has now finally left us”. There are some things that we can agree on.

Richard Garside: The point about the way that politicians use statistics is important. One of the good things that happened to crime statistics some years ago is that they were all published in one block. There was a time when you would have the British crime survey published, with crime going down—great. Two weeks later the police crime data would come out, with crime going up. Unsurprisingly, members of the public—never mind parliamentarians—were thinking, “What on earth is going on?” The Home Office did some very good work in the late ’90s and into the noughties to try to pull those datasets together and explain their differences. You had the chief statistician regularly meeting journalists, talking through the figures and explaining the differences. I like to think that the current reporting on crime statistics, which is generally probably better than it was—certainly a decade ago—is partly the result of that shift in the way that the statistics were compiled, communicated and explained. The police data are now slightly up in the air because of questions over those, but the long-term direction of travel has been very positive.

Q357 Nick de Bois: Professor Hough, I have one last question for you. Can you give me your opinion on the extent to which public trust in prisons, probation and the courts is measured or monitored? Do we do that?

Professor Hough: The crime survey for England and Wales has a trend—quite a short one—on trust in the criminal justice system. The broad picture looks pretty stable, with some indication of trust in prisons, trust in courts and trust in probation increasing. The long run trend that we have is on confidence in the police, which shows a very long run fall until the mid-noughties, followed by a recovery. The important thing to bear in mind is that probably beliefs about and trust in the police flow through into trust in the rest of the criminal justice system. We have done an analysis of what the drivers of trust in courts and trust in probation are. People’s views of the police are a significant factor. So the police—

Q358 Nick de Bois: are really seen as the criminal justice system in the eyes of the public.

Professor Hough: And they have an effect that washes through the rest of the system.

Q359 John McDonnell: Can I pursue the trust issue? Our whole debate seems to be about understanding and trust, both by ourselves and by the general public. From the papers we had, I thought there had been a fall in trust until about 2003, when it stabilised. Is that true? What are the reasons for that?
**Professor Hough:** I do not think we have consistent measurement of trust in courts and trust in prison and probation, but I may be wrong.

**Ben Page:** We have asked about it since 1983. I looked up the figures on the way here. In 1983, 77% trusted the judges and 61% trusted police to tell the truth; 18% trusted politicians to tell the truth. In 2013, 82% trusted judges, 65% trusted the police and 18% trusted politicians. So it is pretty flat for all those groups.

**Q360 John McDonnell:** In terms of the priority of the issue with the general public, since your “Closing The Gaps” report of 2008 has it remained a top priority?

**Ben Page:** No, it has gone down. This is partly related to concerns about the economy, but very recently we have had some of the lowest levels of anxiety—at least, spontaneous anxiety—about crime at the national level, as opposed to the local level, that we have ever seen. At one point in the last few months it fell to 15%, so it really is not there. Is that because of media coverage? Is it because of genuine falls in crime? It is pretty much at an historic low in terms of levels of anxiety, compared to that peak, as I said, just six or seven years ago, in 2007.

**Q361 John McDonnell:** Going back to some of the issues that you raised before, for the record, could you say what we know about what the public think is effective in reducing crime, as against what the research says is effective? Where are the disparities?

**Professor Hough:** People want to see more police on the beat, and tougher sentences. Those are the most salient things on their wish list. I think there is a criminological near-consensus that tougher sentences will not hit the spot. It is more contestable whether things like neighbourhood policing will have an impact. The public’s model of policing is a fairly straightforward, simple deterrent one. The reality is that probably people’s behaviour is shaped by the legitimacy of the justice system, the broader legitimacy of the political system and other factors to do with parenting and schooling, but people think in deterrence terms.

**Q362 John McDonnell:** Yet parenting comes out quite high.

**Ben Page:** When you offer it as a choice.

**Q363 John McDonnell:** So when you diagnose the problem.

**Ben Page:** If you add things like better parenting to the list, it comes top, but if you ask people, “Do you think sentences are too tough, about right or too lenient?” they will say that they should be tougher. When you expose them to what the actual sentences are for particular crimes—once they look at it—their views sometimes change; my colleagues will probably talk about that. In the broader sense people do talk about society as a whole, and it is not just about the criminal justice system.

One of the interesting things I find in public opinion is that they like strong sentences and locking people up, but they genuinely don’t seem to think it actually reduces crime. Obviously it is the punishment part of it that they like. In answer to questions about cuts to the criminal justice system after 2010, the most popular area of cuts is reducing education in prison, when that is offered on a list. The least popular, of course, is reducing the number of police.

**Q364 John McDonnell:** Does the visibility of those cuts have an impact on confidence in the system?

**Ben Page:** It hasn’t so far. The cut that people have most noticed so far since 2010, at the aggregate level, is potholes. Among users of specific services, it is care for the elderly.

**Professor Tseloni:** The international crime victims survey, which is the only comparative crime survey that exists—since 1989—has been questioning them on a sentence that ought to be given to a hypothetical young lad who stole a TV. The answers that the public gave cross-nationally were less punitive than the actual sentence that would be given for that crime.

**Professor Hough:** There is a particular paradox here. People think sentences ought to be toughened up, and actually they sentence rather like magistrates. They are quite surprised when they hear Crown court sentences.

**Q365 John McDonnell:** That is interesting. So the general public view, which is what you are trying to educate us about, is a very deterministic view, from a general analysis, but when there is a debate around specifics it can be quite a sophisticated response.

**Professor Hough:** Yes, precisely.

**Richard Garside:** Some years ago we did some work with the Magistrates’ Association; it was called Local Crime: Community Sentence. It was work presenting scenarios to the public, a bit like what Andromachi has just described, and asking, “What kind of sentence would you give?” It then went through some of the mitigating factors—maybe he was only a young person, with a difficult family background, or whatever—and the process of how decisions are made. Fairly consistently, once individuals had been taken through that process, they would often revise down their initial assessment of what an appropriate sentence would be. So the role of education and of public engagement in institutions is really important. Obviously, it is really important that the public have trust in public institutions, given that the criminal justice process as a whole has a relatively small impact on underlying crime trends, although I agree with Mike that it is not completely insignificant. There is an argument for saying the public have too much trust in the criminal justice system as an answer to problems, so one needs to balance that out—but clearly public trust in public institutions is important. Which institution is delivering what, and to what end, is an important qualification.

**Q366 John McDonnell:** I understand the argument around the trajectory towards civilisation—we all support that, I hope—but the argument that you are putting is that a more thorough understanding elicits quite a sophisticated response. The importance of politicians not using statistics in a way that
undermines the ability to comprehend the system is therefore quite critical.

Professor Hough: We think in terms of people having top-of-the-head attitudes that they often produce in response to surveys, but if you scratch the surface you get more considered views. People we talk to, “Yes, these are really complicated issues.” They are not simpletons, but they have a top-of-the-head response to quick questions.

Chair: A couple of my colleagues were greatly delayed, I understand, on the Victoria line this morning, which meant that they missed the earlier part of the questioning. I will give them the opportunity to ask a couple of supplementary points.

Q367 Jeremy Corbyn: Thank you, Chair. Yasmin and I had a very interesting discussion about justice matters at Green Park station. Had you all come to Green Park station, we would have been happy to question you there; it would at least have been different.

You have all studied very well issues of perceptions of crime. I have two questions. First, do you try to engage with the media about the reality of crime—statistics as opposed to perceptions, because we have uniquely bad media in this country, which are obsessed with violence and sex to the exclusion of almost anything else? Secondly, do you see any big difference between recorded crime and what I think is very interesting—the reality of crime that the British crime survey shows up? There are often quite big discrepancies between those two areas of statistics.

Richard Garside: As an organisation we do a lot of that work. Indeed, when the latest dataset came out I spent a number of hours on the phone to various journalists talking about the statistics—what they mean and do not mean. I am sure Mike did much the same; he does a lot of that work as well. It is really important to do that work, and for journalists to trust that what you are doing is explaining the statistics rather than trying to spin them a line or sell them a particular agenda. We take that work very seriously. As I mentioned earlier, putting all the statistical sets in one place and then trying to explain the differences has been beneficial. In relation to the difference between the recorded crime—the police data—and the survey data, one way of looking at it is that those data are compiled in different ways and tell you different things. I often say that trying to make sense of crime in your area according to the police statistics is a bit like going to your local accident and emergency department and seeing who turns up. You would then think that you have a major problem in your area of kids with saucepans stuck on their heads and drunken people who have got into fights. The police data tell you what incidents the public have gone to the police about and reported to them—or sometimes, what incidents the police have come across—and, in addition, that the police have recorded and, in addition, that they have recorded in such a way that it conforms to particular requirements from the Home Office in terms of the notifiable crime stats.

What you have in the crime survey is people being approached in their homes by researchers and asked to recall incidents that happened. There are issues there as well. A significant number of the population say, “I can’t remember whether anything happened.” So the survey data are not as much of a gold standard as Ministers sometimes imply.

Ben Page: I think the trends are clear.

Richard Garside: Yes, the trends are clear. For reasons I have gone into earlier, there are different trends. One of the problems is that there has been a tendency to say, “If we take the police data and the survey data and they are both going in the same direction, that means crime is falling. If they are both going in a different direction, that means crime is rising. If one is going one way and one is going the other, we need to try to explain the divergences.” Actually, they are just different datasets, compiled in different ways for different purposes. There is a degree of comparing apples with pears going on when people try to balance one off against the other.

Professor Hough: On the press, it quite easy to have continuing dialogue with the broadsheet media and the broadcast media, but I very rarely get approached by anybody else. The red tops are not really interested.

Q368 Jeremy Corbyn: Do you approach them?

Professor Hough: I don’t approach; I wait to be talked to. That could be a problem.

Jeremy Corbyn: You might have a long wait, with some of the press.

Q369 Chair: They are studying the criminal justice system more closely.

Professor Tseloni: Universities have press offices now. If we come up with some interesting findings, they will issue a press release and send it around. It is then up to the newspaper to do a more in-depth interview or to talk to the researcher.

Professor Hough: But it is the broadsheet press that get interested in our sorts of stories. That is the sad reality.

Q370 Jeremy Corbyn: I think that a more proactive approach is a good idea. I meet my local police—as I am sure colleagues do—every month or so. We discuss their policing objectives and what their priorities are, and they are often wildly at variance with what the national data—police data—are reporting at any one time. I end up in the position of defending the police on their policing objectives, because they are looking at the objective issue of crime in the area rather than at whatever the local papers report. I wonder whether there should not be a much more proactive approach by those, such as yourselves, who seriously look into issues of crime and public perceptions of it.

Ben Page: I think a vigorous, and perhaps, better-funded, organisation to try to speak truth unto power, without fear or favour, to the media and politicians on their use and reporting of statistics would be a good thing. There are various organisations doing that, but we think that would be desirable.

Leaving aside what is in a newspaper, it is true that very specific local information about actual incidents of crime and what is being done about it almost at a neighbourhood or street level is beneficial in the work that we have done. I used to live on a square where
the police would say, “There have been no burglaries this year, there was one last year, and the year before there were two.” It just gives you a sense of being able to make your own judgment about where you live. Of course, the resources to do that need to be considered; some of the initiatives on crime mapping may or may not help with that. I do think that an independent body that was cross-party and tried to talk about flagrant misuse of statistics in this area, particularly with the red tops—or at least tried to get the red tops to pay attention—would be beneficial, just to shame them.

Q371 Jeremy Corbyn: An office of statistical responsibility?
Ben Page: Yes. I would say that; I like statistics. Perhaps we will see a gradual education in this area.
Professor Hough: As Ben said, bodies such as Full Fact are doing a really good job.

Q372 Yasmin Qureshi: Correct me if I am wrong, but irrespective of what bodies are doing the work, isn’t the real problem here that, when you do approach the tabloid press to give them the facts and figures, they are just not interested?
Ben Page: To be quite honest, if a tabloid rings me I turn on a tape recorder. My limited experience with the tabloid press has been that they are not that interested in facts.

Q373 Yasmin Qureshi: That is exactly what I was going to say—so it does not really matter how accurate the statistics are. Most people read the tabloid papers on a daily basis. Quite often they print a load of lies and misinformation; we know that. Frankly, they do not care, as long as they get a picture of a naked woman, some threecomes or whatever. That is what they are interested in, isn’t it?
Richard Garside: In defence of the tabloids, we do not do as much work with the tabloid press as we do with the broadsheets and the broadcast media—for sure. As Mike said, they are generally not as receptive. However, we have done some good work with the tabloid media. I would not automatically assume that they are not interested in the facts or in presenting them to their readership. To a degree, perhaps, they play a party political game in a way that the broadsheets do not. The tabloids that are strongly aligned with the Labour party, for example, are always looking for good knocking copy in relation to the current coalition Government. Likewise, when Labour was in power it was the same with those that are more aligned with the Conservatives. That does have an impact. We have certainly written comment pieces for the tabloid press on crime stats, and they have not asked us just to write them in a way that they would want to. However, those opportunities are not as great as within the broadsheet media; that is for sure.

The other thing, of course, is the online stuff. So much more content now is online. Broadly speaking, notwithstanding the fact that the Daily Mail is possibly the most viewed website in the world—or something extraordinary like that—in my experience tabloid media web presence is just not as developed and sophisticated, in some ways, as the broadsheet media can be, so there are fewer opportunities.

Q374 Yasmin Qureshi: I know that the average constituent of mine will be reading The Sun, the Daily Mail and the Express. A lot of them may have the internet, but they will not really go on it for that. Some will, but the impact that the print media have is far more significant. The internet is there, but on a daily basis it is still the print media that most people look at first thing in the morning, over their cornflakes.
Chair: Is that a question to Mr Page about his earlier survey comparing readers with non-readers?
Ben Page: We found that at the aggregate level there isn’t a difference, although the British crime survey says that people who read tabloids are more worried about crime than people who read broadsheets. Is that a function of their reading a newspaper, or a function of their profile and who they are—being poorer, more working class and, therefore, probably more likely to live in areas with high levels of crime? Undoubtedly people are swayed by media coverage; I give you the coverage in 2007, which, as I said, was the peak in anxiety about crime. In defence of the tabloids—as I have said that I sometimes find them difficult to deal with—mostly they are not making up the child murders and everything else that they report, but this is about the relative amount of attention given to those. We are back to these vanishingly rare statistics and the focus on those relative to what is happening overall. I think that sort of balance, and how one tries to achieve it, is particularly important.

Q375 Chair: Can I put it to you that politics is not the only issue that drives in this direction? It is also that indignation appears to be a selling point.
Ben Page: Yes.

Q376 Chair: Having a headline that makes people angry because they think that somebody has an inadequate sentence seems in their minds, at any rate, to be the kind of thing that will cause readers to continue to buy their newspaper.
Professor Hough: Yes, I totally agree. News values are not driven by politics alone. But politics impacts on them.

Q377 Chair: All this, in turn, can have an influence on the political system as well. When this Committee produced its previous report on justice reinvestment, we were seeking to create a space in which we could have a more evidence-based discussion of what works in the criminal justice system. Do you think that that has happened, and that the political rhetoric has changed significantly?
Professor Hough: I do not see it at the moment. If people get used to the idea that crime is not out of control, it will put less pressure on politicians and may create the space you want, so it may be possible for the future. I also think that centres that are set up to marshal evidence, such as NICE and the What Works centre for justice, may prove significant, but at the moment I do not see a big shift.

Q378 Chair: Would anyone else care to comment?
Richard Garside: Again, I would make a distinction between criminal justice policies and other areas. In relation to prisons and policing, certainly, there is not an awful lot of evidence of evidence-based policy and practice in those institutions. There is to a degree in probation, possibly. Probation has applied quite a lot of the lessons of research evidence over a number of years. However—partly because they are so subject to point scoring and other things—I think those kinds of explicit criminal justice policies have been a bit tricky.

In some other areas—you can go right back to the Crime and Disorder Act 1998 and the impetus for local authorities to play a more active role, working in partnership, or you can think, more recently, about things like the MAPPA arrangements with probation and a broader collection of local partners, seeking to manage certain identified problems—you could argue that there has been some sign of progress. For sure, if you read the latest journal article on the relationship between homicide and underlying social processes, there is not much evidence of that feeding through into the policy arena, but that is probably partly because the journal article is written in such an inscrutable way that you need a PhD in statistics even to understand what the article writer is saying.

Ben Page: I would just observe that the lower level of overall public anxiety about crime at the aggregate, and almost, I would say, political, national level at the moment—because it is all about immigration, the economy and the cost of living crisis in various ways, if you are look at our monthly poll—in a sense gives both, or all three, parties a space, if they wish, to have a less passionate and more dispassionate argument about some of this. As we now run up to elections of various kinds, let us see if we can maintain that.

Q379 Chair: On a more technical point, the chairman of the UK Statistics Authority has observed that it is likely that recorded crime will increase as a result of efforts to improve the legitimacy of crime statistics. If that happens, does it not have to all sorts of implications for other policies, such as payment by results, depending on whether something is classed as an offence and recorded as such?

Professor Hough: Yes. It will clearly create problems for any metric that rewards performance according to stats. I imagine that HM inspectorate of constabulary will launch a programme of audits to improve the quality of crime recording. That will certainly drive the recording rate up and may turn it into an upward trend, even if the British crime survey continues down. Where that leaves things like payment by results is very hard to see.

Richard Garside: Ultimately, it depends on how the payment-by-results arrangements are agreed. That is still very much an open question. You can make a distinction, for example, between crime that is recorded and convictions that are secured. If payment by results is more focused on reconviction rates, that will not necessarily have an impact in relation to recorded crime rates; they are two separate datasets. In the long term it might, because, if recording practices are going up, that may lead to more people coming to the attention of the police and more prosecutions. However, my understanding of some of the problems with the police crime data has been not so much that information has not become available to the police but that they have just not been recording it, so they will continue to know who is around and what allegations have been made.

I am strongly in favour, in one sense, of an increase in the amount of recorded crime, and of the police being encouraged to report and to record in a consistent manner offences that come to their attention—and in a fair manner, as well, so that you do not have them recording an incident as something when it is really something else because that helps with their internal targets. I would be more concerned about the impact in terms of policing and policing targets than about the payment-by-results stuff. I think payment by results is bonkers in other ways, but in terms of the police-recorded data there will not necessarily be an impact in the way that some fear.

Chair: Perhaps I should reveal, in conclusion, that about 20 years ago I was summoned to appear as a witness in a police disciplinary inquiry when a police officer was accused of having revealed information about the way crimes were being recorded. It included the disappearance of a rabbit hutch, with rabbits in it, which was, in the police terminology, “recorded off,” because the rabbits could have escaped. How they would have removed the hutch was not made clear. In other words, this is an old problem.

John McDonnell: Years ago there also used to be the problem of offences taken into consideration. Prisoners would be visited in prison, and that is the way you would clear up a number of crimes.

Chair: Thank you very much, all four of you, for your help this morning. We are very grateful for it.

Ben Page: May I put on record my thanks to the Clerks to the Committee, who have been seminally well prepared compared with other Select Committees that I have sat in front of?
Tuesday 4 February 2014

Members present:
Sir Alan Beith (Chair)
Steve Brine
Jeremy Corbyn
Mr Elfyn Llwyd
John McDonnell

Examination of Witnesses

Witnesses: Nick Hardwick, HM Chief Inspector of Prisons, and Eoin McLennan-Murray, President, Prison Governors Association, gave evidence.

Chair: Good morning. I welcome Mr Hardwick, the Chief Inspector of Prisons, and Mr McLennan-Murray, the President of the Prison Governors Association. We are very glad to have you with us as we revisit the work we originally did on justice reinvestment and see what has happened in the meantime, where things are going and where they ought to go.

Q380 Steve Brine: Good morning; welcome back. I start with the role of prisons in crime reduction. Nick, you have been in before, so you know how I worry. Some of the evidence that we have heard in the inquiry says that Government’s policy on crime reduction is incoherent. Basically, it is different Departments and different agencies, sometimes pulling in different directions but certainly sitting in different silos. I know this is a big question for a Tuesday morning, but what is your overall view on the coherence of cross-Government strategy to reduce crime?

Nick Hardwick: That is a big question.

Steve Brine: I know it is.

Nick Hardwick: You are correct to say that the different arms of the criminal justice system tend to operate in silos. That is particularly true in prisons, although not all prisons and not nationally; it is a generalisation. Inevitably, the agenda for an individual prison is often constrained by their walls. They do not think much about what is happening outside the walls that might bring somebody in who needs addressing and what is happening outside the walls when somebody leaves. Often, their connections with the other statutory agencies that might have an impact on the rehabilitation of the prisoners they are holding are quite limited. So I think it is a limited vision, although there are some exceptions to that.

Q381 Steve Brine: Should it be a less limited vision? Should prisons be considered part of the Government’s approach to crime reduction?

Nick Hardwick: Wherever you stand on the law and order-type debate, we all want our prisoners to leave prisons less likely to offend than when they went in. The problem is that prisons have different functions. In my view, you go to prison as a punishment and are there for the safety of the public, but once you are in prison and the constraints of holding somebody safely and securely have been dealt with, the purpose of that prison and everybody who works in it should be to make sure that you leave less likely to offend than when you went in. Of course you cannot do that on your own, so you need to work co-operatively with the other agencies that will have a role in doing that. We also have to be realistic about what prisons can achieve. On the whole, my view is that what prisons can tend to do is teach people to be good prisoners. That is not the same as teaching them to be good citizens when they leave. The things that you need to do to get through your sentence—to be compliant, to follow instructions and to keep your head down—are not necessarily the things you need to do to hold down a job and to make your way in the world. We have to be clear about the limitations that the prison experience has. If you can keep people out of prison in the first place, that is probably the best way forward.

Q382 Steve Brine: The National Criminal Justice Board is supposedly a mechanism for this kind of collaboration across all parts of the CJS. How is that working out?

Nick Hardwick: I have to say that this is the first time in my time as chief inspector that anybody has ever asked me about the National Criminal Justice Board or had any conversation with me about it. I asked around contacts in the Prison Service, and people said, “National Criminal Justice what?” People have not heard of it. The missing person at the table is the Prison Service, which is not connected into that at all. From what I can see, anyhow, the work of the National Criminal Justice Board is simply not on the agenda. It has never come up in any conversation I have had since it was established last year.

Q383 Steve Brine: Blimey. Mr McLennan-Murray, have you heard of it?

Eoin McLennan-Murray: I have heard of it, but—

Q384 Steve Brine: How many governors do you reckon have heard of it?

Eoin McLennan-Murray: I checked with my senior management team yesterday, and no one had heard of it. They had all heard of the local criminal justice boards that used to exist but not of this new National Criminal Justice Board.

Q385 Steve Brine: But it is quite new, to be fair. Eoin McLennan-Murray: It is. I went to an event that Policy Exchange ran where Damian Green gave a talk about it. What was absent—Nick has referred to this—was any mention at all of the Prison Service or NOMS in that. We are a missing piece of that jigsaw.
Q386 Steve Brine: Picking up what Nick was just saying with respect to prisons being part of the Government’s approach to crime reduction, would you concur? Are there any prizes for governors in being the one who has better figures on reducing reoffending?

Eoin McLennan-Murray: No, it is not one of our performance targets at a local level. At a national level there are targets, but at a local level there are not.

Q387 Steve Brine: But when they get together at their awayday, do they like to boast at the bar, “My prison has better reducing reoffending rates than yours”?

Eoin McLennan-Murray: No. Nobody has much to boast about—that is one of the problems. There are a few prisons that do well.

Nick Hardwick: One of the concerns is that most of them will not know what their offending rates are. There is a debate around payment by results. You can have an argument about the payment part of the system, but prisons certainly need to know the results—what happens to people when they leave—and they do not. A lot of the offender management and resettlement services in prison are based on saying, “Is this process in place?”—not “Has it worked?”

Eoin McLennan-Murray: They do publish prison-by-prison reconviction rates, but you have to dig deep into the MOJ website to find them. They are not headline news. Occasionally, in the Prison Service, Michael Spurr or Phil Copple will publish specific results for the service generally about reconviction rates coming down and the effectiveness of interventions that we run. It is broken down by length of sentence; if someone is serving more than four years, you have a greater chance of reducing reoffending rates. They quote what the stats are on that and what they are for short-term sentences. I think governors have a good overview of it, but as Nick has indicated, if you asked most governors what their individual prison results were they would not know.

Q388 Steve Brine: It is quite hard to compare like for like, as different prisons are doing different things for different—

Nick Hardwick: You might want to drill down into particular aspects. For instance, a prison might know immediately somebody leaves whether they have accommodation or a job. They will not know whether they still have that accommodation or job three months afterwards, so they could not have a conversation with me in which they said, “Look, we have changed our resettlement package and we think it is working because the numbers of people offending when they leave are reduced.” The information for them to have that conversation is not available.

Q389 Steve Brine: Finally, I want to touch on police and crime commissioners, which are no longer new; they should be well bedded in by now. To what extent have PCCs sought to engage with prison governors? You hear lots of talk from them that their priority is to reduce reoffending, but to what extent do you see them on your patch?

Eoin McLennan-Murray: I have not met the one for Surrey yet. I do not know whether in the past they visited the prison I am currently governing. The last prison I was in predated crime commissioners being in post, so I have very limited experience. I do not hear from colleagues that there is an awful amount of rapport between governors and crime commissioners.

Q390 Steve Brine: Do you hear that, Nick?

Nick Hardwick: I would say that is slightly starting to pick up now. It was not their first priority, but I am now starting to have police and crime commissioners come to me asking about inspection results for prisons in their area and trying to understand a bit more. There has certainly been more interest from police and crime commissioners over the last few months than there would have been in the very early days.

Q391 Steve Brine: Could you name names? Is there anywhere where this is working and they are engaging particularly well? Do you have any examples of things they are doing?

Nick Hardwick: Not to the extent that I could name names and say it is working particularly well.

Q392 Mr Llwyd: Good morning. What are your observations on the Ministry’s “cheaper not smaller” approach to reducing the cost of imprisonment?

Nick Hardwick: A number of significant things are happening. It is true that at the moment the nature of the prison estate is changing. Some smaller, older prisons have closed and have been or are being replaced by new, much larger prisons. At some of those small prisons, the buildings are practically falling down. I am not being sentimental; some do need to close and be replaced. However, the consequence of that is that at the moment, certainly, the level of risk has increased because new prisons are difficult to establish. Big prisons are difficult to run, so new big prisons are very difficult to run. You have a lot of very inexperienced staff in some of them, and you have closed establishments that may have had poor conditions but had very experienced staff. In prisons that are staying open, you are losing a lot of experienced staff. That is creating risk. You can see hard evidence of that risk on the ground. I do not think it is a coincidence that, for instance, we are seeing the highest level of self-inflicted deaths in prisons for many years—already about 50% more this year than there were last year. The number of assaults in adult male prisons is up. The number of incidents at height is up. These incidents are terrible in themselves, but they are a reflection of a system under real strain at the moment. I have concerns about what is happening in that sense.

Q393 Mr Llwyd: Have you made your views known—for example, in connection with the proposed 2,000-inmate prison for north Wales?

Nick Hardwick: I think we have not commented specifically on that prison. I have certainly made my views known about Oakwood prison, where we have done a report; I think that is clear. To be clear, recently, we also did a report on Parc prison, which is another large prison that works very well.
Q394 Mr Llwyd: Yes, but Parc prison grew organically.
Nick Hardwick: Exactly.

Q395 Mr Llwyd: This mammoth in Wrexham is going to be built in a day.
Nick Hardwick: Quite. What I hope Ministers will not do is underestimate the difficulty of establishing any new prison. The new prisons that have been established recently—Oakwood, Isis and Thamesmead—have all struggled, and those difficulties are exacerbated the larger the size of the establishment. It does not mean that in time you cannot get to a steady state, if it is resourced properly, as you have done at Parc. It is not a simple thing, but the early stages are very challenging to do. It is important that if you do go for that kind of model you resource it sufficiently to be able to manage the risks that are inherent in it.

Eoin McLennan-Murray: There are two bits to this, aren't there? One is about the size of the prison; the other is about the resourcing that goes into it. What we are seeing at the moment is large prisons and minimal resourcing, which is obviously driven by cost. We do not have to go back that far in history. The Woolf report concluded that 400 or 500 was about the best size for prisons. We know from inspection reports that small prisons have better outcomes for prisoners than large prisons. That has been a truism.

Culturally, within our service we have always dealt face to face. We build relationships with prisoners; that is how we control. Other jurisdictions do not—they use coercion and force. We tend to use a personal relationship. For that to happen, you need sufficient staff facing prisoners. While we are reducing the number of staff and increasing the number of prisoners, you are getting prisoners who feel that they are anonymous and that no one cares about them. That has a psychological impact and will change the culture of our prisons. It will make them inherently more risky. I think that it is a bad move and that we will live to regret the day we thought that big is beautiful. It certainly is not, unless you resource it correctly. We are not doing that.

Chair: Later in the year, we will look at the prison estate itself. Perhaps now we need to concentrate a bit more on the reoffending aspects of this.

Q396 Mr Llwyd: How did NOMS and you as prison governors approach decisions about where best to cut the spending budgets for prisons? Which aspects of prison regimes, if any, do you consider have been protected from these cuts?
Nick Hardwick: To be fair, in most prisons, governors are doing a pretty impressive job spinning the plates necessary to keep everything working, but there are critical savings that have been made. As Eoin said, we see in some critical areas there are fewer staff in face-to-face contact, or there is less staff face-to-face contact time with prisoners. There is now a restriction on the core day. That means that there are some positive things—prisoners will probably have a guarantee of at least some kind of activity—but, as a consequence, they will spend longer locked in their cells. The activities and contact that are an important part of their rehabilitation process will therefore be under pressure.

Q397 Mr Llwyd: So it is currently right to say that prisoners are spending more time locked up in their cells than previously.
Nick Hardwick: Yes.

Q398 Mr Llwyd: Can I move on to overcrowding? We know, for example, that in 2012–13 over 19,000 prisoners, on average, were in overcrowded conditions. Indeed, 777 prisoners were sharing, three to a cell, cells designed for occupation by two. I know that the Howard League has said that there is a question mark over the accuracy of the Government figures, because they tend to mask the full extent of overcrowding. What is the current position?

Nick Hardwick: Currently, prisons are operating at about 10.2% over their certified normal capacity. Of course, that is not spread evenly through the system, so some prisons will be more overcrowded than others. This is an important point. What has generally been welcomed in the Government’s proposals is the idea of establishing resettlement prisons—the idea that, when people end their sentence or are doing a short sentence, they will be in a prison close to where they will be released. That makes a lot of sense. In order to do that, you have to have enough headroom in the system to be able to put people where you want them to be. If the system is almost full to capacity, you have to put prisoners where there is space. I think there is a real danger. The biggest challenge for the resettlement prisons will be managing the population such that you can put people where you want them to be. If you do not do that, there is a real danger that in the resettlement and rehabilitation services, which are organised geographically through contracts that governors will not be able to control, there will be a mismatch between service provision and where the prisoners who need those services are.

If the governor says, “This isn’t quite working for me and my prison,” the danger is that there will be nothing they can do about it, because they will not be managing and controlling the contracts. Those are not things that have happened yet, but they are real risks to a central, important and welcome part of what the Government are trying to do.

Q399 Jeremy Corbyn: Thanks for coming to give us evidence this morning. The prisoner crime reduction survey said that a third of prisoners reported being in paid employment in the four weeks before custody, 13% reported that they had never had a job, 15% reported being homeless before custody and 25% were estimated to be suffering from anxiety and depression.

You are very familiar with this survey and its contents. To what extent do you think the Prison Service seriously meets the needs of complex depression and other issues incoming prisoners are suffering from?

Nick Hardwick: It does not—and I think that, despite some good work by staff, it cannot. A short time ago, I was in Eastwood Park, which is a women’s prison near Bristol, as you will know. About half the women there had some kind of mental health problem. We
thought the staff were caring for them pretty well, but if you see and talk to the women there you think, "What this has got to do with the criminal justice system defeats me. It is a care system for people who are struggling to cope." I am not sure prison is the best place to do that, with the effort that goes into it. If you are managing that, you get distracted from the population who more obviously need some of the interventions you can make in terms of employment and stopping reoffending. The levels of mental ill health in prisons and the numbers of prisoners who demonstrate that are scandalous. I do not want to overuse the word, but it is scandalous that the way we deal with so many people with those problems is to put them in a prison. You see it and think, "This is just not sensible."

**Q400 Jeremy Corbyn:** We have done quite a lot of prison visiting. I have been to Eastwood Park, although a long time ago, and I recognise that there are individual prison officers who work and try very hard. My concern is, in your reporting, have you come across any real, effective results of what happens inside the prison as regards levels of either mental health disorder or other disorders when coming out? **Nick Hardwick:** On the whole, the systems for transferring the people with the most serious problems to a secure hospital have improved. The transfer times have improved. Training in mental health awareness is now being rolled out, and quite a lot of prison officers will have it. In lots of places, we see that the level of care has improved—not consistently, but we have seen some improvements. In women’s prisons, you see that through the reductions in the number of self-harm incidents and self-inflicted deaths. However, it would be a mistake to say that prison officers, with the levels of training they have, can cope with the demands of the population they are dealing with. I want to be clear—that is not a criticism of those staff individually. They do not have the resources or, necessarily, the professional training that they need to deal with a population with such complex needs.

**Eoin McLennan-Murray:** That is absolutely right. We are overwhelmed, really. We do not have the resources to deal with the need, and we do not have the infrastructure or the training to do it. When I governed Lewes prison, where I had an in-patient facility, most of that facility was taken up with psychiatric case prisoners. When I had someone coming from court who was more severely ill than people I had in the hospital, I had to rotate people. I was putting ill people back into a normal location because I had to prioritise who was most ill and needed the in-care facility. That is just a game of numbers. We did not have sufficient resource to deal with the need we were presented with.

**Q401 Jeremy Corbyn:** I realise that with large numbers of prison transfers it is often quite difficult to identify what I am about to ask, but when you inspect a prison are you able to look at the outcomes for the released prisoners? Do you have any system for doing sample tracking or overall tracking so that you can see whether a prisoner has spent a substantial amount of time in Pentonville, Strangeways or whatever? Are you able to track how effective or otherwise each prison is in this respect? **Nick Hardwick:** We have not been able to do that. We have tried to do it, but it is very difficult to do. We have not been able to do it successfully so far. One of the things about measuring outcomes is that we think some of that information will be more available in the future than it has been in the past. We are having some very detailed discussions with the probation inspectorate about how we can link up our work. That is what we need to be able to do. It inspects in the community and has the contacts with the probation trusts, as they are now—or the national probation service in future—which will know what is happening to people. We are now in detailed discussions with the probation inspectorate about how we can work with it. We hope that when a new chief inspector of probation starts we will be able to conclude that.

**Q402 Jeremy Corbyn:** How do you evaluate offending and reoffending reduction rates? Are you confident about this? **Nick Hardwick:** Whereas with other things we look at we can take an objective view on the outcome—whether or not a prison is safe, or whether the prisoners there are treated decently—a weakness in our system is that on the resettlement side it is more about whether particular processes are in place. We make some assumptions that if those processes are in place and working properly rehabilitation outcomes are likely to be good. Unlike the other parts of the system that we inspect, we are looking more at processes in the prison than at actual outcomes. As I said, I want to work with the probation inspectorate to try to change that.

**Q403 John McDonnell:** You have touched on this earlier. The Offender Learning and Skills Service is meant to provide prisoners, according to need, with the ability within the prison to pick up the skills and appropriate education to enable them to get a job on the outside. That is its vision. How is that being achieved? Is it being achieved? **Nick Hardwick:** You can look at the inspection reports. We work closely with Ofsted in assessing this, and you can look at its gradings. Some do it better than others, but we think it is not being achieved sufficiently well. There are two bits to this. When I go to a prison, if there is a workshop there, I try to talk to people who employ prisoners on the outside and try to understand what they want. They say that they need basic literacy and numeracy skills. For them, the important thing is not training in a particular trade, which often they are better able to do than the prison, but making sure that when prisoners leave and come to work for them, as ex-offenders, they can be left to manage the shop on their own, can deal with customers properly and can make decisions on their own initiative—all of those sorts of things. Getting prisoners ready for employment is more than something that happens in a prison workshop. There needs to be a whole-prison approach, so that people develop not just the skills but the habits and ethics of working, holding down a job.
and dealing with difficulties and problems. Prisons are a long way short of delivering that. I think it is a shame that the Ministry of Justice seems to have abandoned the working prison model. While that never worked entirely, there was a clear sense in our inspections that governors had got the message and were trying to get more of their prisoners out of their cells, working, and that that was seen to be a priority. That is critical to any rehabilitation effort. They have picked up the message that that is no longer the priority that it was, so their attention has turned to other things. I think it is a shame.

Q404 John McDonnell: So it is policy, not just resources, Nick Hardwick: It is policy. On the whole, governors try to do what is required of them. If they get the message that something is important, that is what they will do. If they get the message that it is less important, their focus and priorities will switch elsewhere. With fewer resources, that is what you would expect.

Eoin McLennan-Murray: One of the problems with OLA is that it retenders every three years, which is not a sensible time scale. You have so much change, with people shooting across, that you lose momentum and consistency. When you start to build something, it is then fragmented again, only to be rebuilt. That is a real waste of resource. If nothing else changed but we changed the contract period, we would see an improvement.

Q405 John McDonnell: That is helpful. You have touched on mental health issues. The NHS has now assumed responsibility for both mental health and drug addiction. What impact has that had?

Nick Hardwick: Our view is that the NHS assuming responsibility for health care has been a big improvement. That is a big improvement in health care generally.

Q406 John McDonnell: And on drug misuse?

Nick Hardwick: That is a bit more complicated. In our view, the most serious drug misuse problem in prisons now is diverted prescribed medicines. If you ask governors what they are doing, in a lot of cases health care staff bring them in and hand them to a queue that may be more or less orderly. They then become a tradeable commodity—or a bullyable commodity. I understand from my specialist drugs inspectors that this reflects what is happening in the community. It is not because they cannot get hold of the real stuff—this is the drug of choice.

Prescribing practice is critical, not just to the safety of individual prisoners but to the overall safety and environment of the prison. We go in with specialist pharmacy inspectors from the General Pharmaceutical Council and look at this area very carefully. One of the dangers of contracting on these things is that in some prisons, before NHS England took responsibility, we found you would have a commissioner who was not very engaged in what was happening in the prison and a provider who was not very engaged and perhaps not very good. They would subcontract their services to a GP service, which would then have that done by some locums who would go into the prison. Those GPs were being bullied to prescribe tradeable drugs that they should not have been prescribing. I then had the governor saying to me that he was at his wits’ end because he could not control the situation, because the commissioning process was out of his hands. There is a lesson from that for commissioning processes generally. You do not disempower the governor: he should be responsible for what happens in his prison. When we have had our discussion, we will make our recommendations to him. He may complain, “Well, I can’t control it.” It is really important that there is no dilution of a governor’s accountability for what happens in his or her prison.

They need to have adequate control over the contract and commissioning process to be able to achieve that, because increasingly, large parts of the service they are responsible for—health, education and training, and now resettlement services—will be provided by an external supplier. You do not want the governor to be sitting in their office as a kind of contract manager, but you do want them to be saying, “That’s not working in my prison. I’ve got the ability in the contract to change it.”

Q407 John McDonnell: That is going to be extremely difficult under the new system, isn’t it?

Nick Hardwick: It is going to be very difficult.

Eoin McLennan-Murray: It also picks up the budget point. Most budgets are not controlled by governors any more. You have a budget for your prison. Most of it is predetermined in many ways. A lot of it is ring-fenced and sorted out by others. We then have this commissioning for the amount of money we have to spend on things that are not already predetermined. Obviously, staff consume most of your budget. What is left is a relatively small amount. I have never gone into the economics of it, but I do not know whether it is cost-effective to set up a large commissioning body to decide how that money will be spent. It costs a lot to set up a commissioning body, yet what is it actually commissioning? Do I not know whether it is proper value for money.

In relation to drugs, everything that Nick said is absolutely correct, but there is a far more fundamental problem about drugs, which is the way we deal with drugs in this country. Our approach at the moment, which is to deal with them as a criminal justice issue, is something we probably need to look at again. We will never resolve the problems that we face until we look fundamentally at how we deal with drug offences and drug users. In my view, at the moment we are just making the situation worse. We see that played out in prisons every day. The greatest initiative we could have for crime reduction in this country would be to address the drug problem, because that drives so much acquisitive crime.

Q408 John McDonnell: I understand the general point that you are making, which is an overall issue that has to be addressed again at some stage, but I want to take you back one step. There is now discussion about an end-to-end approach to drug misuse, from prison into the community. I agree that
that is made more complicated by this commissioning role, which is now going to expand. What do you see as the component parts of that that really require to be put in place?

Nick Hardwick: Of the commissioning?

Q409 John McDonnell: No—of the end-to-end approach. What elements are critical to that?

Nick Hardwick: This is obviously an area where you do need a through-the-gate process—RAP. I think it is called. We go into prisons where they are providing services in a prison but have a network of services in the community. You absolutely can have an effective through-the-gate service that operates. We think that the IDTS—the drug treatment system—works well for prisoners who have a problem with opiates. Again, that needs to be connected with what is happening outside. Leaving aside the wider argument about drug policy, you need to have an effective strategy in a prison for both reducing supply and reducing demand. Both things need to go hand in hand.

I would give that a lot of attention. It is about making sure that there is a consistent, joined-up, through-the-gate service, where the care and services that are provided in the prison are seamless with what the individual gets outside. You can do that even with prisoners doing very short sentences. Even if you start something in prison, the detox or whatever you do will not be enough. You will need to make sure that that prisoner gets to the appropriate external drug agency—at the point where they are released. It is no good leaving it for a few days and then getting round to it. You have to do it at the point where they are released.

We should not ignore alcohol in all of this. Alcohol is a significant issue that sometimes tends to be the poor relation. You need to make sure that the same approach is taken, where that is necessary. There is also now an issue in prisons with synthetic cannabinoids such as Spice. One of the points about those is that they do not show up in current testing regimes, so your testing regimes are a less and less accurate reflection of the extent of the issue you have in the prison.

Eoin McLennan-Murray: I totally agree with what Nick has said.

Q410 John McDonnell: I know the Chair is anxious about time, but I want to talk about young people in prison. What lessons do you think can be learned with regard to the adult population from the reduction in prison. What lessons do you think can be learned with regard to the adult population from the reduction in prison?

Nick Hardwick: First, I would pay tribute to the Youth Justice Board under its previous leadership. The way it managed to have an integrated system between the prison and the community—and what was happening in young offender institutions was important. As it reduced the numbers, in a sense that gave it capacity to do more with some of the young people it had left. So I would pay tribute to the YJB for its leadership.

One of the very important things to understand is that it has been so successful so quickly, and the numbers have dropped so rapidly, that the nature of the juvenile population you now have in custody is different from what it was a year or two ago. The Government need to take that into account in their planning for future accommodation in secure colleges. What you now have is a higher concentration of the most troubled, most at-risk and most risky young people, concentrated in a very small number of establishments. My judgment about how you can manage them is different from what it would have been a couple of years ago, when Chris Grayling was setting out his plans. You have to be very careful about how you do that.

We should have aspirations for these young people. I do not think we should write them off. A focus on education and training is really important at this age, but they will not learn or make progress if they are not safe. You have to make sure that your future accommodation arrangements can guarantee the safety of these boys.

Q411 John McDonnell: What needs to be done for this high concentration of high-need individuals?

Eoin McLennan-Murray: The Government should not think that there is a cost saving to be had just from reducing the numbers. There is an amount of money that needs to be spent on these very damaged young individuals. It is an expensive business; let us not kid ourselves. If we are going to do it, we should try to do it properly. I would hate to think that just because we have reduced numbers we will see corresponding reductions in budgets. In fact, with smaller numbers, we should be able to do more intensive work and should be able to resource that appropriately, so we get the outcomes that we want. I do not think the Government should see it as a cost-cutting measure.

Q412 John McDonnell: I have a simple question. Why are the education hours for young people limited to 12 hours a week?

Nick Hardwick: They should not be. In order to increase the education hours, you have to be able to get the people. It is not simply about the number of teachers you have; it is about whether you have the staff to get young people safely from their unit to the classroom, without trouble occurring en route, and to make sure that the teaching environment is safe and secure.

There is a real cost in increasing the teaching hours, but you do not need that to work for very many for it to have a saving in the longer term. One of the things I have heard Michael Wilshaw say about young people in prison is that these are the education system’s failures, in a way, and that we have an obligation to them. Often they were failed at an early age. You should not now be writing them off—you should be trying to make good the loss of opportunity they had in the past.

What has happened is correct. Custody is not a good place to do it, so I agree with what has happened. The priority should be to try to keep as many out of custody as you can. However, when you are there, you have to try to have some aspirations for these boys. Education and training are at the heart of it.

Q413 Chair: May I clarify a point you dealt with earlier? It is about what happens if the resettlement...
prisons cannot accommodate all those who need to be in resettlement prisons. The Government appear to have indicated that there will not be resettlement services other than in the resettlement prisons. Are we going to have a batch of prisoners marooned in the conventional prison system and not getting the resettlement?

**Nick Hardwick:** As I understand it—I have not been able to get a terribly clear answer to this myself—if you are in a prison in a contract area, the provider will be required to provide, at a cost for all the prisoners in that prison. If prisoners leave to go into their own area but they continue to work with them in their community, they will get extra money for them, if they are successful in reducing the rate at which they reoffend. The problem is not that you will not have any services at all; the difficulty is that if you are a provider you get paid more for working with him than working with me, so who are you going to work with? As I said, the governor will not be able to control it. That is a particular problem with women's prisons.

Because of the smaller number of women's prisons, the women come from much wider areas. Using the example of Eastwood Park again, if you go into the governor’s office there, he has a map on the wall that shows where all the women come from. Basically, it goes from Wolverhampton, right across Wales, down to the south coast and as far out through the south-west as Penzance in Cornwall. The women come from a very large area, so he is working with a big number of contract areas. NOMS has tried to reassure me. I think they are aware of the problem, because I have harassed them about it, but I have yet to be reassured about how this will work—the point that you make—in prisons generally and in women's prisons in particular.

**Chair:** Thank you very much. We are very grateful to both of you for your help this morning.

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**Examination of Witnesses**

**Witnesses:** Rob Allen, Independent Consultant, Mark Day, Prison Reform Trust, Sarah Salmon, Criminal Justice Alliance, and Frances Crook, Chief Executive, Howard League, gave evidence.

**Chair:** I welcome some very familiar faces before us this morning. Mr Allen, you helped us with our original inquiry. You are now an independent consultant on these issues. Ms Crook is also a familiar witness for us from the previous inquiry, and now in this one. We will go to Mark, who I understand happily to have you. Juliet Lyon is not very well today, I am sorry to say. Mark Day, who is the head of policy, has come in her place. We are very grateful to him for doing so at short notice.

Q414 Steve Brine: Welcome back—and welcome. As many of you will know, the Government’s action plan “Transforming the Criminal Justice System” identifies crimes where either there is evidence of systematic failure in how the criminal justice system tackles them or they have a particularly devastating effect on victims. Do you support the primary crime reduction priorities identified by this Government?

**Frances Crook:** Yes. We all want to reduce crime. That is obviously really important. The emphasis on communities coming together to do that is really important. The emphasis on people taking responsibility is very important. I think there is a failure at the heart of it, which is the emphasis on punishment. As we know from the last 100 years’ experience, that is not a great crime reduction mechanism. In fact, it tends to make things worse—and is a very expensive way of making things worse. There was a missed opportunity to deal with a particular group of prolific offenders who are a real nuisance but are not particularly dangerous. Those are the people who tend to go in for short prison sentences and often have multiple issues to deal with—perhaps mental health, drug addiction, alcohol addiction, homelessness, poor family relationships and poor employment records. The Government were given plenty of advice that that relatively small number of people—some 60,000 or so every year—who cause quite a considerable amount of mayhem in local communities but are not particularly violent, could have been dealt with in a different way. They could have been dealt with by the probation service, which wanted to deal with them, wanted to take them on and has a track record of success.

Instead of doing that, the Government have gone down this route of adding to their short time in prison—maybe two or three weeks, which they have probably had several times—a whole year’s extra sentence, which will set them up to fail and will be very expensive. We know that the criminal justice system is not the route out of crime. The route out of crime—the route to desistance—is through a job, secure housing, mental health services and the panoply of services that these people require, which is individual and which the probation service has a history of being able to provide and get access to. It is a real pity that this rather expensive option—which I predict will be a failure—has been chosen, instead of a route that we knew could have succeeded better.

Q415 Steve Brine: We know that the Howard League and the Prison Reform Trust both say that many of the solutions to reducing crime lie outside the criminal justice system, which you have just said. Whose responsibility should it be to drive the strategy that Frances has just outlined about employment, resettlement and housing? Where should the balance lie when it comes to local versus national accountability? Mark, do you want to pick that up?

**Mark Day:** There should be a much more cross-Government emphasis. There has been a failure to capitalise on those areas where there has been a cross-Government agenda. For instance, on liaison and diversion, we have just had the announcement of £25 million from DH to fund the trial sites. We had a commitment to have a national liaison and diversion service by 2014 but that has now slipped until after
the election, until 2017. That is a very welcome initiative. It is a practical example of what justice reinvestment could look like, when we are talking about a cross-Government approach. We have £25 million committed there, but look at the prisons and probation budget of around £4 billion, I think.

Frances Crook: A lot.

Mark Day: We just do not have the resources to back up what could be an effective cross-Government approach. To go back to what Frances was saying, the danger around the Transforming Rehabilitation proposals is net widening. We know that community sentences are more effective than a short prison sentence at reducing reoffending, but the Government are looking at prison as the route into rehabilitation. We know from the impact assessment of the proposals that, first, there is a danger that the courts could end up committing more people to short prison sentences because superficially it looks attractive, but you will have a very long period of supervision after the prison sentence. There is a danger that you will have more people go into prison for a less successful intervention than a community sentence would have been in the first place. Then, attached to mandatory supervision, we have the risk of breach and recall to custody. Rather than stopping the revolving door of crime, which is what we all want to see, these proposals will potentially put an extra spin on it, in that you will have people being repeatedly recalled to custody. As Frances said, we know that this is a difficult group to work with. That means that the supervision requirements attached to their sentence have to work with them effectively to get the outcomes that we want to see—effective rehabilitation. The danger of compulsory supervision is that you get an over-emphasis on enforcement and simply get this pointless return back and forth to prison.

Q416 Steve Brine: Maybe you just said this and I did not pick it up, but there seems to be a universal agreement—about the only bit of universal agreement there is on Transforming Rehabilitation policy—that bringing the under-12-month cohort into supervision is desirable. The Government’s answer as to how they can do that within budget is Transforming Rehabilitation. Are you saying that it is not desirable to bring that cohort into supervision?

Mark Day: It is absolutely desirable to bring them into supervision. The question mark was whether it should have been compulsory supervision with breach requirements attached to that and, therefore, recall to custody as part of the enforcement. The Peterborough pilot, for instance, was a voluntary pilot and had some successful results attached to it, so that was potentially another model the Government could have looked at. Instead they have gone for compulsory supervision. We simply do not know, because we do not have a pilot for it, what its impact on reoffending will be.

Q417 Steve Brine: Sarah, from the Criminal Justice Alliance’s point of view, what would a broad, coherent strategy on crime reduction comprise? I know it is a big question, but this is a big inquiry. We have the luxury of looking broad-brush. A couple of weeks ago we had a fascinating discussion about research. From your point of view, whose responsibility should it be to drive such a strategy? What would it look like?

Sarah Salmon: We agree completely with what has been said. The answers to this do not lie in the criminal justice system. There needs to be an interdepartmental, top-level Government strategy. I have had previous experience of trying to have joint work between the DFE and the MOJ on working with families of offenders. It was incredibly difficult, but, when you can get people to the table, that is where the answers lie—in cross-working and in using communities and families in order to help desistance and to encourage the things that lie in desistance. As Frances said, the solutions lie in work, employment, family relationships and communities. This group of prolific offenders, with short-term sentences, is likely to be the young adults group of 18 to 24-year-olds. There are other government proposals around putting the over-18s into adult custody. One of our proposals is that there should be a Young Adults Board to deal with that group, because they are at a crossroads and are the ones who are most likely to desist if they get the right intervention. Again, that needs a cross-Government strategy. They are likely to have short sentences and to be prolific offenders, but they are absolutely at the point where something could be done with them, if it is the right thing—if they get the right supervision programme, the right help in the community or whatever intervention it is, which needs to be tailored to them.

Q418 Steve Brine: Has there ever been one?

Sarah Salmon: A young adults board? No, I do not think so, because, before, Young Adults those aged under 21 were kept separately. The Youth Justice Board could extend its remit to those aged 21. Other Government Departments are seeing that 18 is not the cut-off that it used to be. Other Government policies on, for example, care leavers or work allow an age cut-off that it used to be. Other Government policies around putting the over-18s into adult custody. One of our proposals is that there should be a Young Adults Board to deal with that group, because they are at a crossroads and are the ones who are most likely to desist if they get the right intervention. Again, that needs a cross-Government strategy. They are likely to have short sentences and to be prolific offenders, but they are absolutely at the point where something could be done with them, if it is the right thing—if they get the right supervision programme, the right help in the community or whatever intervention it is, which needs to be tailored to them.

Q419 Steve Brine: Mr Allen, you were a member of the Youth Justice Board for quite a long period during the big spend years. Now we see, and we know from the youth justice Report that this Committee did last year or possibly the year before—time flies when we are having such fun—that the number coming into the youth justice system is dropping. In our Report, we could not identify specifically why, to be honest; maybe you have a view. Are we now reaping the dividend of the big spend years in terms of those coming into the youth justice system?

Rob Allen: It was a bit of a paradox. I spent a lot of time on the Youth Justice Board trying to drive down the numbers in custody, in particular, but that did not start happening until after I left the board. I do not know what the lesson is there.

One of the big things that happened was that the incentives for the police changed entirely. One day they were encouraged and incentivised to bring offences to justice, which meant that very minor cases were brought into the formal system. Then the incentives changed and they were incentivised to keep
youngsters out of the system—to develop restorative disposals, informal warnings and constructive ways of doing it—so the numbers coming to the courts fell dramatically. To an extent, though not wholly, the fall in the use of custody is explained by a huge reduction in the numbers coming before the courts. The issue is whether crime by young people has come down to that extent or whether we have redefined it and changed the ways in which we deal with it. I suspect there is a bit of both.

May I answer your question about the crime reduction? I endorse some of the things that this Committee put in its report of 2010, where a lot of the answers do lie. Today, I have published a report for Transform Justice about justice reinvestment—what has happened to it since your report and what might happen. I think the answer is ultimately to shift the resources away from NOMS and the Prison Service and to get them to the more local level somehow, so that, in the case of juveniles, local authorities are responsible. If kids from their area go to custody they should pay. They pay for remands now—why should they not pay for all custodial sentences? They should have the budget and use it to develop alternatives. If they want to pay for custodial places, that is fine, but if they want to develop alternatives—prevention, restorative, intensive alternatives or fostering—they can do that. On the adult level it is more complicated, but I would like to see—

Q420 Steve Brine: Doesn’t that already happen? I am thinking back to our youth justice inquiry. In my area, Hampshire, we had something called the Wessex Dance Academy, which is funded by Hampshire county council. It is an incredibly impressive programme of intensive street dance; Jeremy has visited it, I think.

Jeremy Corbyn: Yes.

Steve Brine: That kind of investment is already happening, isn’t it?

Rob Allen: Local authorities do an awful lot on the young offender side, but at the moment, if a young person is sentenced to a detention and training order and goes off to a custodial establishment, the cost of that is met by the Youth Justice Board—by central Government. As I said, it has changed on the youth side, since April last year.

Q421 Chair: It is even more marked as far as adult prisoners are concerned. The sentence has no real involvement in the cost. The provider is involved in the delivery of the service but does not have to bear the burden of it.

Rob Allen: That is right. We need to shift responsibility for resourcing the use of custody somehow. I do not have a clear answer; some thinking needs to go on about the mechanisms. Maybe the policing and crime commissioners, working with local authorities and the health service—and these new probation arrangements that we seem to be getting—could provide a locus through which the funds could be vired. Those bodies could commission the number of prison places they think they need and could work to develop alternatives to drive the numbers down. If they had savings from not buying so many prison places they could invest them in the alternatives, creating the virtuous cycle that everybody wants. It is too difficult to do at a big national level—it needs to be devolved. The report that is out today, which I will send to the Committee, has some ideas about how that might be done.

Steve Brine: Please do send that to us.

Chair: We need to move on.

Steve Brine: We do. There are so many questions.

Q422 Mr Llwyd: We are touching on some questions that I have about local versus national. Before that, can I ask, what are your observations on the way in which the police and crime commissioners have tended to approach the “and crime” element in their title?

Rob Allen: In this report, which I will send to you, I note two or three examples of commissioners who have taken it seriously and have started to look at the broader question of who the people are whom the police are arresting—are they repeat offenders, and what should we be doing in our area to try to intervene with these people so that they do not carry on being arrested? There are examples of police and crime commissioners setting up boards of local stakeholders from the health service, probation and all the other agencies and saying, “Look, we have some people here who are coming to the attention of the police over and over again. What can we do to tackle their alcohol problem, their drug problem or whatever?” There are several who are doing that, but I suspect there are some who have not yet taken that step; it varies enormously. It depends a bit on the previous interest. I know you have heard evidence from Alun Michael, who is developing a number of initiatives in the area where he is police and crime commissioner. Bedfordshire is the other area where I talked to the police and crime commissioner extensively about what he is doing. There are some good examples.

Q423 Mr Llwyd: But there are also some examples of where there is a huge amount of inertia. I spoke with the commissioner for the Swindon area—Wiltshire, presumably—who is doing a lot of good work to draw all these threads together. That is really what it is about, isn’t it? It is about trying to get a proper co-ordinated approach, so that everybody knows what their role is in the whole partnership. Ms Crook, do you want to say something?

Frances Crook: There are some idiosyncratic PCCs—I will not name them—and there are some who are doing some really good work. The problem for the future is that all this good work will disappear because it is not embedded in systems. It relies entirely on one official—not an elected committee, council or board, but one person. If that person stands down or is not elected, it will all disappear. The new person coming in will start all over again, with a new plan, a new system and new structures, so we will have constant flux and change over the period. That is very destabilising. It also gives the message to local authorities, health authorities and the police themselves—everybody else—that we will not put that much effort into this new structure and these new plans that this person has because they will be here
for only a couple of years and it will all change. That, at the heart of the system, is the real problem.

Q424 Mr Llwyd: Dare I say it, but there is also the possibility of politics dictating what people’s priorities are.

Frances Crook: Yes.

Q425 Mr Llwyd: I do not know whether anybody else has a comment on that particular question. I have others, of course.

Mark Day: One quick point about the PCCs is that there is also a wider question about how they fit into the Transforming Rehabilitation proposals, particularly in terms of where the commissioning sits. In the original probation consultation, there was a proposal to devolve commissioning down to local probation trusts. You could have seen probation trusts and PCCs working together in order to commission services effectively locally. Now we have a model where the commissioning is very much focused on the national level. How the PCCs will co-ordinate with that commissioning function—let alone how you bring in local authorities as well, which are absolutely crucial to this overall agenda—is a question that needs to be looked at.

Q426 Mr Llwyd: Mr Allen helpfully led us into that particular field earlier. It seems to me that a national strategy is doomed to failure. If any work is going to be done constructively, there must be a huge local input, because local conditions vary in terms of types of crime, intensity of crime and everything else. One hopes that there will be a more focused approach on local answers for local problems; I sound like the Criminal Justice Alliance very much supports the idea of justice reinvestment. The police and crime commissioners can hold budgets that are not ring-fenced and can bring people together. I very much agree with you that different conditions need different responses.

Q427 Mr Llwyd: I would like to ask one further question. Ms Crook touched on this earlier in an answer to my friend Mr Brine. What can we learn from desistance research about effective approaches to reduce crime?

Rob Allen: The general point about desistance is that people who move away from committing crime, particularly persistent offenders, do not do it in one magic leap. There is no magic bullet here—no one-medicine-type approach that will cure them. It is a process, and one that almost always involves a personal relationship with somebody who is on the side of the person who is trying to give up whatever it is, whether it is taking drugs or a particular kind of lifestyle. The kind of mechanisms we want to invest in are ones that encourage that kind of strong, continuing relationship, ideally with the same individual, where there is mutual respect and an acceptance that that may take time, there may be setbacks along the way and it may be that a person does not immediately stop committing crime, taking drugs and so on.

If you accept that, it affects the way in which you need to organise the criminal justice system. Courts perhaps need to be informed about the progress that individuals are making if they do commit another offence. Is the trajectory generally a positive one or is it one of, “No, he has committed another offence and has got to go to prison”? There are quite wide implications both for the provision of rehabilitation services, if you want to call it that, and the way in which the courts, the police and other enforcement agencies deal with people who are in trouble with the law.

Frances Crook: You went to look at Red Hook and the problem-solving courts, didn’t you? The issue of responsibility is really important. Going back to your question, Mr Brine—

Q428 Steve Brine: Not Red Hook—that is in New York. We were in Texas, but we saw the downtown community court in Austin.

Frances Crook: The question you asked about who is responsible is really important. The kind of people we are talking about have lots of different identities. The trouble is that their criminality—their crime behaviour—takes over their whole identity, whereas actually they have other parts to them, which are other needs. Those are mental health, family responsibility and unemployment—all the things we all know about. In America, it is very seductive to see that responsibility being taken by the courts, because it is the only way that people get access to the other services. The answer to your question is that you get desistance because you get access to services and support. The only way you can do it in the States is through the justice system, but here we do not need that. There are other services available. There is the national health service, there are mental health services and there is housing. So actually we have a more complex patchwork of responsibility for individuals.

The trouble is that we have fallen into the trap of seeing the action of the crime as being the overriding element that triggers other interventions. That is at the heart of the mistake that we are making. We are expecting that to solve the problem of taking responsibility, but responsibility is more diffuse and more complex than that. As Rob said, the way you get desistance is by long-term interventions and support that are outside the justice system, in the end. The justice system is not the solution to crime.

Q429 Mr Llwyd: But arguably, it is the very paucity of the external services to which you refer that could very well be a driver of crime anyway.

Frances Crook: That may be.

Q430 Chair: There are two portals into the system you are talking about. One is somebody who has gone through the criminal justice system and needs to be connected to those services in order to be encouraged to desist from crime. Then there are people who are at the edge of entering the criminal justice system. We saw that in the way women’s centres operate, for
example. We have also seen it in the youth justice area, where there are some other ways of bringing or drawing people into that access. Both are necessary, aren’t they?

Frances Crook: Yes. I would like to see men’s centres. There are 50 or so women’s centres around the country and they are all operating fantastically well. I was in Isis on Friday; we are going out to Anawim and are celebrating their fantastic work. But it is exactly as you say—it is a wraparound service. The justice system is one of the routes in, but they serve and support a range of women who have not come into contact with the justice system to prevent them from doing so—to prevent the crime. Something that has not happened is very difficult to quantify, but that is what they are very good at. They keep families together, help women to become debt counselling and help with domestic violence and with a wide range of stuff. They do reading groups—lovely stuff that is really supportive. Let us have men’s centres as well.

Q431 Jeremy Corbyn: Some time ago, our Committee did a report on justice reinvestment. The general line we took was that if the crime rate falls, the prison population falls and there are greater resources available for reinvestment in crime reduction policies—a wholly virtuous circle. It was a great idea. Has it happened?

Rob Allen: I will start on that, because I have been looking at it. The short answer is not nearly as much as I think the Committee would have hoped when it produced its report. There have been some examples. On the youth side, I mentioned giving local authorities a responsibility for paying for remand, which has stimulated them to take some actions that mean they do not have to go to custody and they use the money more constructively.

There have been two sets of pilot schemes, one for juveniles in which money was given up front by the Youth Justice Board to a number of pilot areas for them to spend however they wanted, with some targets to reduce the use of prison. There was a problem in two of the areas because the pilot started just before the riots. In two of the areas, the numbers spiked because of that and they were able to pull out of the pilot. The two that remained in have shown quite successful reductions in the use of imprisonment. Money that was being spent on custody is being spent instead on working with families, working with young people, helping them stay at school and so on.

On the adult side, there is a pilot scheme that works rather differently. The local authorities and local agencies involved are not given any money up front but are given reward payments in the event that they reduce demand on the criminal justice system, by which is meant prosecutions and custody. In most of the areas, particularly Greater Manchester, which is the area that has done most work in this area, there has been a substantial set of reward payments. The problem is that the reward payments that they get are only a fraction of the savings that the Government make. They have been quite successful in reducing the number of people going to custody. The annual average cost of a custodial place is whatever it might be—£25,000 a year—but the money that comes back to Manchester is nothing like the £25,000 per prisoner per year that they are saving; it is a fraction of that. This is one of the reasons why I am in favour of a more localised system, so that there can be more like-for-like movement and shift of resources. If agencies are working together and taking the pressure off the prison system, they should be able to reinvest that money in their own services to create this virtuous cycle. With the national Prison Service it is quite difficult to do that because we will always need to back-fill the places that are reduced by the action in a particular area. We have had pilot schemes that have been relatively successful. There is an opportunity to look to the next stage, which would be more thoroughly to localise or devolve some of these responsibilities and to develop the machinery to do that.

Q432 Jeremy Corbyn: Governments have generally been reluctant to set as an article of faith that they would reduce the number of people in prison. They have tended to leave it to the sentencing courts, basically, to deal with it. Do you think there is a case for stronger central Government guidance or pressure to say that we should not look so automatically at custodial sentences but should look much more at a whole range of other things?

Rob Allen: Yes. I would go further than that. When the coalition Government started and, basically, public services were asked to find 20% to 25% cuts across the lifetime of the Parliament, why did somebody not say, “Let’s have 20% to 25% cuts in the average length of prison sentences, which are the largest consumer of resources in this field”? Instead of getting 48 months, somebody might get 40 months; we would have a recalibration of sentencing. That would be a straightforward way of responding to the strained economic times and freeing up resources. It would be very brave politically to do that, but there is a Sentencing Council that sits between the Government and the judges. Its role could be bolder in looking at the evidence on reoffending and the fact that, in comparison with many European countries, our sentencing levels are higher for particular offences. We send people to prison for longer.

Q433 Jeremy Corbyn: Is there any evidence that longer sentences in general reduce reoffending?

Rob Allen: People serving longer sentences do reoffend less—

Q434 Jeremy Corbyn: They have less time to reoffend because they spend more time in prison, I suppose.

Rob Allen: Yes. The short-term prisoners do have high rates of reoffending, but they include people who are in prison for very short periods of time.

Q435 Chair: That is probably one of the reasons why they are in prison for short sentences. It is the despairing magistrates wondering what to do with people who keep appearing before them.

Rob Allen: Yes.
Frances Crook: Could I say something quite controversial?
Steve Brine: Yes.
Jeremy Corbyn: Please do.
Frances Crook: I rarely do this. I think the judiciary and the magistracy are the last unreformed public service. They are the only people around who are not asked to account for their decision making. We had a very interesting lecture from the then head of the Sentencing Council. He talked to a packed audience at the Howard League about the processes the Sentencing Council goes through when it issues guidelines to sentencers. There was nothing about outcomes. There is no responsibility for the decisions that they make.

Earlier, you talked about the reduction in the use of prison for young people. It has nothing to do with the magistrates; they take no responsibility for what happens outside. When there is a death in custody, there is a huge investigation into what has happened in prison, but there is no investigation into the decision making that sent that person to prison in the first place. A lot of people who take their own lives are on remand or have not committed a serious offence. I remember Zahid Mubarek, who was murdered by his cellmate and who was in prison for only a few weeks. At some point somebody has to say to judges and magistrates, “You have to take responsibility for the outcome of your decision making.”

Chair: I should point out that in our comments to the Sentencing Council we have regularly referred to whether sentences—particularly custodial sentences—are likely to be effective.

Q436 Jeremy Corbyn: You have made a very interesting suggestion. On that point, have you as an organisation ever done sample surveys or something like that of magistrates and Crown court judges, the decisions they have made and what happens to the individual prisoner all the way down the line? I realise that it is not a simple process.

Frances Crook: No, it is not simple.

Q437 Jeremy Corbyn: But it is something that might well be interesting to do.
Sarah Salmon: Last week a report by nef, the New Economics Foundation, and the Centre for Justice Innovation, called “Better Courts”, was launched. It is very much about the idea of problem-solving courts. There are a variety of local initiatives around the country. There are some ideas in America—in Hawaii there is a very famous example called the HOPE—where sentencers regularly review their sentence. They sit in panels that allow regular revision. These reviewing panels are used in drug courts and domestic violence courts. That is about giving sentencers feedback. Going back to the issue of the offender having a relationship with somebody, it shows that somebody is taking an interest in them and that their progress is noted by the sentencer—they are not being sent off into the criminal justice system somehow. I can send that report to the Committee.

Jeremy Corbyn: That would be very helpful.

Q438 Chair: Do you think that we are too squeamish about recognising that financial incentives make a very significant difference to how the system operates, not just in the private sector, with payment by results, but also in the way decisions are made by the various bodies that are involved here—except, of course, the judiciary, who are not invited to consider that point in any way? If we do not get the financial incentives right, will we continue to make the wrong decisions?
Rob Allen: Yes. Following the money is probably quite a good principle for analysing how certain things happen. In a way, prison is a sort of free good—if it is indeed a good. There are people who make suggestions that courts could be given some responsibility and could be given a budget. Depending on their record over the previous few years, they would be able to sentence to a certain number of months of imprisonment and so on. That is too much for me, as an enthusiast for this sort of approach. I think giving the local agencies more responsibility would allow them not simply to respond to demand from the courts but to try to shape that demand by offering the courts alternative sentencing options and working in a more creative way with the individuals who appear in court to reduce their likelihood of reoffending.

The gist of the justice reinvestment report was that you could drive down reoffending and therefore, in a sense, starve the courts of the need to deal with these people and use the resources more creatively, particularly in the communities where large numbers of people are coming before the courts. There is that local dimension to justice reinvestment as well, which is about recognising that prisoners are not randomly drawn from our communities. They tend to come from particular areas, and those are the ones where some investment can really make a difference.

Q439 Chair: After all, local agencies are invited to make judgments about how much to make available to the courts in the way of drug rehabilitation programmes, accommodation and various other things. They are expected to make judgments, but they are not expected, invited or enabled to make a judgment about how much custodial provision to make available to the courts. Is it not the case that the courts are presented with what is available in one sphere but with unlimited access to custodial provision in the other?
Rob Allen: Yes. I am sure there are many magistrates who say, “Look, we would like to be able to do something with this person, but the options aren’t there.” The courts would need to be involved in dialogue with the local agencies to develop things, but if we could fashion a system and there were some mechanism by which they were involved in planning and commissioning a range of services so that those sorts of facilities and work could be done—whether it be mentoring or particular kinds of wraparound services that really get alongside these difficult individuals—perhaps they would not feel the need to impose these short prison sentences. Then the trick would be to find a way of getting the money away from the Prison Service, which would not have to look after this person, into the community, so that that
resource could be used more creatively. It is not easy to find a way to do that, but that is the next stage to develop justice reinvestment.

Q440 John McDonnell: Going back to the sentencing issue, the Sentencing Council develops the guidelines. It is meant to look at effectiveness and cost-effectiveness of sentencing policy. How is that disseminated among sentencers? How are they made aware of this? Are they made aware of it effectively?

Frances Crook: There is a lot of a training that goes on. It is disseminated, but it is very process-driven. Earlier, you asked about how prison governors know the outcome of their work with prisoners. Of course, judges and magistrates do not know that. They know about the guidelines for what they are meant to do for any particular offence; what they do not know and are not told about is the likely outcome. The lay magistrates sit only occasionally. There is no accountability because people do not come back to them. They do not see the same person from a committal to a sentencing hearing.

Q441 Chair: It is the higher courts that get the sentence seriously wrong.

Frances Crook: That is right. They do not know how much a sentence costs, they do not know what the likely outcome is and they do not say that. Perhaps one of the things we could look at would be for the judge or magistrate to have to say in any sentence decision in open court, “This is likely to be the cost to the public purse of this sentence,” and, “This is likely, on research that we know about, to be the outcome”—the success rate. When they got exasperated and sent somebody to prison for three months, they would have to say, “I am exasperated. I know this isn’t going to work and is going to make things worse, and I know it is going to cost more, but I am going to do it anyway.”

Q442 Mr Llwyd: With respect, the majority of magistrates that I know—and judges, who are in a no better position than magistrates—

Frances Crook: That is true.

Mr Llwyd: Both magistrates and judges really want to know what the outcomes are. Some magistrates do follow these things through somehow, but judges are blissfully unaware of what happens. They want to be involved, because they want to do something that is efficient and that works as well. Frankly, I think the system needs to be changed. I am sorry; that is not a question, is it?

Chair: It does not need answering.

Mr Llwyd: No, it does not.

Q443 Jeremy Corbyn: A fair point has been made. Maybe somebody can help us. Is there a system by which a magistrate or judge, if they wanted to follow an individual convict through the system, could do so?

Rob Allen: About 12 years ago, there was a big review of sentencing, conducted by John Halliday, who was a senior civil servant. In a way, that gave rise to the Criminal Justice Act 2003, which had in it a provision for review courts—the idea that a court could ask somebody to come back at some stage during the sentence in order to see how they had got on and, depending on progress, could revise the sentence.

I do not think that has been implemented other than in a number of pilot areas where there are problem-solving courts that adopt that kind of approach. At the time, the judiciary was uncertain about it. It would create a substantial work load for the courts if it was done extensively. Some judges also felt that it was not their job. Once you make a sentence as a member of the judiciary, you pass the implementation of that sentence over to the Executive branch of Government and have no interest in it. Some take the view that, once they impose the sentence, it is over to probation and prisons to execute it. However, I think there is a growing recognition—I do not know whether it is the preponderant view among the judiciary—that that is not good enough and that they need to take an ongoing interest, if only to know what the outcome of their decisions is.

Frances Crook: There was the drug testing and treatment order, which was exactly that. People were sentenced to drug treatment and came back to the same judge. That operated for only a few years, but I sat in court sometimes and watched it happen. It was very much like the problem-solving court. You found that a relationship between the person who was sentenced and the sentencer built up over a period of time. That was great. Of course, there was the Liverpool problem-solving court, which was expensive but seemed to work. The research did show it was having an impact. So we have done experiments. We are very good at experimenting with justice in this country—we just never learn the lessons.

Sarah Salmon: Sentencers do need to be involved in local courts to know what programmes are available to them locally, but they also need more information about the person they are sentencing—maybe the diversion and liaison schemes will add to that—as that would be key and would help. It is about knowing the options you have, what goes towards desistance, what you have available and the person you have. It is not about saying, “This person has to fit into this sentence because it is the only option we have got.” They should be able to provide a sentence that works for that individual, if we are serious about desistance.

Mark Day: That is absolutely key. Only last week, the inspectorate did a report that looked at the experience of people with learning disabilities, who are about 20% to 30% of offenders who come before the courts. It found there was some very good practice in a few local areas but, on a national scale, the provision was lacking. What was happening was that people with a learning disability were coming before the court but there was no way for the court to know that this was that person’s particular need. It was not able to sentence them to an appropriate requirement because there was no way of recognising that particular need.

Chair: We have Justice questions in the House this morning, so we have to wind up the session fairly quickly. I come back to Mr McDonnell so that he can complete his questioning.
Q447 Jeremy Corbyn: For as long as I can remember, we have had an awful lot of rhetoric from all major parties that they will reduce crime and will also reduce reoffending. If you say to almost any random member of the public that crime has gone down, they simply do not believe you. They imagine that crime is continually rising, whatever facts say to the opposite. Have you detected any particular change or effect in the rhetoric in the past three years on this, during the time when the big cuts have been made, that has had any effect on either public perceptions or prison populations?

Rob Allen: I know you had evidence from the polling organisation last week and had some discussion about this. I think crime is a less prevalent issue. When people are asked what things really worry them at the moment, crime is not up there in the way that it was at the end of the ’80s and in the early ’90s, when there was a lot of frenetic policy making in the prison area. I am less pessimistic about this. There has always been this strange finding that people say, “Oh yes, crime is getting worse, but in our area it’s not so bad.” There is this distinction that suggests that people take a cue from some of the more gory coverage in some of the newspapers about terrible crimes and assume that there must be more of it, which is not necessarily true at all. My sense is that the climate of opinion in this field is certainly not as bad, as repressive or as encouraging of politicians to take very punitive approaches as it has been at times in recent history, so there is an opportunity to develop some more constructive approaches.

Q448 Jeremy Corbyn: We still have the largest prison population in Europe by a long way. While the USA is higher in all respects, the British experience is one of a very large prison population. It is now over 80,000 male prisoners.

Frances Crook: It has gone up by 1,000 in the last four weeks, which is a big prison. I do a lot of local radio and local phone-ins, so I talk to people locally a lot. These are the kind of people who phone up local radio stations, so they are usually cross about something—or intrigued. People are interested in the idea of restorative justice. They want something to be done. If something has gone wrong, they want something done and they want it healed. They do not necessarily want punishment. This is the big gap between politicians and the public. People want something done, but they do not necessarily want revenge or to be vengeful or nasty to people. They want the problem solved, they want healing and they want some amends to be made for the wrong that has been done. They also quite like the idea of justice reinvestment—of putting money into local communities instead of squandering it on huge prisons, because they know they do not work. Support for prisons is actually very low—it is just out of frustration.

It is about political leadership. When the coalition first came in, we were getting some political leadership about the role of prisons—that they should be busy and there should be work and activity, but that was at the extreme end and we should be doing things in the community, with the rehabilitation revolution and so on. All of that has gone. The rhetoric now is very venegful and punitive. In the end, it will cost a lot of money and cause more crime.

Q449 Chair: Thank you very much. We are grateful for your help this morning.

Frances Crook: I wanted to go on for longer.

Chair: Order.
Tuesday 25 February 2014

Members present:

Sir Alan Beith (Chair)
Steve Brine
Jeremy Corbyn
Mr Elfyn Llwyd
John McDonnell

Examination of Witnesses

Witnesses: Richard Monkhouse, Chair, Magistrates’ Association, Phillip Bowen, Director, Centre for Justice Innovation, Adam Pemberton, Assistant Chief Executive, Victim Support, and Penelope Gibbs, Director, Transform Justice, gave evidence.

Chair: Good morning and welcome. We are very glad to have you, and I think of it as “Justice Reinvestment”—returning to a subject that the Committee previously reported on—but there is a longer title.

Richard Monkhouse: Part of it is almost informed by the media and is pushed in one direction, and that is in a more punitive direction. It concentrates almost solely on the top end. If you look at magistrates courts, we send 4% of our defendants, our offenders, to prison, and we give about 25% of them community orders. However, many of whom have significant problems, are dealt with purely by fine and discharge, which on its own does very little to change offending behaviour. That is the thing that is not really put together particularly well, because the concentration is always on the top end. Concentration is on supervision following a short custodial sentence, and, yes, we know that those who have a short custodial sentence tend to reoffend more, but then, they have been through the system an awful lot longer and it is almost a way of life. We have to deal with those, but if we do not deal with the people at the bottom end we are simply going to have a churn of people who are going to get to that level. That is why we had quite a campaign against out-of-court disposals, because many of them were doing nothing. Cautions were simply saying, “Don’t do it again,” and people were getting caution after caution after caution. That is not doing anything to change the offender’s behaviour. Thankfully that is now being addressed and it is a very welcome move.

I do not think it is all put together, because people who are offenders, if you disregard those who main have significant familial and domestic problems which, if we are going to stop people offending, need to be addressed. They are not going to be addressed by the justice system. The justice system is almost the last resort—“If you don’t behave, this is what is going to happen to you.” I think there is a lot more that could be done further up the system. Other Departments to deal with troubled families and those who are likely to offend.

Penelope Gibbs: There is a huge problem with crime reduction. As Richard said, the levers to reduce crime are mainly outside the criminal justice system. As we have it, the Ministry of Justice does not really have very deep connections with other Departments. Practically the only programme I can think of which is about crime reduction that is outside the MOJ is the Troubled Families programme, but that is about reducing anti-social behaviour, rather than necessarily crime. I would come back to what my colleague Rob Allen said: until we get an incentivisation structure across Government, which gets people outside the justice system to help and support those people who are at risk of getting into it, or are in it, we will never reduce crime properly.

My fear is that the Ministry of Justice, and particularly Her Majesty’s Courts & Tribunals Service, is getting further and further away from the rest of Government and how it works. There needs to be more movement in Whitehall of people between Departments. I personally think that every single civil servant should have training in how local government works and what it does, and how they could better engage with local government services and health services. That will help a bit, but we need an incentivisation structure.

Q450 Steve Brine: There are some familiar faces on the panel. I will start with Mr Monkhouse and then ask the rest of you to chip in. I have met Mr Monkhouse before and I know he has many views on many things. Some of the respondents to our inquiry said that Government policy on crime reduction, while there, is incoherent, exists in different parts and maybe does not add up to the sum of its parts. To get us started, what is your overall view of the coherence of a cross-Government strategy on crime reduction?

Richard Monkhouse: Government strategy on crime reduction? I do not think it is put together, because people who are offenders, if you disregard those who have significant familial and domestic problems which, if we are going to stop people offending, need to be addressed. They are not going to be addressed by the justice system. The justice system is almost the last resort—“If you don’t behave, this is what is going to happen to you.” I think there is a lot more that could be done further up the system. Other Departments to deal with troubled families and those who are likely to offend.

Q451 Steve Brine: Penelope Gibbs, could you add to that? Looking at the cross-Government strategy, how does that manifest itself in the management of the courts, for instance, and sentencing?

Penelope Gibbs: There is a huge problem with crime reduction. As Richard said, the levers to reduce crime are mainly outside the criminal justice system. As we have it, the Ministry of Justice does not really have very deep connections with other Departments. Practically the only programme I can think of which is about crime reduction that is outside the MOJ is the Troubled Families programme, but that is about reducing anti-social behaviour, rather than necessarily crime. I would come back to what my colleague Rob Allen said: until we get an incentivisation structure across Government, which gets people outside the justice system to help and support those people who are at risk of getting into it, or are in it, we will never reduce crime properly.

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Q452 Steve Brine: Can I pick you up on what you said about the Troubled Families programme? You said it was about reducing anti-social behaviour and not about reducing crime. Surely the whole point of the Troubled Families programme is to deal with issues before they become involved in the criminal justice system. Look at your work with children and young people.
**Penelope Gibbs:** Yes. In that way, it is good; it has some indicators for which you get a payback. There is an anti-social behaviour indicator but not, to my memory, a crime indicator. That is what I am saying.

**Q453 Steve Brine:** Because it is very hard to prove that you have stopped something happening that might have happened.

**Penelope Gibbs:** Sure, but then I would come back to justice reinvestment in financial terms. If you can incentivise local agencies to prevent people from getting into court or, for that matter, getting into prison, you can incentivise the behaviour and the support services which are going to stop crime.

**Q454 Steve Brine:** Mr Bowen, you have worked in the civil service at the Home Office and the MOJ. Did you have a thorough understanding of local government?

**Phillip Bowen:** I do not think I did. Penelope is absolutely right to say that civil servants need to get out on to the front line and into more local delivery structures, I think that is absolutely right. There is not enough of it. Just doing central Government work at Whitehall level does not quite cut it.

There are two or three things I want to say about the Government’s crime reduction policy. Two are interesting points of continuity, which is linked to support, and one is, for me, the biggest inconsistency. In terms of continuity, the continuity of work around violence against women and girls that was started under the last Labour Administration and has been carried forward is a positive thing; I am glad that we have seen that. I also think this Government’s commitment to restorative justice has been very positive. For a long time, when I was in the Ministry, it was, “Should we do restorative justice or not?” This Government has really put its eggs into that basket.

The biggest inconsistency for me is that, on the one hand, you have a Home Office which has decentralised and democratised policing through the PCCs; on the other hand, you have a Ministry of Justice that is looking to marketise probation and prisons but is adopting, I think, a very national approach and the Ministry of Justice approach. The biggest inconsistency for me is that, on the one hand, you have a Home Office which has decentralised and democratised policing through the PCCs; on the other hand, you have a Ministry of Justice that is looking to marketise probation and prisons but is adopting, I think, a very national approach and the Ministry of Justice approach.

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Q456 Steve Brine: So you know all about the Right on Crime initiative.

**Phillip Bowen:** Indeed. I also worked for 18 months in a problem-solving court in the Bronx in New York in 2006, so I know that model quite well. One of the purposes of writing “Better Courts” was to try to see what practice looks like at the moment in England and Wales and what is the international evidence. What we have seen is the legacy of some of the problem-solving court movement that happened in this country after the set-up of the North Liverpool Community Justice Centre. Some of that has survived, grown and thrived; some of it has not. The point of “Better Courts” was to lay out that new vision of how this could happen. I certainly think there are a couple of things that could happen in this country relatively easily to promote that agenda. In particular, the use of sentenced reviews to bring people back into court for compliance reviews would be very useful. We already see it in drugs cases. We see it in the West London drug court, where they try to make sure that the same sentenced is present at the compliance hearing. We have also seen it in Wales under a programme called the intensive community order programme, where they have simply just arranged for those offenders to come back for a probation supervision appointment in court, and done it within existing resources. It is possible. There are barriers to it, and I can talk about what some of those barriers are, but it is a very positive development and it is evidence based. We know that it works.

Q457 Steve Brine: Would you also support what we saw in the Star court, which was all the offender’s peers sitting there and being almost a part of their collective? Presumably you have seen that happen in the Bronx as it did in Texas.

**Phillip Bowen:** It did not happen in the Bronx, but it does happen in some of the other New York city problem-solving courts. We know that peer influence can be a very destructive process, but also a very positive one. One of the projects we are helping to support at the moment is down in Hampshire, looking at how we can involve young people who are either ex-offenders or are on the margins of crime help to support people who are having a current case. That is known as a peer court idea. The positive power of peer influence is a very important one, and I do not think we use it enough.

Q458 Steve Brine: Mr Pemberton, with respect to Victim Support you have called on police and crime commissioners to put victims at the heart of their
work. Someone was listening, because they will assume responsibility for commissioning services later this year. To what extent do you feel that PCCs have sought to promote a victim-centred approach to their work?

Adam Pemberton: Where we are right now is that that picture is emerging. PCCs are getting to grips with the challenges of commissioning services. It is quite a complex and technical subject; it is not straightforward. Victims’ needs are not simply determined by the type of crime they have suffered, and victims do not live their lives by neat PCC area boundaries. Ensuring that in the move to local commissioning there is still high-quality support available for victims, determined by victims’ needs and not by some arbitrary set of formulas, is going to be absolutely critical.

We know that people who come into contact with the criminal justice system have less confidence in it than those who have not. That continues to be the case. The criminal justice system cannot function without victims having confidence to come forward and tell their story. It is clear what victims want. They want offending to stop. They want appropriate punishment and they want to be kept informed about what is happening to them.

The phrase “putting victims at the heart of the criminal justice system” is a bit overused. The proof of the pudding is in whether or not that is actually happening and whether we are thinking about these issues—whether we are actually thinking about it from the perspective of the victim and the experience they have gone through. It is not going to be a happy experience, but at the moment it causes too much trauma and distress. We are moving in the right direction and there are positive steps, but we need to move faster and really think a bit more radically about how you get that victim dimension into thinking about criminal justice reform.

Q459 Steve Brine: Presumably the best way for victims to interact with the criminal justice system is for them not to come into contact with the criminal justice system and not be victims, which is why we are trying to reduce crime.

Adam Pemberton: Absolutely.

Q460 Steve Brine: Mr Monkhouse, do you have anything to add? You can always think of something after we have been to you, and then we move on and you think, “I wish I had said that.”

Richard Monkhouse: Adam is absolutely right about victims being within the system, but if you do not change offenders’ behaviour it is going to lead to more victims. It is getting to that and balancing that. It is reducing the expectation that some victims may have about sentence. We have to be very careful about that. Judicial independence is not irrelevant. It does mean something different from the magistrates to the judiciary—the uniformed branch, as it were. Unless we stop offenders at a very early stage, that is going to lead to more. The concentration at the top end has always almost ignored those who are next year’s offenders.

Q461 Chair: In the debate in the House yesterday on the criminal justice Bill we gave quite a bit of attention to the concerns of the Magistrates’ Association about out-of-court disposals. I understand that concern because it relates, for example, to consistency and to public knowledge of what have been the outcomes. Is there not a danger though that, if you demonise out-of-court disposals, you close the door on some really quite exciting and innovative things which are seen to be effective in some cases, including the most basic forms of restorative justice?

Richard Monkhouse: You have to differentiate diversion and out-of-court disposals; you have to distinguish which is which. I said before that simply giving somebody a caution, and that’s it, has very little effect on their behaviour. Restorative justice and other diversions are very good. We have seen in the Youth court the vast reduction in the number of youths coming into court by means of diversion rather than simply out-of-court disposals.

The main problem we have seen is that there are 43 chief constables, so there are 43 ways of handling it. That is the difficulty. There is no guidance. I know scrutiny panels are getting up, but, even there, there is quite a bit of difference between one area and another.

Some are doing a lot of good work; some are almost paying lip service to it. That does nobody any good at all.

It is consistency across the board and it is understanding why we are doing it: why a caution is appropriate in some circumstances and not in other circumstances. That is the balance. We do not want to demonise out-of-court disposals, because they are efficient and, where appropriate, they are absolutely right. But there are many cases in the past where they have been used inappropriately. I heard of one yesterday where somebody was punched in the face on a bus. By the end of the day, an RJ conference had taken place. You think, “Actually, isn’t this a little bit hurried and shouldn’t there have been more thought about this?” The police were really quite pleased about it: “Aren’t we good? Haven’t we done a good job?” Yes, they have ticked a box, but have you prevented that offender from doing it again? Time will tell. It is consistency that we are after.

Q462 Chair: Presumably from the victim’s standpoint the concern is to be sure—precisely as Mr Monkhouse says—that something is being done which makes it likely for it not to happen again.

Adam Pemberton: Absolutely. That is one thing that victims will tell us time and again. As well as seeking punishment for what has happened to them, they want to be sure it does not happen to anyone else again.

That is very important. On the point about restorative justice, we think it is very good for victims as long as it is victim-centred RJ. There has been a tendency in the past for it to be focused on what is right for the offender, and for the victim to be treated as a bit of an afterthought in the process. Victims should be offered restorative justice in all circumstances, but it has to involve them and respect their wishes. While it is good to see that kind of prompt justice, what you don’t know is whether it denies the victim the opportunity to have their voice
and have their say. That is a very important part of the process for helping victims cope and recover after being victims of crime. There is always a balance to be struck, but the general message about RJ is that it can work for victims in cases where it is centred on them, and they are treated as equally in that process as the interests of the offender.

Q463 Chair: Could magistrates’ concerns be allayed to some extent if magistrates were involved more in some of the out-of-court disposals?
Richard Monkhouse: Absolutely; before, during and after. At the moment we live in that box of the courtroom. There is so much more that could be done in advance of the process and after the process. Phil mentioned case reviews. We think those would be a really good idea, because they add that continuity of interacting with the offender. We have seen how well they work in drugs cases, although those are now becoming few and far between. They are not used as much as they used to be. It is an efficiency problem. “Is this going to mean another hearing? Is this going to mean another sitting? Well, let’s not do it, because it is going to cost money.” Justice always more important than that. Again, you have to strike that balance between economy and justice.

Q464 Chair: In our 2010 report, we recommended that sentencers receive more systematic feedback on the outcomes of their sentences, so that they have an idea about when the sentences are effective. Do you share that view and do you see any sign of it happening?
Penelope Gibbs: I think it is essential. I used to sit as a magistrate myself. I am ashamed now of how little I knew, but that was not just my personal responsibility; it was the system as well. I had no idea about the statistics on effectiveness and about different things I could do. It was like a tick-box exercise. You had your bench book and you had somebody in front of you. I was a winger.

The key for me is more feedback in the broadest sense. Magistrates’ training needs to involve more about the basic knowledge of what desistance is, about what causes offenders to stop offending and about the effectiveness of sentences, particularly about the ineffectiveness of short prison sentences and so on. If you could get magistrates at that early stage of initial training to have at least that picture of what works and what does not, you have the framework on which to have more information sent to them.

The more important thing is that they understand, in the broadest sense, what their sentences might do. If we can also do individual case reviews, all the better; but I think there is a first step of getting the information, which, can I tell you, does not happen? Magistrates do not even know, most of the time, when their own cases have been appealed. They do not know what the results of that appeal are. In most cases, they do not even get feedback on the cases where their decisions have been overturned.

Philip Bowen: I would agree with all of that. What I would add is the idea of building in case feedback loops through structured sentencer reviews. We are helping to run a project in Swindon, a restorative justice panel looking at anti-social behaviour and low-level crime that is not going to court, that does not need to go to court. We are constructing a feedback loop so that the people who sit on the panel get to know what has happened to Bob, who was sitting in front of them two months ago. Has his behaviour stopped or changed, and what has happened to the victim? That strikes me as something we are trying to do at a relatively low-level panel that is pre-court, but it does not happen for magistrates. That seems strange to me.

One of the other things I would say about having more structured sentencer reviews is that not only does it give you information on a case-by-case basis, but it can also help sentencers to understand where the gaps in service provision are. They can see that Bob has not received his alcohol treatment and ask why that is. Certainly in America, in the problem-solving courts there, judges and the courts have become advocates for looking at the reality of the service delivery and how they can help to change it. I do not think that happens here in that dynamic way. That is one of the other benefits of having more sentencer reviews.

Q465 Chair: Do magistrates feel they have any input into the availability of crucial services like mental health services or alcohol dependency services?
Richard Monkhouse: At a Magistrates’ Association national level, yes. We are well involved with an awful lot of groups, but that does not happen at bench level. It is almost deterred at bench level. It is an efficiency problem. The probation liaison groups that used to be statutory are no longer statutory. Some areas still have them and in some areas it still happens. That link with the probation service—to know what has actually happened—is still very useful, but in an awful lot of other areas, again because of economies, it just does not happen.

I think it starts in the courtroom. It starts with a degree of engagement with the offender rather than treating them like manufacturing a motor car. They are individuals. They are people who have got into the criminal justice system for various reasons, some of them deliberately and some of them accidentally. We need to signpost many of them away from their offending behaviour, but you can only do that if you can engage with them. It is not going to happen on every occasion. We do it in our court on a regular basis. We have our own panel—it is just so useful. We can identify somebody we are going to fine because they have been shoplifting, but we know they are shoplifting for a reason. We can address that reason by signposting them to a local organisation. That is put on their case papers so that the next time they are in court—even if it is not the same panel—we will at least know that that person has been signposted in a particular direction. Again that encourages engagement—“What happened? What have you got out of it? Has it affected your behaviour? Are you now less reliant on drink than you used to be?” and so on. Without that engagement, if you just treat them like a spare part, nothing is going to change.

Q466 Chair: I know it is a sore point with magistrates, but what happens in a situation where you...
have a district judge—we used to call them stipendiary magistrates—handling quite a lot of the business? Does that mean that he is likely to get more continuity in cases of the kind that we are talking about?

Richard Monkhouse: Absolutely. Magistrates have to be rotated. We sit once every two or three weeks. District judges sit all the time. We do not see district judges as a problem; we need to work with them. I think we could work more together with them if there was more sitting of magistrates with district judges on a bench of three. That would educate magistrates much more in a number of things—engagement in the court, but also case management. For all these things, it would be advantageous for magistrates to sit with district judges. You are not going to do it on every occasion, because a DJ is paid a lot of money and we are not. You are not going to deliberately increase the expense, but where the situations arise it should be done an awful lot more. We know that in certain areas it is not. I suspect it is down to personalities.

Adam Pemberton: I want to pick up one point. I do not disagree with what Richard said, but if anyone feels like a spare part in the criminal justice system it is victims—or not even a spare part, but a part that does not get used and is left on the side as an afterthought. Barely 16% of victims we work with tell us that they feel that they have had their voice listened to.

One of the things that is moving in a positive direction is the increased use of victim personal statements, so that the voice is there. It is really important that victims are made more aware of their right to make one of those statements, and now to have it read out in court if they wish. A greater take-up of that will really help victims. This is not an either/or choice, but it is important to recognise that, while we are talking about the system and how the system operates, victims feel very much on the sidelines as an afterthought in this. We need to address that.

Richard Monkhouse: We still see victim personal statements as rather like hens’ teeth; they rarely occur. Good magistrates and good chairmen will ask for them, but they do not come with the rapidity or the frequency that they come in Crown court.

Penelope Gibbs: To come back to the continuity point you were making about district judges and magistrates, I do not think it is insuperable with magistrates at all. I know that the MOJ has huge problems with IT services, but this issue of who is sitting when and can you join up people is not a big IT problem. It should be pretty straightforward to match people with the people they have seen before, if you get a good software programme. They know in advance when magistrates are going to sit; in some cases, it is known weeks and months in advance. People are told in advance of their court appearance. I think that is an excuse.

Richard Monkhouse: A new rota system is being developed and we would like to see it in place, but I think it is going to be a while yet. We are not holding our breath.

Q467 Chair: But case listing and the rota system need to be matched to each other, don’t they?

Richard Monkhouse: It is being built on the common platform and that is a step in the right direction, but it is a step we are quite a bit away from.

Phillip Bowen: We are releasing a report next week on domestic violence courts. There are 137 courts which, since their creation in 2005, have done a great job in terms of trying to help victims feel safer and so on. One of the problems we have identified is that simply listing cases in domestic violence courts that are already flagged as domestic violence is not happening in certain courts. We are trying to get to the bottom of that; we have not been able to do it in the report that is coming out next week. From a systems perspective it sounds relatively easy, but it is obviously not happening as much as it should do. I do not know if there is a tension between that and the fact that HMCTS have had to save 30% of their budget. We have certainly seen in that report that some of the systems are becoming weaker because there are not as many people on the ground to do that work.
magistrates and judges have been disconnected from the forums where they might have conversations with people.

A piece of paper is all very well, but a conversation is much more powerful. For instance, if you look at community safety partnerships, magistrates were originally allowed to sit on them but then it was decreed that they were not allowed to for judicial independence reasons. Even now the court staff are not participating very much in community safety partnerships. If people are not around the table discussing what is going on in the criminal justice system in their area, how can they effectively reduce crime?

**Phillip Bowen:** One of the really interesting things, in contrasting here with the States, is that a lot of the problem-solving courts that were set up in the States were set up in the late 1980s and early 1990s after the rise in crime because of the crack epidemic. A lot of the time it was the court saying, “We keep on seeing the same people come through and we don’t know what to do with them. It is our job to do something about it.” In our system, it is hard for courts to step forward and that way because of some of the barriers that Penelope described. It is still very much seen as entirely an executive function. There are issues around judicial independence that are raised by the court being a more active player, but I think that is a discussion to be had rather than no discussion at all.

**Q470 Mr Llwyd:** What are the main barriers to any of the real innovation about which we are all talking? People seem to be in silos, don’t they? “That is the job I am doing; this is the job you are doing” and so on. Surely we need to break down those barriers.

**Phillip Bowen:** To go back to my earlier comments, there is something in that, and there is also something in having a highly centralised system. In Penelope’s report on magistrates committees, it used to be a locally owned and locally driven service. It is not any more. We have a very centralised HMCTS. When I think of the contrast between here and the States—I am not holding the States up as this glorious example of great criminal justice but just as a contrast—it is still very much seen as an executive function. There are issues around judicial independence that are raised by the court being a more active player, but I think that is a discussion to be had rather than no discussion at all.

**Q471 Mr Llwyd:** That brings me to my next question, which first of all is for Ms Gibbs. You said it is questionable how innovative courts can be when they are run centrally. Do you agree that central control leads to a culture of conformity and obedience to bureaucracy? How could this be overcome? Part one. Part two of the question is, how do you respond to the Lord Chief Justice’s fears about postcode justice stemming from having a more local approach?

**Penelope Gibbs:** I heard the Lord Chief Justice’s speech. What I would say is that we already have postcode justice in our system. If you look at the rates of diversion from court, but also specifically at the use of custody, it is still very different on different benches in different areas. I saw this when I worked on reducing the use of imprisonment for under 18-year-olds: Merthyr Tydfil, for about eight years, used custody for under 18-year-olds far, far more than Newcastle, which stayed low. We have a postcode justice system. I don’t approve of it. I don’t think court innovation has to make it any worse than it is already. There are other mechanisms: transparent information about this postcode justice system would help; monitoring, feedback and all that kind of stuff would help with it. Meanwhile, you have a very centralised system where very few decisions can be made at local level. It is simply about approaching the process in a different way. Yes, you need monitoring from the centre, to make sure that we don’t not make postcode justice any worse than it is now, but if our postcode system worked properly, which it does not, that is another mechanism to make sure that the decisions are the right ones at every point.

What we are talking about, and what all of us in this movement are saying is that innovation can happen if organised centrally, but the evidence from centralisation of the court system is that it has not fostered innovation. In fact, the innovative things that have happened have mainly been closed down by the centre. Maybe the problem with them was that they started in the centre in the first place rather than being an idea that came up from the bottom. Under MCCs, postcode justice was no worse than it is now. There were magistrates courts committees which managed local magistrates’ courts. The magistrates’ courts were owned by their local authority and managed by the magistrates. I do not want to go back to that system. It would be radical, but I personally think that it would be easier to get innovation if people did not have to go through a huge hierarchy if they have an idea at the bottom. The evidence from the staff survey of HMCTS is that people don’t think it is very easy to get new ideas through.

**Q472 Mr Llwyd:** Isn’t postcode justice a rather pejorative term for local justice?

**Penelope Gibbs:** Local justice is good if it is about different ways of approaching the process. In the end, I am passionate that nobody should have a greater likelihood of going to prison for roughly the same thing in one area than another. Justice, in terms of the punishment, has to have some kind of consistency.

**Q473 Mr Llwyd:** But surely that very issue—about whether you are likely to be imprisoned or not—must be partly driven by local circumstances and the prevalence of that offence in that locality. I will give you a very brief snapshot from when I was a young solicitor, more than a year or two ago. It was known in north Wales and Cheshire, for example, that if you defended a farmer who was late sending in his VAT returns, at the magistrates in Chester they would consider sending him to prison. If you went along the coast to Llandudno, they would give him a fine; in Bangor they would give him a fine; when you reached Pwllheli magistrates, they would give him a conditional discharge. That is a fact. How you explain it I am not sure, but it seemed to work.

**Chair:** If I can throw in a supplementary, is it not also the fact that in any given area the alternatives available to custody will be different?

**Mr Llwyd:** Exactly; yes.
Phillip Bowen: I am absolutely sure, and I think the Lord Chief Justice was right in his comments at our event, that there does need to be consistency in sentencing. Often what you see in the problem-solving courts is a different way of delivering the service. It is not changing the law. When New York State set up its problem-solving courts it did not actually change the law; it just said, "How can we use the sentencing framework better?" That is a really important point to make. It is not about ruining the consistency of sentencing. It is about saying, "If you are a young black man in the Bronx, what is an effective sentence? Are we going to give you two days’ jail or a fine or a walk, or do something creative that might support you in the process of change?" It was not about legislation; it was about making sure the court could draw on the resources of the community and understand what was available.

When I was working in the Bronx we did not have a lot of mental health treatment to channel people into. That was just a fact and a reality. It then became an issue and judges lobbied other service providers and said, "That is something we want to do something about."

Q474 Mr Llwyd: I want to move back to something that has been touched upon: restorative justice. How has the increase in numbers of neighbourhood panels affected the whole restorative justice scenario in terms of crime reduction, and also victims’ views about the balance of the criminal justice system?

Adam Pemberton: I would need to come back to you specifically on the view about the impact of neighbourhood panels on victims. There is now a set of pathfinder projects on restorative justice. There are about 10 around the country which Victim Support is involved in and helping to deliver. They will build on what we already know, which is very high satisfaction rates from victims. About 85% of victims involved in victim-led RJ say that they are satisfied with the result and that it has made them feel more secure. The evidence is all there that RJ, when done well—that is the critical part, that it is done well—will have a positive impact on victims and is a good solution for them.

I would like at some point to come back on the point about innovation, but do you want to stick with this point for now?

Q475 Mr Llwyd: Would you like to do it now before we ask Mr Bowen?

Adam Pemberton: Innovation is absolutely good and necessary, but it is equally important that we monitor and implement the victim’s rights that are already there. To give you one specific example, there are pilots going on right now of pre-recorded video evidence for vulnerable and intimidated witnesses. Those pilots are going on now but that legislation was passed 15 years ago. There are all sorts of rights that already exist for victims that are on the books—the new victims’ code—and it is really important that we see those through.

The other point about innovation is that a cautious approach would be all very well and justifiable if the system was working well now and working well for victims; but it isn’t. The evidence is there that it is not, so taking some opportunities to push this forward is critically important.

Q476 Mr Llwyd: Thank you for that. Mr Bowen, you wanted to say something?

Phillip Bowen: Yes; just on the justice panel stuff. We are helping the police and crime commissioner in Wiltshire to expand the Swindon neighbourhood justice panel to be a county-wide system of panels. The panels are intended to take problematic cases and things that are beginning to escalate. It is not for first-time entrants but for people who are about to escalate and for whom we think that if they are bound for court they are probably going to end up in the 70% of conditional discharges and fines, so can we do something more effective?

We think that is a very positive thing. Victim satisfaction rates in Swindon for last year were about 84% or 85%, very similar to the numbers that were just quoted. One of the issues for the neighbourhood justice panel movement is the volume it can take. In Swindon, 50 cases were heard last year. We are not talking about that many cases. When you think that about 70% of magistrates’ cases are conditional discharges and fines, you are not siphoning off that many people.

I would also want to put the panels in the context of out-of-court disposals. One of the things we know, especially for young people, is that a simple caution can be the most effective disposal. We know that several longitudinal studies show that if we over-criminalise young people, we actually create more crime. What we are trying to do with the panels is to be very clear about who this is appropriate for. It is not only who it is appropriate for, in terms of should these people even be coming near the panel at all, but who should, frankly, just be going straight to court.

While I am cautiously optimistic about the neighbourhood justice panels, I think there are a number of questions about who they are targeted at and how much volume they can take. There were definitely more than 50 anti-social behaviour incidents in Swindon last year. That is just to give you a sense of the dynamics and the volume.

Q477 Mr Llwyd: My final question is about the Sentencing Council’s approach. In the guidelines, they say there must be regard to the cost of different sentences and their relative effectiveness in preventing reoffending. How should the information be made more systematically available to sentencers? I suppose this is a question for Mr Monkhouse, to start with at least.

Richard Monkhouse: We have touched on that in terms of outcome. If we do not know the outcomes of various types of sentences, we are never going to know how effective they have been, and therefore how much the cost-benefit balance is. We do not know that.

There are some issues with the Sentencing Council guidelines, in that they can be a little bit prescriptive and they can lead to a bit of risk averseness. I will come back briefly to restorative justice. One of the issues that we have is that restorative justice works
well pre-sentence and it works well post-sentence. Why can’t it work well within a sentence? Restorative justice is not just about the option. “You have RJ or you go to court.” RJ could and should be part of a sentence that magistrates’ courts can give. But we do not see that, apart from in one or two specific areas; in Thames Valley, particularly, where Sir Charles Pollard has led restorative justice. He was chief constable there, so no wonder it works there. We do not see it in the rest of the country, yet the combination of a fine or a discharge, or even a low-level community order, together with restorative justice might be the switch that turns that offender off. But we do not have the option for doing that. We also suspect—some evidence is beginning to creep out—that even during the pause before actual sentencing the police are beginning to say, “Well, if we identify the suspect—some evidence is beginning to creep out—But we do not have the option for doing that. We also suspect—some evidence is beginning to creep out—that even during the pause before actual sentencing the police are beginning to say, “Well, if we identify the suspect—some evidence is beginning to creep out—

Richard Monkhouse: It is in danger of becoming an either/or. That is missing a very good trick. We need to have all of those options. You touched on the ability of each area to have the required disposals. We know that that does not happen. We know that until relatively recently even in an area like Greater Manchester, when I sat in a court, we were given by the probation service the suggestion of conditional discharge for a domestic violence incident that was drink-related, simply because they did not have the drink option available in our part of Greater Manchester. That just seems nonsensical—completely nonsensical. I believe that has now changed, but if that is happening in one part of the country it is also happening in a lot of other parts of the country.

We need to have the standard options which are going to have an effect on the offender. That is going to mean fewer victims, particularly in domestic violence. We have done an awful lot in domestic violence cases, but we can only pursue that and reduce the effect on the victims if it is consistent throughout the country, treated consistently through the police service and treated consistently in the courts rather than somebody else saying, “We will give them a bit of RJ and that will mean what you have to prepare the paperwork to go to court.” We are beginning to hear of those things. If you have a system that has all the options there, that system should be used rather than diverted.

Q478 Mr Llwyd: The Committee went to Northern Ireland a few months ago. It is slightly different there, of course, because the RJ element is imposed in a court setting, albeit with all the agencies around the table. That seems to be a good way forward.

Richard Monkhouse: Yes.

Q479 John McDonnell: Like you, the Committee has looked at the use of sentencing review powers and problem-solving courts. We got very excited with a trip to Texas and more excited when we went to Manchester.

Richard Monkhouse: Of course; why wouldn’t you?

Q480 John McDonnell: I was feeding you the line, Richard. I was going to ask what your assessment was, but from what you have said this morning I am working on the basis that you were virtually unanimous that, although sentencing review powers are as important, problem-solving courts are the way to go. Some of you are trying to develop that at the moment. The Government are reluctant about that. Why do you think that is the case? If it is the case, in the face of Government reluctance, how can we go about achieving the development of this form of justice?

Richard Monkhouse: Penelope and Phil have both touched on it. You could allow for a little bit more innovation at local level. I do not want to go into this too deeply, but the morale of the magistracy is very low at the moment. These are the sorts of things that would help to boost it. It is about trust. It is about trusting magistrates to do the right thing in the right circumstances given the right options. If you have all of those things in place, you have a really powerful 23,000 people who want to do the right thing, They have guidelines and processes to help them do the right thing, yet time and time again it seems like we are not trusted. For example, we have been arguing for 12 months’ custody for some time and we will carry on doing that. The response is generally such that it comes back to us, “We don’t trust you not to send loads more people to prison.” We have two years’ custody for youths. We do not send any more youths to prison than we do adults.

Penelope Gibbs: We send less.

Richard Monkhouse: We send fewer, not less.

Penelope Gibbs: Sorry, fewer.

Richard Monkhouse: I am sorry; I am a bit picky about that. With youths, we are seeing the more serious cases because there is more diversion before court. That is the point. The less serious cases are not coming to court. We are seeing more serious offenders, yet we are sending fewer people into custody. Why is there that lack of trust? It would be so much of a boost to the magistrates courts to say, “The Government trust you.” We do not know what the reason is for that. We are doing some research, with the help of the MOJ, on why that is happening. We will be very interested to see what that research throws up. We guess that it is risk averseness again. “Let’s not do it in case.” I think we can be trusted.

Q481 John McDonnell: Richard, you mentioned earlier the drug courts and that there has been a decline in the use of sentencing review. Is that anecdotal or a statistic?

Richard Monkhouse: Where there is an order that is more than six months’ long there is a built-in review. Probation services, over the last two, three or four years, have been saying, “Can we restrict them to six months?” so there is not the automatic review built in. It is now left to magistrates to say, “Actually we would like to build in that review.” Again it is down to confidence and efficiency—that means another sitting. We understand the financial pressures. Absolutely. But we think there are other ways to go about that.
Q482 John McDonnell: It is a resource-driven step backwards then.
Richard Monkhouse: We think it is resource driven, yes.
Phillip Bowen: I think there are two reasons—probably three—why HMCTS are probably reluctant around problem-solving courts. One is obviously that they have to deliver budgetary savings, which has become their big obsession, and I empathise with them. It is a drastic reduction in their budget and they need to cope with that.
The second thing is worrying about how to get the volume out of the court. Third is the question about evidence. There are some questions that HMCTS are wrestling with. If we are proposing more sentencing reviews, to whom and why? What is the evidence behind doing that? That is a genuine question. One of the things we are going to be doing with our partners in the new economics foundation over the next year is, if you want to introduce sentence reviews for more cases, which of those cases and where is the evidence as to what that is affecting?

Q483 John McDonnell: The evidence is mixed at the moment, isn’t it?
Phillip Bowen: The evidence is mixed at the moment. Internationally, it is not. The evidence to date in the UK has been that we do not have enough cases on which to do the evidence. I should also be clear that there are other elements of the problem-solving court principles which can be applied here and now; for example, there are support projects in Plymouth called the Plymouth Community Advice and Support Service, which targets most of its problem-solving approach at people in the conditional discharge and fine community. It is voluntary engagement, so you do not necessarily have that process of structured court reviews, but you do have a place where people can go and access the social services that we used to offer in the Bronx.
There are a number of questions around cost that organisations like mine need to address, because I think those are the questions that are in HMCTS’s mind: “Does this work? Is it worth the bang for the buck? Who is it for?” Having been a civil servant, I understand the pressures on them at the moment. I also think, frankly, that they are doing other things. They are doing digitalisation and they are doing court closures. That is a lot to be getting on with. To introduce problem-solving courts at the same time is an additional pressure.
The last thing I would say is that in the examples that we gave in “Better Courts” and for some of the people we are working with at the moment, good local HMCTS managers and good local magistrates and sentencers are engaging with us and a number of providers. I do not want this Committee to take the view that it is all disastrous and that no one is engaging with it, or thinking about how to do more crime reduction in the courts. I just think that sometimes it is done in spite of the top-down system rather than because of it.

Penelope Gibbs: I would say it comes back to where we started, which is the disconnect between the Ministry of Justice and HMCTS and the rest of Government. The thing about problem-solving courts is that they may appear to be more expensive, but, presumably, if they work, the savings are accrued by somebody else in Government. From the point of view of HMCTS, where is the benefit for them? You get back to the financial incentivisation structure; if you had a more local system with delegation of budgets, there would be a reason for those courts to be supported, if they worked.
Phillip Bowen: There was a recent evaluation of the Brooklyn-based Red Hook Community Justice Centre, which showed that less people who go through that court go to prison than would be the case in the Brooklyn downtown court. Who saves that money? It is the New York city mayor who saves that money. He also sponsors the Red Hook Community Justice Centre, so he has a direct line: “If I invest in this, I save people going to my jail, so I accrue the saving.” As you explored in your 2010 report, the MOJ spends money on X and it is a very long loop before it starts saving money in prisons.

Penelope Gibbs: There is almost a conflict sometimes between the incentivisation structure for HMCTS and what would benefit the rest of Government. For instance, if you go for a very speedy process, if you look at remand, sometimes the speediest way of dealing with somebody in remand if you do not have much information is simply to imprison that person. Nobody around the court is going to pay that cost. It is paid by somebody else somewhere else. Sometimes if you could slow down that, and say for an under-18-year-old, “Can you go and find out more information about this child and we will delay it to the afternoon?”; yes, there is a process cost, but in the end the prison cost is much, much lower.

Q484 John McDonnell: It comes back to this issue of the Sentencing Council guidelines about taking the economic factors into account within the broadest range possible.
Penelope Gibbs: They need all the factors, not just the top-line cost. They need the total cost, which is much greater.
Phillip Bowen: It is not just cost; it is cash. That is important. We can show cost-benefit reductions on all sorts of programmes, but where is the cash now? Certainly when I was working for a time on spending reviews at the Treasury, cash now was rather more important than benefit later.
Jeremy Corbyn: It never changes.

Q485 John McDonnell: We’ve all been there; don’t worry. If there is to be an expansion of the problem-solving courts, do you think it requires section 178 of the Criminal Justice Act 2003 to be brought into force now?
Richard Monkhouse: Yes.
Phillip Bowen: We have briefed Government on this.
My understanding of section 178 at the moment is that by Order in Council there are 10 courts designated to operate community orders. My view is that that power should be available to all courts. That does not mean that every community sentence should be getting a sentencer review; not at all. In some cases it would be
an inappropriate use of resources. It may not be the most effective thing to do. The evidence from the States and from Australia would suggest that there are particular types of cases where that might be useful. In particular, domestic violence courts are beginning to see that that process of review helps keep victims safer. It makes them feel safer that something is being done and, when combined with perpetrator programmes, it can actually reduce the propensity of the perpetrators to reoffend. While I would want that power to be opened up to all courts, I would also want MOJ, HMCTS and organisations like us to be involved in what we think the next cohort of people who should come under that regime should look like.

Q486 John McDonnell: People are creatively working their way around it at the moment, aren’t they?
Richard Monkhouse: Yes, but to involve magistrates as well. It comes back again to trust. We are not going to overuse these things; we know what is sensible and we are all trained and appraised. We all go through that. I just wish there was a little bit more trust in the system.

Q487 Chair: Mr Pemberton, do you think sufficient regard is paid to patterns of victimisation and repeat victimisation, either in geographical areas or in sections of the community and society, in informing the direction of crime reduction policy?
Adam Pemberton: The short answer is no. I do not think sufficient attention is paid. One issue of particular importance is around unreported crime. There are substantial numbers of people who are victims of crime who never report the crime. They are victims of repeat crime. Anti-social behaviour is a good example of this. People can go through repeated incidents of anti-social behaviour that do not reach a level that can be deemed a crime. Nevertheless, in their personal experience it is hugely impactful on their lives, and they are in need of support. There can often be an escalation of that, which leads to crime. There is something about understanding that it is not just about the numbers of people who are reporting crime; it is actually being able to get to a lower level and, as you say, understand the map of offending locally that sometimes sits below the radar, so that sufficient interventions can be made, and, as well as that, making sure that support is available for people who are victims of crime. At Victim Support, we are currently commissioned to provide services, but those are for people who have reported crime. We run a national helpline for people who want to contact us. If someone contacts us who feels they have been a victim but it has not been deemed a crime or they have not reported it, we will provide support. We have a wealth of information across England and Wales, but it is about using that information to really understand the various patterns and cross-cutting trends to inform crime reduction efforts. This is a big challenge. PCCs are still getting to grips with it as part of taking up their responsibility for victims. We have a long way to go.
Richard Monkhouse: I would add to that. Certainly in our area, the magistrates and the community unit have been working with Greater Manchester police in their attempt to understand hate crime. We have been having sessions. I know that at senior levels there have been sharp intakes of breath regarding judicial independence. They have been so positive. We have been getting groups of people in and showing them what the process is about reporting crime, what happens involving Victim Support, and involving them and showing them how the court system works and how magistrates work. It has been such a positive thing. Greater Manchester police are over the moon about it, but we know that if we tried to expand it in the country we would get a firm, “You shouldn’t be doing this because it interferes with judicial independence.” That is again an issue, but there is so much more we can do at a local level involving all the groups. Separation of powers does not mean that we don’t talk to each other. Separation of powers means we don’t do each other’s jobs. Simply put, that is what it is. I think there is a lack of understanding of that, so there is more that we can do.

Q488 Chair: We asked when we were in Greater Manchester, “How have you managed to persuade the magistrates of this?” and the answer was, “They have been involved from the start.”
Richard Monkhouse: Yes, but it was a push. We had to really push at it.

Q489 Chair: If either of you have any examples of either very good practice or lack of good practice in this area we would be quite interested, if only to illustrate what we are trying to explain when we come to report on the issue.
Adam Pemberton: We will write to you with some examples.

Q490 Mr Llwyd: This is a question for the panel with the exception of Mr Monkhouse; it might be slightly invidious as we are treading on some political ground here. The then Government response to this Committee’s report on justice reinvestment stated that the Government could not then set a clear direction to reduce the use of custody as an end in itself. It appears that the current Government shares that view. Why do you think that consecutive Governments do not consider reducing levels of imprisonment to be a legitimate policy goal?
Penelope Gibbs: I think they would like to, but they are afraid of the media. In the end, they know that prison is very expensive and quite ineffective in a huge proportion of cases, but our dynamic conversation about criminal justice means that they think only by pushing the punitive buttons. Are they going to get good media? I think they may be right in saying, “In this climate, if we say we want to reduce prison numbers, we may get savaged by the media.” It is a sad situation, but I can understand where they are coming from.

Q491 Mr Llwyd: Can I interrupt you for a moment? You say “in this climate.” This climate is the prevalent climate over the last 50 years, isn’t it?
Penelope Gibbs: No. Under Thatcher, criminal justice was quite under the radar. I have not analysed the
media coverage at the time, but under Douglas Hurd and so on she played a clever media game in a sense, whereby that side of the press was fed by agendas other than criminal justice. Do you see what I mean? There was the welfare agenda and so on. In that period, there was some progressive stuff happening on criminal justice. Prison numbers, certainly for children, went way down. It is since post-Thatcher that it has got much worse. There is a kind of constant at the moment. Clearly as a penal reformer, I would love them to say, “Let’s have a commitment to reduce prison numbers,” but in a sense I do not think they need to. I come back to the point that, if they could change the financial incentivisation structure to delegating custodial budgets, they do not need to say anything. With under 18-year-olds in custody, remand has gone down with the delegation of budgets. In Pathfinders, where they delegated the whole budget, custody has gone down. They would not need to actually state it as a policy, but they would get that outcome.

Q492 Mr Llwyd: That is interesting. What we found on our much vaunted visit to Texas was that the political right and the political left came together because there was an understanding about the relative cost, efficiency and efficacy of these sentences. In other words, custody does not always work; quite the reverse. They were closing prisons down and even the right-wingers said, “Yes, fine, because we’re spending less money and getting better outcomes.” Surely if the public got to thinking in that way, we could do away with this tabloid drumbeat that seems to undermine everything.

Penelope Gibbs: Absolutely. The question is how we get there, but I agree with you.

Q493 Mr Llwyd: Mr Bowen may have an idea of how we can get there.

Phillip Bowen: There are three reasons why Governments do not commit to reducing the prison population. Ben Page was talking at the Committee a couple of weeks ago, saying that the public consistently say they are happy to lock people up even though they know it does not reduce reoffending. Secondly, the financial incentive on the Treasury is relatively weak. I am not saying it is weak, but it is a relatively weak one. If you look at the States and the justice reinvestment movement, in California 11% of their budget was spent on prisons. When we look at our spend on prisons, it is £3.6 billion. In the grand scheme of things it is not that much money, even though for the criminal justice system it is that much money. The problem with saving money in prisons is that you have to get to a point where you are shutting down whole prisons and getting rid of staff. One of the things the justice reinvestment movement has done effectively in the States is to stop the growth of prison. I am not necessarily sure how effective it is going to be in reducing the overall levels of incarceration. A disincentive towards saving money on prison places is that people have a right to expect that punishment happens when someone breaks the law. When we were doing our work on domestic violence courts and speaking with independent domestic violence advisers, we asked, “What are victims’ views on the sentences the courts pass?” They were mostly saying, “I want that bastard to go to prison.” It is hard to argue them down from that. Explaining community sentencing is much more difficult.

One of the ways in which a Government might be able to reduce the overall size of the prison population is not necessarily talking about it, but saying, “How do we use prison more effectively?” There is a really interesting area of practice that is emerging in the States around what is called “swift and sure probation,” which is, “How do we use the least amount of prison for the maximum amount of effectiveness?” There is, for example, a project in Hawaii called the Hope probation programme that has drug misusing offenders on probation supervision. When they test positive, they get a day’s worth of jail. Overall those people are getting consistent doses of jail swiftly and certainly, but there is an overall reduction in the use of jail, because you are not just saying, “Right, we’re done with you now and you’re getting a long prison sentence.” I think there is possible scope in this country for looking at maybe not directly saying, “Let’s reduce the size of the prison population” but at how we use prison or other sanctions more effectively. I do not think we do that well enough at the moment.

Adam Pemberton: I would challenge what Phil says a little bit. We make assumptions about what victims want from sentencing. We have day-to-day contact with victims across the board and do lots of research on this. Four out of five victims tell us that they would prefer an offender to receive an effective sentence rather than a harsh one. Their priority is about making sure that the offending stops. It is about effectiveness. Sometimes we make assumptions that victims will always want to push right to the top end of the scale. I do not think it is true. Their priority is around punishment—appropriate punishment—but really it is about it not happening to someone else. It is important to recognise that diversity of view.

Q494 Mr Llwyd: I do not disagree with what you have just said, but clearly victims per se are ahead of the game in terms of the people that the tabloids are aiming at. Isn’t that right?

Penelope Gibbs: There is an unfortunate cycle whereby the tabloids pick up on punitive messages from Government. They feed any punitive feelings in the population and it just goes round in a circle at the moment.

Q495 Chair: Of course, it also involves the assumption that prison is more punitive than some other sentences, which is manifestly not the case.

Penelope Gibbs: I would always come back to restorative justice, both for victims and trying to get something effective which will also get popular support. When I have done local radio about restorative justice, nearly everybody agrees that it can be as punitive in its broadest sense as prison, because it actually makes people face up to what they have done. They talk about shame management in Northern Ireland. You need the management, but the shame can be productive.
**Phillip Bowen:** That is right. One of the interesting things that we are exploring in this area of “swift and sure” is does it need to be going to jail for two days or can it be other non-custodial sanctions? What seems to be emerging from the evidence is that it is not about the severity of it but whether it happens with certainty and does it happen swiftly? Once a breach has happened, does the system do what it says it is going to do, which is, “You’re not playing by the rules; we’re going to do something”? Increasingly in the States they have been reducing the size of the dose of punishment they give, down to three hours or a night in jail rather than extended lengths. I think there is something in it. Just to clarify my comments about victims, I absolutely agree with what you have said. I do think there are, in particular, vulnerable victim who at the end of the day want to be protected. One of the easy ways for them to feel protected is when that person is no longer on the streets. I just think we should deal with the reality of that. I take the point that when you talk constructively with them they will say, “I just don’t want this to happen to anyone again,” but I do not think they will say “I want to live in a society where I am now controlled.”

**Adam Pemberton:** That is true too. The difficulty here is trying to separate views on sentencing from victims’ experience of the criminal justice system as a whole. We did a piece of work in “Make Justice Work” looking at the views of victims of community sentencing called “Out in the Open.” What was telling about that was that people could grasp that this was a tough sentence and it was meaningful, but their experience of having gone through the criminal justice system left them so distressed that they were not open to it as an actual remedy. It is very important not to change their behaviour, even though the evidence might suggest it does. I just think we need to deal with that reality.

**Adam Pemberton:**: The victim surcharge will now mean that there will be increased funding for victim services. It is one of the very few areas where I think there will be additional resources available. In that respect it is very welcome. Clearly there is an issue around collecting it and then distributing it in a way that it can be useful. I cannot speak for how well that is going. The principle that offenders pay for some services to help future victims of crime is a welcome one. It is one that victims welcome. Certainly, as I have tried to get across to you today, there is much more we can do for victims, so the additional resources that are available to commission those services is welcome.

**Q497 Mr Llwyd:** Mr Pemberton, what impact has the victim surcharge made to victims of crime?

**Adam Pemberton:** The victim surcharge will now mean that there will be increased funding for victim services. It is one of the very few areas where I think there will be additional resources available. In that respect it is very welcome. Clearly there is an issue around collecting it and then distributing it in a way that it can be useful. I cannot speak for how well that is going. The principle that offenders pay for some services to help future victims of crime is a welcome one. It is one that victims welcome. Certainly, as I have tried to get across to you today, there is much more we can do for victims, so the additional resources that are available to commission those services is welcome.

**Q498 Mr Llwyd:** I do not disagree with the principle, but I rather question the issue of somebody who is convicted of a speeding offence paying an impact surcharge. I wonder who the victim is really.

**Adam Pemberton:**: The victim surcharge will now mean that there will be increased funding for victim services. It is one of the very few areas where I think there will be additional resources available. In that respect it is very welcome. Clearly there is an issue around collecting it and then distributing it in a way that it can be useful. I cannot speak for how well that is going. The principle that offenders pay for some services to help future victims of crime is a welcome one. It is one that victims welcome. Certainly, as I have tried to get across to you today, there is much more we can do for victims, so the additional resources that are available to commission those services is welcome.

**Q499 Mr Llwyd:** What are your observations on the Government’s proposals to administer a charge to convicted offenders in other words, to meet part of the HMCTS administration of court costs? Perhaps I should declare an interest on this as well.

**Richard Monkhouse:** Many of the people we see are on benefits and many do not have very much to rub together. So now we have fine; we have a victim surcharge, which has gone up; we have prosecution costs; we have court costs; and we possibly have compensation. We know the hierarchy, but you are dealing with people who have no resource. The people who are going to be most affected are motorists—again—because the motorist is not normally in that situation. The motorist is normally somebody who has just committed a speeding offence or whatever but normally has the resources. It is going to hit the motorist more than it is going to hit anybody else. I can understand where it is coming from, but you are starting to impose more and more on that single
individual who has no resources. Part of his or her problem lies in the fact that they have no resources, so you are actually making it worse. We would like to see that as discretionary. We know it is not in the Bill as discretionary but we would like to see it as discretionary. If we are engaging properly with the offender, we need to know what is going to make matters worse and what is not going to make matters worse, fully understanding that they have committed an offence and that they need to be punished for it.

Phillip Bowen: I agree with all those comments. That population of people cycle through the fine, community and conditional discharge area of courts. When we were writing about the courts, we sat for about 200 hours doing courtroom observations. Consistently we saw people like street drinkers coming through and getting fines. We thought, “This person is never going to pay.” The question is what do you do with that person? Obviously there needs to be an element of punishment, but there also needs to be an element of help. I certainly think the work that has been done under the Plymouth Community Advice and Support Service is that combination. How do we help this person? When we have got them in court, how do we help this person, but also how do we begin to suggest that the court might do something more creative in terms of disposals? I think we are seeing some encouraging things.

I agree with Richard. I think the burden will fall on people who cannot pay at the moment, so I don’t know why we expect them to pay in the future. They cannot pay their fines at the moment, so how does £50 extra help?

Penelope Gibbs: I have not read the detail of the Bill. The bit that I am particularly concerned about, if it is there and it does happen, is any loading of costs on to appeals. Transform Justice did a short paper looking at the barriers to appeals. One of them is about money. If you lose your appeal from the magistrates to the Crown, you can already be faced with paying £250. An appeal that works is a fundamental part of our justice system in order to correct all this other stuff. If somebody who is on the edge in terms of their means is faced with huge costs for appealing their sentence or their conviction, that is a disincentive which I think is bad for the justice system, if you increase it from where it is now.

Chair: Thank you very much to the four of you. We are very grateful. It has been a very interesting session, which we much appreciate.
Wednesday 26 March 2014

Members present:

Sir Alan Beith (Chair)

Steve Brine
Jeremy Corbyn
Nick de Bois

Mr Elfyn Llwyd
Andy McDonald
John McDonnell

Examination of Witnesses

Witnesses: Jeremy Wright MP, Parliamentary Under-Secretary of State for Justice, Minister for Prisons and Rehabilitation, Ministry of Justice, and Norman Baker MP, Minister of State for Crime Prevention, Home Office, gave evidence.

Q500 Chair: Mr Wright and Mr Baker, welcome. We are continuing with our inquiry into the wider issues that were initially raised in the Committee’s report back in 2010 and the ways in which these have either been implemented or not. Within that context, we also have this continuing discussion about Transforming Rehabilitation, on which the Government have just responded in the last few days. We will be asking you some questions on that later in the session. It was the National Audit Office that said that the criminal justice system had no single “owner,” and I think it is common ground for all of us round this table that cutting crime involves a wide range of Government Departments and areas of policy. Who does own the leadership? Norman Baker: We clearly are in the lead in terms of crime prevention, which is indeed my specific role. But naturally, as you recognise, Sir Alan, these matters do cross over to other Departments and it would be impossible to have one Department controlling everything; indeed it would be very bad government, I think. If we go back far enough, the Home Office and the Ministry of Justice were in the same Department many years ago and it was thought at the time that that was unwieldy and had to be split. So the issue is not how many different Departments are involved but the co-ordination between the Departments, which occurs on a regular basis. Obviously Damian Green, as the policing Minister, has a foot in both camps, literally, between the Home Office and the Ministry of Justice. There are also inter-ministerial groups that look at aspects—for example, drug policy—which cross over from one Department to another. If you look at the subject of female genital mutilation, which is within my portfolio, we have recently signed an accord between a number of different Departments—the MOJ, ourselves, the Department for Education, the Department of Health and so on—because we recognise that there are different Departments with different levers to pull. So the issue is not, I think, with respect, how many Departments there are but whether or not they are co-ordinated in pushing forward an agreed Government position, which I believe they are.

Q501 Chair: What is the practical effect of having a Minister with a foot in both Departments? It is a question we have asked before and to which we have never had a full and satisfactory answer. Norman Baker: It is not unique, of course, because there have been occasions in the past—I think I am right in saying—when the Treasury and the Department for Business, Innovation and Skills have had a common Minister. I think it is very useful that Damian is in that position because, if we have discussions as Home Office Ministers, then he is able sometimes to bring knowledge which we would not necessarily have round the table—and no doubt the same thing happens at the Ministry of Justice.

Q502 Chair: Can you both confirm that that has happened in ministerial discussions? Jeremy Wright: Yes, absolutely. Also, it is worth saying that it is not just having a Minister in both Departments that is significant; it is what they do. I would draw the Committee’s attention to the Criminal Justice Board, which Damian Green chairs, which is a good way, I think, of drawing together the different strands of the criminal justice system. The direct answer to your question—“Who owns it?”—is that there are a number of different people who own it and there are good reasons sometimes why there need to be. For example, there obviously have to be separations between the judicial system and the rest of the policing and enforcement network—that is for obvious reasons—but everyone should take responsibility for it. One of the challenges is the co-ordinating role that has to be done, in many ways, from the top in Whitehall. That is why I think it is an advantage not just to have a Minister who sits in both places—and certainly they do, as Norman says, give us the opportunity to feed back from the other Departments in our ministerial discussions—but also, having a Criminal Justice Board represented at the highest levels of the criminal justice system by people who run the system, with Damian chairing it, gives an opportunity to do some of the cross-cutting work which we would all agree in this room is needed to be done.

Q503 Chair: But we had witnesses in front of us who hold important positions in the system who had never even heard of the National Criminal Justice Board and seemed to have no idea what it did. Jeremy Wright: That is certainly disappointing. In relation to various bits of the system, as I say, they are represented at the highest levels, either by directors general or indeed the senior presiding judge, who I gather attends as an observer. There is every
reason to think, if you draw together the people at that level chaired by the Minister who has responsibility for the criminal justice system overall and does, as Norman says, have a foot in both camps, that we can start to improve things. But none of that improvement will happen overnight. The Criminal Justice Board has already issued its strategy and action plan, and the Committee will have seen that from June last year. It intends to refresh that, as I understand it, this year, and there may be a White Paper that follows too.

Q504 Chair: How often does it meet and how much does it impinge on your policy development work? Jeremy Wright: I would have to check exactly how often it meets, but certainly Damian’s role in chairing that means that he can draw from it and report back to both of our ministerial teams as to what it is doing. So it does have a significant input to policy development.

Q505 Steve Brine: Looking at the big picture here, what have your Departments done to analyse the crime drop and the reasons for different types of crime falling? Would you dare to say that actually nothing that the Government does has any impact on the crime rate and there are huge numbers of other factors? Norman Baker: If we thought the Government had no impact on the crime rate either way, it would be a rather depressing view of how Government work.

Q506 Steve Brine: But is it true? Norman Baker: No. Of course we have an impact. We have an impact through legislation, through the supporting of measures to prevent crime in the first place, through diversionary tactics, for example, in terms of encouraging people to change their behaviours and so on, and through the criminal justice system in terms of the penalties which are handed out. So of course we have an impact. But you asked a very interesting question as to why crime has gone down. Obviously, we would say that the policies of the coalition Government play a part in that, but this has, to be fair, been something which has been the trend over about 20 years. It is also a trend which is noticeable in much of western Europe. So we are not talking about a totally different part of the world, whereas, up to now—and look at 20 years ago—it would have probably been someone quite close to you. The internet, of course, has changed crime dramatically. So we are heavily involved in identifying crime trends both to understand what happened but also to try and anticipate where crime might go next.

Q507 Steve Brine: Can we just talk about drugs? Do you think that Governments—I mean this and the previous Governments—have an enlightened approach to drug policy, or is it still the case that it is a wag of the finger and punishment that is the policy response to an addiction? Norman Baker: Yes.

Q508 Steve Brine: Can we just talk about drugs? Do you think that Governments—I mean this and the previous Governments—have an enlightened approach to drug policy, or is it still the case that it is a wag of the finger and punishment that is the policy response to an addiction? Norman Baker: You are quite right to say there is a strong correlation between drug use—heroin and crack cocaine use in particular—and acquisitive crime. One of the reasons for the drop in crime, we think, has been a drop in use of heroin and crack cocaine in this country. There is no doubt that that is a direct link across there. We have an international comparator study under way at the present time in the Home Office that is due to report in about June, which I am handling. We also have a review of legal highs—and I think that is a matter of interest to you in particular with your constituency—which will report at about the same time. As far as I am concerned, we need to be evidence based and we need to have a
drugs policy based on what works. We have a clear objective, I think, which is shared across the coalition and indeed across Parliament. I imagine, which is to reduce drug use and the harm from drug use. It seems to me we should be adopting policies which are best able to achieve those particular ends. I do not think we are interested in necessarily just waving fingers at people. We are interested in what is helpful in reducing drug use. That would be a combination of legal position, in terms of the legality or otherwise of drugs, and it is also a matter which involves health, education and rehabilitation. If we can get the rehabilitation right, which we are doing—we are seeing increased success rates in rehabilitation—then that obviously prevents re-use and stops people delving into crime in the future.

**Q510 Steve Brine:** As a crime-reduction Minister, are you concerned about the amount that we are hearing that young people, especially, are drinking and that then leads to the addiction of alcohol and the problems that ensue?

**Norman Baker:** The problems of alcohol in society are underestimated and are, in some ways—if only because of the prevalence of alcohol—more serious than the problems of drugs. We estimate in the Home Office that the cost to society of alcohol abuse is £21 billion a year—which is about £11 billion from antisocial behaviour, about £3.5 billion to the health service and the rest in lost productivity—whereas the cost from drugs is probably about half that. Obviously, there are fewer people using drugs than there are using alcohol, so I would not want to say it to the individual.

**Q511 Steve Brine:** The difference, of course, is that alcohol is a legal drug. Taking the example of Amy Winehouse, who tragically died a couple of years ago, it has been widely reported that she was a drug addict who died of a drugs overdose, whereas actually she died from alcohol poisoning through the failure of abstinence. She was a recovering alcoholic who drank a bottle of vodka and subsequently died with five times the legal driving limit in her system.

**Norman Baker:** Yes. We are taking steps to try to deal with the worst excesses of alcohol. As I say, the alcohol consumption problems are decreasing, not entirely in all groups. For example, there is a problem with 18 to 24-year-old girls, or women, where that use appears to be increasing, so that is a particular concern. We have taken steps through a whole range of measures, whether it is the introduction of late-night levies, which are now being rolled out, or the ban on below-cost selling, to try to deal with this. I have made it perfectly plain to the alcohol industry that they need to do far more than they are doing and they have to take responsibility. But society has to change as well in terms of culture because, at the moment, people think, “Drugs, oh, they are a terrible thing,” which indeed they are, “but alcohol is a bit of fun.” Actually, alcohol could be quite damaging. When I went to a clinic in Chelsea to look at people subject to rehabilitation, I expected to find predominantly heroin users, but I found predominantly alcoholics.

**Steve Brine:** I am glad to hear you recognise that, Jeremy, finally from me, do you think that sentences—and when we were in the States and we looked at the “Right on Crime” initiative, which you know I—

**Q512 Chair:** Just before we leave the alcohol issue, this illustrates the ownership problem that we were talking about earlier, because you have one take on the alcohol problem but the Chancellor is looking at what people feel about the price of alcohol and what would help local pubs not to be driven out of business. So in taxation policy, which affects price, he is not part of this framework.

**Norman Baker:** That is not entirely fair, I think, because the alcohol problem is not predominantly one of pubs. Pubs are, by and large, responsible places where people drink alcohol in controlled situations which do not cause problems. The problem largely comes, in my view, with sales in the off-trade, particularly for supermarkets, at very cheap prices to people who are not supervised and then go out and cause problems. That is the element of that, which is why we are banning the below-cost sales and why minimum unit pricing is not being taken forward at the moment but is still very much on the radar.

**Q513 Steve Brine:** How much on the radar is it? I understood it was off the radar, and there is plenty of evidence to suggest that minimum pricing—because it would hit those who binge drink the most—would have a bigger impact.

**Norman Baker:** It is still there as an option. The alcohol industry has been given a time to respond to the alcohol strategy, which the Home Office has set out, and the ask we have of them, for example, is in terms of responsible promotions. It is entirely inappropriate, for example, that you have a supermarket’s cheap vodka being displayed next to children’s clothing, and we expect the alcohol industry to put its house in order. If it does not do so, then we reserve the right to come back to minimum unit pricing and indeed other possible options.

**Q514 Nick de Bois:** Just thinking back to the joined-up area, it is quite evident in a constituency like mine, which has a relatively wealthy area and a less wealthy area, that, per square mile, there are more corner shops with predominantly 80% of alcohol in them. Are you working with planning as well in looking at the impact where alcohol is being sold in abundance in higher-crime areas and actually lower areas of socio-economic value?

**Norman Baker:** We are quite clear as to the nature of alcohol sales which are a problem. It is not particularly pubs. It is sales of high volume or high strength, big bottle—cheap cider, for example, which is the kind of product often sold in those sorts of corner stores. As I say, we have taken steps to ban the worst of those sales and we expect the alcohol industry to take steps itself to try to regulate these products. As to the particular products which cause the most damage, like the ones we have just mentioned, we were asking them to take action themselves on that. As I say, we have reserved the
Q515 Andy McDonald: Can I turn our attention to evidence-based policy making? We had a successful trip to the United States where we saw some fascinating projects, including the Nurse Family Partnership introduction, which had shown, I think, a reduction of 57% in the entry into the criminal justice system over a very lengthy period of time. We heard from Professor Laycock, when he came to see us, that every time there is a change of Government there seems to be a change of policy. I think there was some considerable frustration from those professionals. Could you describe to us the approach of your respective Departments towards the development of an evidence base to inform crime reduction policies?

Jeremy Wright: I will start with that. First, you are absolutely right to highlight the importance of starting early. Although I think you fairly say that it does seem as though there is a change of policy every time there is a change of Government, I remember Government and Opposition talking about the process described variously as “the conveyor belt to crime” and other things, which starts very early on in a child’s life. If you do not intervene early and catch people who are starting to demonstrate troublesome signs in early life, you cannot be surprised when they go through education, do not succeed and then end up in the clutches of the criminal justice system. That, I think, is where the Troubled Families initiative comes in. It is sensible for us to look at the beginning of that process as much as it is to look at the end. The difficulty we have in the Ministry of Justice, of course, is that we very much look at the end of the process. Norman’s Department gets involved slightly earlier, but I think we would both agree that there are other Government Departments that also need to be engaged in this process even earlier than that. Talking to colleagues in the Department of Health, and the Departments for Education and Communities and Local Government, about the way in which you engage with the process very early on is extremely valuable. In terms of evidence, it is very clear that, if you do engage early, you get better results. I also think the evidence is very clear that you do need, if you want to deal with reoffending—and that of course is the focus of my Department in particular—to pick up on some of the things Mr Brine was talking about. You need to pick up on addiction to drugs or alcohol, homelessness and worklessness. All of those things have considerable relevance, we know, to reoffending, as does inadequate success in education. All of those things have a very clear evidential link to the likelihood of reoffending, so it comes back, I think, to the point about cross-Government working, not just between the Home Office and the Justice Department but much more broadly than that. If you really want to get to grips particularly with reoffending—and I think to a degree with original crime too—then you have to address it across Government Departments.

Norman Baker: That is exactly right, and we do do that. Jeremy is quite right that other Departments have a role to play. The Department for Education obviously has a role to play, as indeed does the Department of Health. A Minister like Jane Ellison is very helpful in her approach to cross-departmental working. If you think, for example, about the issue of gangs, which is something on my mind at the moment, it is quite clear that gang membership begins at an earlier age than it used to, it seems to me, sometimes around nine or 10 years old. The Deputy Children’s Commissioner published a report at the end of last year on girls in gangs which shows an appalling misogynistic approach to girls in gangs. It is necessary to get them out of that situation, and that is something which we are working on in the Home Office. The point is that we have to engage with our colleagues at the Department for Education because they have a wider role through PSHE and other mechanisms that they use to try to ensure there is a wider societal message brought out through the education system, not simply whether or not you can conjugate a verb or use long division.

Q516 Andy McDonald: I hear what you say about all of those points, but do you think there is a need for the Government to identify where the gaps are in the evidence base, and, if so, what is happening on that? Are you content that we have all the bases covered?

Jeremy Wright: No. There is always a call for more evidence. If I can pick out something in particular, we think it is very important—particularly where you are looking at rehabilitation and the connection to what is done to reduce reoffending—that we set up a mechanism that will enable us to work out what is effective. There are a number of academic studies which will tell you a number of things, although I do think, as I have said before, that there is some consistency in what we are hearing around the factors that are relevant to determining what the likelihood of reoffending is. But in terms of precise applications of those principles and what types of intervention work well, we think it is necessary to draw together the evidence on that and to enable it to be compared with a control group, if you like, so a cohort of offenders that have not had all of those things done for them. That is why we think the Justice Data Lab is a very sensible innovation. That gives the opportunity for people who are engaged in these kinds of interventions designed to reduce offending to come to us and say, “These are the results we are getting. This is what we are finding. Can you please compare that with a control group to give us a clear sense of whether we are doing the right things and getting the outcomes we would hope for?” We have already had, I think, 80 referrals to the Justice Data Lab, produced 57 reports and are getting some very good information on what we can tell works and does not work quite so well. That is absolutely designed to fill the gap you are describing.

Q517 Andy McDonald: Some of the academics told us there is a real problem on the funding of this primary research and “blue skies” thinking that the
Government used to fund. Do you think there are any gaps there? Is their allegation that they are not sufficiently funded to conduct this research accurate?

Jeremy Wright: In terms of academic research, of course we have, I think, very good links with the academic community, but the academic community will not necessarily derive their funding from either of our Departments. So there is a separate question to be asked there. We are going to come on, I am sure, to talk about Transforming Rehabilitation, and what we are doing there, of course, is at least in part constructing a system that will reward people for the results that they achieve and I hope then focuses minds entirely on what works. People will then say to themselves, “How do I know what works?” That will bring me back to the Justice Data Lab and other things which I perceive to give them that information.

Q518 Andy McDonald: Our previous Committee recommended that there should be a data-driven approach to identifying the best means of achieving reductions in crime and allocating resources, informed by an independent centre of excellence. To what extent have the Government taken that approach when deciding how best to prioritise resources to reduce crime?

Jeremy Wright: There are two elements to it from my point of view, and then Norman will, I am sure, want to say something about the College of Policing and others. In relation to evidence and being able to have a data-driven approach to this—again, I do not want to repeat everything I have said about the Justice Data Lab—we see that very much as fulfilling that role. We think it is an important part of getting the data in so that we can understand what is effective and what is not.

The other thing which I think will help tremendously in relation to reoffending, rehabilitation and probation services is in the setting up of the Probation Institute. I was at the launch of the Institute last Friday. That is very welcome because I think that will enable us to draw together a centre of excellence which is able to look at the academic landscape, pull out the things that clearly are working well and co-ordinate the learning that I hope then everyone within the field can draw on. So, if I said about the Justice Data Lab—we see that very much as fulfilling that role. We think it is an important part of getting the data in so that we can understand what is effective and what is not.

Q519 Andy McDonald: Can we move on to out-of-court settlements, shifting tack somewhat? The consultation on out-of-court settlements closed in January, I think. Could you give us an update on the likely outcome of the review?

Jeremy Wright: Yes. The out-of-court disposals review, as you will appreciate, covers quite a lot of territory and we would expect to respond to that later in the spring—so not far off now. However, you will know that we have already extracted from that broad subject area a number of things on which we think we can take more immediate action. So, as part of the Criminal Justice and Courts Bill, which is currently making its way through Committee in the House of Commons, there are three particular changes that we seek to make.

First of all, for indictable-only offences, we do not believe that, other than in exceptional circumstances, cautions should be available. Secondly, for serious “either way” offences, the same should apply: they should not be cautioned unless there are exceptional circumstances. Thirdly, where someone is committing the same type of offence repeatedly, we do not believe that they should be repeatedly cautioned. What the Criminal Justice and Courts Bill will do is make it impossible—save for, as I say, in those exceptional circumstances—for cautions to be applied to either indictable or serious “either way” offences. In relation to repeat offences, if it can be concluded that this offence that you are currently confronted with is sufficiently similar to something that an offender has done within the last two years, then a caution, again, would not be available. We think those are three things that we can already pick out as very evident examples where action is required, but there is a broader context, as you obviously advert to and that we need to give a more holistic response to. We will do that later on in the spring.

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NORMAN BAKER: It is interesting to reflect on the fact that Home Office policy, in terms of how we regard crime and what we do, obviously has an impact further down the line on the Ministry of Justice. If I am successful in my role of preventing crime, and we have a whole range of steps we are taking to do that—for example, the domestic violence disclosure orders
Jeremy Wright: Can I come back quickly on the point about cautioning? It is worth saying that, overall, the number of cautions issued has come down considerably from a peak in about 2007–08, but that does not mean there is not still public concern that cautioning is not being applied to the right cases. That is why we need to have a proper look at it and that is what we are doing. But in relation to certain very specific things, where I think we probably all agree that cautioning is not appropriate, unless there are exceptional circumstances—there are very unusual cases where it would be appropriate to caution for an indictable offence, but they must be extraordinarily rare—if we get the impression, as we have from the figures, that that is happening more than rarely, that is a matter of concern. It needs to be acted upon, and that is what we are doing.

Q520 Andy McDonald: You have given a very full answer and I am grateful, but what I did not hear was any assessment as to the views of the victims in this process. I do not know whether you would want to comment on where that fits in with the proportionality about the cost of out-of-court settlements and the views of victims.

Jeremy Wright: When I talk about public confidence, I am talking very much about victims and others who look at the disposal that the case they have been involved in has at the end of the process and determine whether they think that is a reasonable disposal or not. I think public opinion, not just among victims but among the broader body of the public, is that really it cannot be right—can it?—that people who have committed very serious indictable offences walk away with a caution, unless there are very exceptional circumstances. It is very much with the interests of victims and, as I say, others in the broader community, in mind that we think public confidence in cautioning is crucial. Cautioning has a part to play, as do other out-of-court disposals. We are not proposing to take away the option for police officers and others to impose this kind of penalty, but it has to be done in the right circumstances. If victims and others think that it is not being done in the right circumstances, then confidence in the cautioning system starts to erode, and that is problematic. We need to take account very much of what victims and other people think about the system and we need to respond accordingly. That is exactly what we are doing.

Q521 Chair: We ought not to give victims or anybody else the impression that out-of-court disposals are only cautions. They may involve restorative justice processes, informal return of goods and all this kind of thing, which may be what the victims want in the particular circumstances.

Jeremy Wright: That is absolutely right and I think victims need to be engaged in this process. We also have to sound another note of caution, which is that we can never suggest to victims that they have the choice as to what type of disposal will result from the process. There are many other considerations other than the views of the victim. But it is also important that we keep victims fully informed as to what is going on. As I think you rightly say, Sir Alan, if there are restorative justice processes available—which, as the Committee will know I am a big fan and supporter of and we put money into—and both victim and offender wish to participate in them, we think it is very important that they have the opportunity to do so.

Q522 Mr Llwyd: Could I ask a brief question following on this line of questioning? You say that one of the problems is that cautions are issued for indictable-only offences, not being of the peculiar exceptional kind. How often does that happen?

Jeremy Wright: Off the top of my head, the cautioning for summary-only offences and counts for a little under half of cautions that are given. That means that the rest are for indictable or “either way” offences. As I have said, there is a distinction to be made between indictable offences and “either way” offences because “either way” offences because “either way” offences, as you appreciate, cover a whole range.

Q523 Mr Llwyd: My question was on indictable only.

Jeremy Wright: Yes. I will have to check exactly what proportion is indictable only. It is a higher proportion than you would expect. Of course, it is important, I think, none the less, to set out clearly in statute what our expectations are in relation to indictable-only offences. If I can get the information to you by the end of the hearing I will do, but there is a higher percentage of indictable-only offences cautioned than I think you or I would expect. So it is sensible to set out our expectations clearly in legislation as to the circumstances in which that is and is not appropriate.

Q524 Chair: If necessary, you can let us know later what—

Jeremy Wright: I will certainly write to the Committee if I cannot do it by the end of the session.

Q525 John McDonnell: How does the Ministry evaluate the effectiveness of prisons on reducing reoffending? What impact have budget cuts had on reduction of reoffending and on the work of prisons?

Jeremy Wright: The activity in prison is part of what we should expect, and we will certainly want to make a much wider enterprise. What is done in prison needs to link closely with what is done in the community on
release. You will know, Mr McDonnell, as will the Committee, having looked at all this, that a large part of what we intend to do as part of the Transforming Rehabilitation programme is to link activity in prison much more closely to what happens just afterwards. I do not think it would be right to say that what goes on in prison is measurable on its own, nor should it seek to stand on its own, because the big problem we have at the moment is that, however good the activity may be in a custodial environment, if when somebody walks out of the prison gate there is nothing to meet them other than their old associates, and all the temptations to fall back into their old bad habits, all of that good work goes to waste very quickly. We have seen that happen far too many times.

So what goes on in prisons is important, and that is important in the context of rehabilitation in its broadest sense. We want people, for example, to start to deal with the gap in skills that maybe they have—literacy, numeracy, work skills and all of those things—and we want them to start in the process of dealing with their drug or alcohol addictions. But a lot of those things also are much more effectively started upon with short sentences if you are confident about what happens after custody.

Taking drug addiction as a very good example, there are many cases that I have heard of where drug courses have not been started in custody because those responsible for administering them cannot be sure what is going to happen afterwards and it might do more harm than good to start something and not be confident about its conclusions. So what goes on after prison is very important and we think, if you put those two together, that is the whole process. In terms of how you measure it, we measure it, of course, on the basis of reoffending numbers and rates. In relation to Mr Brine’s first question, the truth is that, although crime has come down substantially, reoffending rates have not come down anything like as much. That is why we think a new approach is required.

Q526 John McDonnell: On the second question, what has been the impact of the cuts then?

Jeremy Wright: There have been rationalisations and savings to be made across the prison estate, as there have been across the rest of the public sector, but it is very unlikely that savings made on anything over the last 12 months would yet have fed through to reoffending anyway, because, of course, we measure reoffending over a 12-month period and then we have to wait for any cases that have been committed in that 12-month period to go through the court system. So you are probably looking at something like an 18-month lag time before you are able to measure the effect of any activity on reoffending.

Q527 John McDonnell: Have you measured the impact of the access to reoffending programmes?

Jeremy Wright: There are a number of different reoffending programmes and it depends what you mean. Different people require different types of intervention. For example, if you take sex offenders, we are very keen to make sure that we cater for what is an increasing number of sex offenders in our prisons. You do that by a variety of means. There are specialist sex offender treatment programmes, but there are also other programmes that sex offenders can benefit from, and we think that a sensible way of managing that population is increasingly to have specialist prisons for sex offenders. So we want to see more of those, too. There are a number of different programmes. I think it is difficult to generalise as to what is happening across the prison estate. Certainly, as you would expect me to say, I do not believe that anything is being done, in terms of any economic rationalisation, which is putting at risk the rehabilitation of prisoners, much less public safety.

Q528 John McDonnell: Safety? On prison officer numbers, as a result of cuts, are you not concerned about the increase in the levels of violence within our prisons?

Jeremy Wright: Certainly I am concerned about that. We take very seriously all incidents of violence against prison officers, and that is why we have to continue to work very closely with our colleagues in the CPS, for example, to make sure that, when an offender and a prisoner assaults a prison officer, that offence is prosecuted where appropriate. If I take all of those very seriously. What I do not think, though, is that we are engaged in a process which is putting people at risk. What we are doing is looking at what every prison needs to provide in terms of staffing to run a proper regime. That is called the benchmarking process. Indeed, in some cases, when we have gone through that process in individual prisons, some prisons have found that they have more prisoner-facing prison officers and more prison-officer prison-facing time than they did before the benchmarking process began.

Q529 John McDonnell: I want to finish by making this point. It is very difficult to see how reoffending can be tackled by rehabilitation in a climate of violence. For example, this year, to June 2013, saw a record of over 300 serious assaults on staff. The numbers of assaults overall over the last 10 years have gone up by nearly a third. They are up from 32 a day to 42 a day in the last 10 years. The use of weapons has also gone up by a third. How can rehabilitation take place when we cannot even keep our officers safe?

Jeremy Wright: Just to make one statistical point, if you will forgive me, the number of incidents of violence will increase with the population, and the population is a lot higher than it was 10 years ago. So we need to be a little careful on the statistics. But there is no denying that there is a particular issue around serious assaults on staff. I hope I have given you the clear impression that I take that very seriously. There is a different question to be asked around what we need to do within the prison estate to rationalise what is provided. The prison estate cannot escape what is going on across the public sector, which is a need to save cost, and we have been very clear that we need to make sure that the prison estate delivers good value for money. I do not believe that the only way to do that is to put prison officers at risk, and that is not what we are doing. We are making every effort to make sure that prisons have the right regime, supported by the right numbers of staff. That is...
exactly what the benchmarking process is about. May I say the benchmarking process itself is supported by the Prison Officers Association, who obviously have very sensible points to make to us about risks to their staff, not least on the incidence of violence itself? But in terms of the benchmarking process as a whole, that is a process that has the support of the Prison Officers Association.

Q530 John McDonnell: I am pleased you referred to literacy. Book reading helps in that, does it not?

Jeremy Wright: Of course it does. Contrary to what you may have seen in the press over the last 24 to 48 hours, we are not suggesting for a moment that prisoners do not have access to books. What we are saying is that you need to remember that there are prison libraries that all prisoners have access to, regardless of their status on the incentives and earned privileges—

Q531 John McDonnell: Only in some.

Jeremy Wright: No, that is not true. There are no prison libraries that have closed and the funding for them has been maintained. So it simply is not true. Secondly, regardless of their status on the incentives and earned privileges scheme, prisoners can all have up to 12 books in their cell at any one time. What we are saying is that there have to be some sensible restrictions on packages brought in from outside. I heard people say in the media yesterday, “Surely you can make an exception for books.” The problem, of course, is that when a package arrives at a prison saying on the outside, “This package contains only books,” you may not be able to take that at face value, and sometimes, I am sorry to report to the Committee, prisoners want to bring into custody things they should not have. These checks have to be made. It simply is not practical or sensible to have unrestricted access from the outside to prisoners for books or anything else. But is this about restricting prisoners’ opportunity to read? Of course it is not. If I might be allowed one final point, I think we are slightly missing the bigger problem here. The problem we have in prisons is not prisoners who sit around wondering where their next Jane Austen novel is coming from. The problem we have in prisons is that—

Q532 John McDonnell: We have a problem with illiteracy.

Jeremy Wright: We do—exactly that.

Q533 John McDonnell: No one is asking for unrestricted access. We are simply ensuring that people can give books to prisoners who wish to read.

Jeremy Wright: Absolutely.

Q534 Chair: But there is another aspect to it as well. Since it is common ground that links with families are vital to rehabilitation, if a child cannot send a home-made Christmas card to a father in prison, or a book of photos of how the children are getting on cannot be sent, then one policy is working against another, is it not?

Jeremy Wright: It is not the case that you cannot send in birthday cards or similar things. Mail is not what we are talking about here. Post can reach prisoners just as it always—

Q535 Chair: Except a home-made Christmas card, which is larger.

Jeremy Wright: Of course, that is absolutely fine. What we are talking about is packages which, for very obvious reasons, have to be checked, and if you have no restrictions on those packages then the system becomes wholly impractical. But, absolutely, I agree with Mr McDonnell, the issue is illiteracy. If I believed for a moment that this policy was affecting illiteracy in prisons, then I would not be in favour of it. I do not believe that. I think we have a much wider challenge here and it is to address that challenge. For example, we are working closely with the Shannon Trust, who will be well known to the Committee for the work they do with reading tutors and mentors in prisons. We have given them logistic support that they have never had before in the prison estate because we support very much what they are doing. But it is not the case that prisoners now or in the future will not have access to reading material. I very much want them to use reading material. I want them to learn to read if they cannot and to continue to read if they can. But that is not what this policy is about.

Q536 Mr Llwyd: In its 2010 report, this Committee recommended that sentencers must receive systematic feedback on the outcomes of their sentences—in other words, the efficacy of the sentencing. In response, the Government said that there would be proposals to explore whether oversight throughout the duration of community orders could be made available to all magistrates courts. What are your views on the potential of making greater use of sentencing review powers as a crime reduction approach? The consideration has been given to allowing section 178 of the Criminal Justice Act 2003, giving sentencers powers to review cases, to be brought into force? Do you have any current plans to do so?

Jeremy Wright: There are no current plans to do so across the board, but there is a particular area where I think we can look further and I will come back to that in a minute if I may. I will just make a broader point around section 178 and the powers of review. One of the things that we are seeking to achieve through the Transforming Rehabilitation reforms, and indeed a change to the law under the Offender Rehabilitation Act, is to break down the wall that currently exists in community orders between the activity and supervision requirements. You will recall this from the Bill Committee’s deliberations. That is so that we can give a bit more flexibility to the providers of those rehabilitation orders to react to changes in circumstance and to make sure that the right kind of rehabilitation, the right kind of courses, are being provided. Of course, if the court makes a specific requirement around drug rehabilitation, for example, then those orders must be carried out, but if what it is interested in is rehabilitation, and it wants to make sure that a change in the circumstance can be properly catered for, we believe we can do that by
giving a bit more flexibility to the provider in the course of the sentence. That is the first point. Some of the argument for the use of section 178 is dealt with by that means.

The second thing is that I am not interested—and I am sure the Committee is not either—in setting up yet another layer of review that does not serve a proper purpose. I would not want to see a situation in which all sentences need to be reviewed, which would simply add another court hearing even when there is no purpose. I do not think that is what you are suggesting, and we need to be cautious about allowing for the growth of yet another court hearing which does not serve a meaningful purpose. We need to make sure that we are not building in, therefore, additional cost.

Haven said all of that, where I do think there is considerable scope for us to do in particular with young offenders. One of the things that I think we could look at—and I know that Damian Green is looking at this and, indeed, made a speech on it this week—is the greater work that we can ask magistrates to do in keeping track of particularly young offenders through the course of their sentence. That is something that is available to us to start, because it seems to me that there is considerable merit in keeping a close eye on how young offenders in particular are doing in their rehabilitation. They will not be covered by the Transforming Rehabilitation system, as you know. There is a different system that will apply to them. That may very well be a good place to start. I am certainly open to that and I know that Damian is too. So that may be a place to start and we will then see where we go from there.

Q537 Mr Llwyd: With respect, Minister, the point here is surely that sentencers do have, as part of their duty, to consider the crime reduction angle of their sentence. I know many Crown court judges and magistrates who feel—I would say embittered—very disappointed that they are not able to assess whether what they are handing down will work or not. It is only on the rare occasion when the same person comes up before the judge that he is able to say, “That didn’t work, so we’ll try something else.” In my view, it is crucial that they should be given some feedback and may be a sensible place for us to start, because it is for individual sentencers to decide how to use it. There is always a temptation for Ministers to criticise particular sentencing exercises, and I think we must always work hard to resist those temptations. But I am confident that what we give at the moment is a very wide range of options to sentencers.

As policy makers, we must also think how we give sentencers the confidence to use those options. If I take one example, we have changed the nature of community orders so that there must be an element of punishment within them. That comes back to the points we were discussing earlier on around public confidence. The public would expect that to happen and I think it gives sentencers much greater licence to use those types of orders if they are themselves confident that the public are confident in those orders. One of the things we have to think about all the time is, first of all, whether we are giving them the range of options, and, secondly, the confidence to use those options; and, of course, we must also make sure that all members of the judiciary and the magistracy have the proper training to understand the tools they have available to them. That, of course, is also very important. But I do think we have at the moment a very wide range of tools available to the judiciary to choose from, and I hope very much that they will do as they always do, which is to come to the best judgment they can on the facts of each case.

Q538 Mr Llwyd: On an allied point, the Government seek to ensure that sentencers do have a sufficient range of sentences to deal effectively with all levels of cases that come before them. How do you seek to fulfil this role? How do you monitor whether sentencers have access to a comprehensive range of sentences?

Jeremy Wright: We change statute as we think we need to, to give the broadest range of options. I agree with you that it is desirable that sentencers have those choices. We also have to be disciplined, as politicians, frankly, to recognise that, having set the framework, it is for individual sentencers to decide how to use it. One of the things we have to think about all the time is, first of all, whether we are giving them the range of options and, secondly, the confidence to use those options; and, of course, we must also make sure that all members of the judiciary and the magistracy have the proper training to understand the tools they have available to them. That, of course, is also very important. But I do think we have at the moment a very wide range of tools available to the judiciary to choose from, and I hope very much that they will do as they always do, which is to come to the best judgment they can on the facts of each case.

Q539 Mr Llwyd: Adopting your terminology about the tools, magistrates have told us they do not have access to drug, alcohol and mental health treatment and that they fear that the TR programme’s emphasis
will limit access to rehabilitative provision for the majority of those that come before them. How do you intend to resolve these gaps in provision?

Jeremy Wright: I do not think that will happen. The reason is that which we have discussed already, and I think we are all agreed, that if you want to address reoffending you have to address a number of contributory factors. There is no doubt that if, as a Transforming Rehabilitation provider, you are confronted with someone who has a heroin addiction or a serious alcohol problem, and you are going to turn that person’s life around and persuade them not to reoffend, you are going to have very little chance of doing so unless you address that very significant problem in that individual’s life. We are creating a system that very clearly says to a provider, “If you do succeed in turning around these lives, we will reward you for it,” much more clearly than has ever been the case before. I have absolute confidence that a sensible provider—and I hope we will only be picking sensible providers—will look at someone in that condition and say, “I know I have to provide for that and will be working with other agencies to make sure that they do.” So I do not think it is likely that Transforming Rehabilitation means less attention to these problems. I think it means the opposite—more attention to those problems.

It is true that we also have to work with others—this goes back to the point around cross-Government co-ordination, and Norman might want to add to it—with colleagues in the Department of Health, for example, to make sure that drug and alcohol treatment is available, to make sure that when a rehabilitation provider says, “Look, this is clearly what I need to do,” there is a place they can go to get that. But that is about cross-Government co-ordination, which I think we are all agreed is worth while and improving.

Norman Baker: Obviously people self-refer as well to rehabilitation for drug and alcohol problems, and Jeremy is quite right that the successful rehabilitation process does not simply deal with the addiction per se but deals with the circumstances an individual finds themselves in. They are much less likely to take up their habit again if they have a secure family arrangement around them, friends who will help them, a job to go to, somewhere to live and a social structure that works for them. Getting that sorted out is part of the rehabilitation for any person who wants to kick their drug or alcohol habit, whether or not they have been convicted of an offence. It is just what we try to do in the rehabilitation process.

Q540 Mr Llwyd: I have argued over many years that actually any community order should be structured in a way first of all to deal with the addiction and then impose other conditions. These people live a completely disjointed life, do they not, mostly under the influence of drugs and alcohol and so on? I have one final quick question. Penelope Gibbs has told us that there could be a problem with local innovation in courts, given that there is a centralisation of HM Courts and Tribunals Service, and this may limit opportunities for local court innovation. What do you say to that?

Jeremy Wright: It depends what you mean by “local court innovation.” We are very keen to see courts addressing what might be quite a localised problem-solving approach; drug courts, for example, some of which you will have seen, I think, are strong in that. We certainly want to encourage that. Any centralisation that inhibits that would concern me. We all appreciate the need to make sure that we rationalise and save costs where we can, so the duplication of administration locally and nationally is not a good idea, but, if there are specific examples that she or the Committee are worried about, then I am happy to look into them. But, certainly, I am in favour of innovation locally to deal with particular local circumstances, where that is appropriate, and I think drug courts are a good example of that.

Q541 Chair: What the magistrates are often faced with is the same people coming back with minor offences such as non-payment of fines, with little prospect of access to alcohol or drug rehabilitation services. Is there scope there? Are you putting the scope in place for local courts to develop this problem-solving, sentence-reviewing approach, where people come back to the court and the court looks to see whether they are complying and there is some kind of moral pressure on them from the court to start to turn their lives around? This is clearly an effective process, but we seem to have a lot of processes which do not assist that.

Jeremy Wright: Perhaps, first, to state the obvious, if the court is having to do this, then we have got to go too late in the system. One of the things that we are keen to do, in relation not just to some of the cross-Government programmes we have already mentioned but many others too, is to make sure that all Government Departments are working together to make sure that people do not get to that position in the first place.

Having said all of that, if people are at court, then it will depend entirely, I think, on what access the courts have to other agencies—I agree with that—but also on what type of disposal they intend to make. If what they have decided to do is to fine, it is very difficult to link other types of support on to that. If, on the other hand, they conclude—and they must do this exercise according to the proper sentencing guidelines, of course, and I am not suggesting otherwise—that some form of community order is necessary, then they will be allocating someone to a rehabilitation provider whose job it will be to address all of these subjects in exactly the way we were just discussing with Mr Llwyd. I think it depends entirely on what disposal the court makes, but I am interested in giving the court as much opportunity as possible to impose the appropriate penalty—of course I am—but, frankly, I do not think we should be expecting our courts to sort out these issues. There are many other ways in which the Government should be looking to do so.

Q542 Mr Llwyd: With respect, we are talking about cost cutting here. We saw in Houston, Texas, for example, an excellent problem-solving court regime. It is also happening in Stockport, so we know it works
over here as well. You are confident that all the agencies are available, so why do we not draw them together and have more use of a problem-solving approach which is seen to be working?

Jeremy Wright: As I say, I am not against a problem-solving approach at all. I am concerned about assuming that the best place to do that is in a court. It seems to me the best place to do it is far before that stage.

Q543 Mr Llwyd: I agree with you there, but when it has reached the court stage it could be dealt with.

Jeremy Wright: As I say, I am not against the approach, and certainly I will look with interest at what the Committee has concluded about the Houston example—or others.

Q544 John McDonnell: I touched on America, which we keep coming back to only because it was such an interesting trip and enlightening in many ways. Texas justice you would not think would be so enlightening, but it was. Just returning to mental health, when we had the Magistrates’ Association, in they said: “magistrates often have no option but to deal with [this group] in the same way as other offenders. This helps no one.” Norman Lamb announced, back in January, £25 million funding to join up police and mental health services, so having mental health nurses and other mental health professionals working in police stations and the courts. But you have just said that, if it gets to police stations and the courts, then it is too late. Bear that thought in mind.

The basis of what happened in Texas, if I remember it correctly, was that with “Right on Crime” Jerry Madden and his colleagues were going to the governor and saying, “How much have you got in the budget for the prison building? Let us cut that in half and spend the other half on treatment and reduce the number of prison places.” We have a £4 billion annual budget for prisoners and probation, yet we have only put £25 million over three years into mental health nurses and mental health professionals in police stations and courts, with an evaluation to come in 2017. Lord Bradley’s report said in 2009—which will be eight years old by 2017—that the majority of people in prison have a mental health issue, a substance misuse problem or a learning disability. People accept that. If we believe it works, and we do because we have put £25 million into it, why are we waiting another three years to roll it out further? Hampshire, which I represent part of, is not included in the trial. To quote the Lord Chancellor in another guise, “If we believe it works, why are we hanging around?”

Jeremy Wright: First of all, for many of the cases we are talking about, if they have got to court then Government as a whole has not succeeded in the way it would wish to. There is a distinction to be made, in the context of those with a mental health issue, between the police station and the court. What we seek to do with liaison and diversion is that when people first come to the attention of the criminal justice system, which generally speaking is where they show up at a police station having been arrested for something, at that point, wherever we can, we identify those people whose onward path from there should not be through the criminal justice system but through the health system. That is what liaison and diversion is designed to achieve.

Would we like to have more than £25 million to spend and would we like to do it quicker? You betcha! But the first thing I should make clear is that this is not my money and it is not Norman’s money either. It is the Department of Health’s money. We certainly make a strong argument that we want to see liaison and diversion rolled out as quickly as it can sensibly be done, but these things are inevitably a matter of negotiation and we do the best we can. That £25 million is a significant step in the right direction, and to have half the country covered, as we believe it will be, by 2015–16 and the whole country covered by 2017–18 is also very significant progress in the right direction. I think in this, as in many other things, in an ideal world we would do it faster, but money is not unlimited. I accept absolutely what you say—that early investment is helpful in diverting these people away—but one of the challenges here is that these are people who are only people perhaps coming to the attention of any kind of system when they are arrested, and the point at which they are arrested is when we really need to seize hold of them and make sure they are given the right kind of intervention and support.

It is also worth making the point, so that the wrong impression is not given, that we are not talking about diverting everyone with a mental health problem away from the criminal justice system. Some will still need to go through that process. But there are a large number also who we would all agree simply should not be there and, once they get into the criminal justice system, they end up eventually in custody because the criminal justice system seems to have very few options other than that in the end. It is advisable that we avoid that wherever we can. That is what liaison and diversion is designed to do.

Q545 Steve Brine: Yes, so it is about having options, and sendencers having options is where this all comes back to. But to return to the point that Mr McDonnell made earlier about the Nurse Family Partnership, which we saw in Houston, it is always about how far you turn the clock back, is it not, to prevent behaviour as opposed to dealing with behaviour? The Family Nurse Partnership is what we call it here, and, to be fair, the Department of Health have put significant investment into that, but my concern still is that that is something that neither of you is responsible for, and yet we are spending £4 billion on prisons and probation.

Jeremy Wright: I think Mr Brine makes a convincing case for Norman and me to be in charge of much more of Government.

Steve Brine: Indeed.

Q546 Chair: Absolutely. In your evidence to us you, the Ministry of Justice, said: “Our reformed system will support co-commissioning to enable different agencies’ priorities to be aligned and we will also explore opportunities to pool some of the funding allocated to work with offenders so that it can be used
more efficiently.” That is exactly what you cannot do when the prison budget is completely ring-fenced and separated.

**Norman Baker**: But I think what has been demonstrated here is the fact that we have got the Department of Health engaging with other Departments for purposes which are related to objectives of the Ministry of Justice or the Home Office, and that is a good example of cross-departmental working. The problem sometimes comes in that, if you identify an early intervention, you have to front-load it with money, and the consequence might be, when successful, that the prison budget will diminish at some point in the future, or the Home Office budget will diminish, but you have to front-load it to start with. In difficult financial circumstances, it is a question of where the front-loading money comes from.

An example from my constituency—a parallel example, if you like, but not quite the same—is within the health service itself, and I hope the Department of Health does not mind me saying this. I have a particular constituent who is regularly taken to accident and emergency by the ambulance service at vast cost to the taxpayer because the mental health budget, in my view, in my area, is insufficient to deal with that person. The savings would be enormous if the mental health budget were able to be increased to deal with those sorts of people. So that is the issue, and it is the same with the new commissioning groups in the health service. Localising health provision is something we all want to do and that will save money for accident and emergency in due course, but it requires front-loading of the money. That is a general issue across Government about finding funds to do what you think is right while continuing the present system, which still needs to be funded in the meantime.

**Q547 Steve Brine**: Are PCCs the route for this? I appreciate that PCCs are new, and obviously the Opposition will have them abolished if they win in a year’s time, but—

**Chair**: I will believe that when I see it.

**Steve Brine**: For the record, the Chair said, “I will believe that when I see it.” and I could probably agree. While some PCCs have said to me that they would like to take responsibility for probation commissioning, others are not so sure that they would like to do that. Do you envisage a greater role for PCCs, should they survive?

**Norman Baker**: PCCs are a collection of individual people who are approaching it in different ways—let us put it that way—across the country.

**Q548 Steve Brine**: That is localism, is it not?

**Norman Baker**: It is localism. Some of the good examples coming out of that I think are quite encouraging. There is an ownership from the PCCs on victims, for example, which there was not before. We are seeing a more rounded approach locally in terms of crime when it was not there before. I do think they have a role in that respect. I also think the changes to public health, in fact, bringing together local council responsibility with the Department of Health responsibility, has been helpful in joining up at local level the sort of cross-departmental working which you have been referring to here at national level. That is now happening more at the local level.

**Jeremy Wright**: Can I go back to the Chair’s point about pooling of resources and perhaps say something quickly about police and crime commissioners as well?

I think it is a challenge always to get Government Departments to pool their resources, but, in connection with early intervention, the Troubled Families initiative is a very good example of doing just that: £25 million of MOJ money has gone into the Troubled Families initiative and that is about pooling our resources in order to intervene at an early stage in the hope that, corporately, we all benefit in the longer term. A number of Government Departments have done that. It might not have been their top choice for spending money if it were solely their Department they were looking at, but we are slowly, I think, moving to a place where Government Departments can see beyond the parameters of their own departmental budgets and activities, and can see that pooling resources is a good idea. The Troubled Families Initiative I hope is a good example of that. Can I say very quickly on police and crime commissioners that one of the things that we hope can be done under Transforming Rehabilitation is to enable police and crime commissioners, if they choose to do so, to commission activities and services from rehabilitation providers? So there is an opportunity for them to be engaged in this, and I think a number of those police and crime commissioners—I accept Norman is right; they are all individuals and will approach this differently—can see real opportunities to commission different services from rehabilitation providers and enable them to engage properly with that process.

**Q549 Steve Brine**: Why would they do that? Do they have funding to do that? That is what the new CRCs are going to be commissioning, is it not?

**Jeremy Wright**: Yes, they will have opportunity to commission with the funds that they do have. They will have money from the Home Office. They will have money from the victim support budgets, which is increasingly being localised. So they will have money to spend. It is up to them to decide whether they think a rehabilitation provider is a good place to invest that money, but we can certainly see situations in which a PCC might decide that is a good use of their money and that they will want to involve themselves in that process. That is a chance for some of these links to be made more effectively.

**Steve Brine**: Thank you.

**Q550 Jeremy Corbyn**: Thank you for coming to give evidence today. Could I turn your attention to resettlement prisoners? I am sure that is what you want to turn your attention to. When we had the chief inspector in, he pointed out that the prison estate was working at 10.2% over certified normal capacity. That situation does not appear to be improving. In that sense, are you comfortable with that, and can the rehabilitation reforms actually be conducted in an
atmosphere where you have 110% capacity in most prisons.

Jeremy Wright: First of all, I should make a technical point. There are different measurement methods. There is a measurement which does not include any measure of crowding, crowding being, of course, in this context two prisoners in a cell rather than one. But then there is also an operational capacity and we are not above that. So, although there is certainly crowding in the system, and there has been for some considerable time, the system is not unsafe.

What we seek to do with resettlement prisoners is, as you will appreciate, move them for the later stages of the custodial part of their sentence to a prison in or near the area into which they are going to be released. That is for all the reasons that we understand—and I am sure you do not need me to go through—to enable a rehabilitation provider to make that contact with them early when they are still in custody, the “see-them-through-the-gate” process, and then support them for at least 12 months thereafter. It makes good sense to do that. We will not be able to do that in every case. The nature of prison sentence will end up in exactly the right place, and that’s for a variety of reasons, not least because some prisoners require particular courses or interventions that are not provided at every prison. But, for the vast majority, we believe we can do that and we have plans to do that with the prison population at its current level. The current prison population does not preclude the movement of as many prisoners as we can to resettlement prisons, and you are absolutely right that resettlement prisons are a large part of the changes we want to make. Frankly, whether or not we were doing Transforming Rehabilitation, it would be sensible to look again at the way in which we spread the prison system, and there has been for some considerable time, the system is not unsafe.

Q551 Jeremy Corbyn: You seem to be on a bit of a single case. Not every prisoner will need interventions that someone may particularly need.

Jeremy Wright: Prison governors have authority over the prison that they are in charge of, and that applies to all the services that are provided within it. Let me just take you back, in relation to your first comment, to the autumn of 2012 when Chris Grayling and I first took up our posts. At that point, we were confronted with the competition of, I think, eight or nine—depending on how you count them—prisons. We could, at that point, have decided to privatise all of those prisons. We did not do that. Instead, what we did was say, “Let us pursue the benchmarking process,” which I described to Mr McDonnell earlier. The benchmarking keeps core custodial services in the public sector; it does not privatise them. It does look at the outsourcing of ancillary services and through-the-gate services. That approach was taken in response to the public sector bids which were made to run each of those eight or nine prisons, and we decided not to pursue at that stage the privatisation path, but to say instead, “Let us take you at your word. Let us say to all public sector providers, ‘You can achieve the savings you say you can in pursuing the bids to run those eight or nine prisons and let us do that everywhere.’ That is what we are doing.” So, far from being on a mission to outsource and privatise everything, what we have done is to say, in relation to prison management, “We could have taken the privatisation option. We chose not to.”

Q552 Jeremy Corbyn: What response have you given to the inspectorate about their doubts that the transforming programme can be carried out within the existing estate in existing facilities?

Jeremy Wright: I speak to Nick Hardwick regularly, as you would expect. I think we understand that we can manage this process and we will only ever do it safely. We are not interested in putting the prison system at risk here, in any sense. But he and I will both agree that it is a good idea to move prisoners in the closing stages of their sentence to a prison nearer to home. That is something that I think he fully supports. One must make sure that, where there are exceptional cases where that cannot happen, we are clear and up front about that, and I have said to you already that it may not be possible to do that for 100% of prisoners. But we believe that we can do that with the vast majority of them; we do so safely and over the next couple of years or so. That is a process that is under way now.

Q553 Jeremy Corbyn: This is the last question from me. You say, quite rightly, that rehabilitation begins on day one of the sentence. If all prisoners are not designated as resettlement prisoners, then clearly that is a complication—an added difficulty. How are you addressing that?

Jeremy Wright: Certainly, rehabilitation does begin on day one and rehabilitation takes a number of different forms. Prisoners will often move through a number of different phases in the course of their sentence as well, as you will appreciate. Prisoners will always start at the local prison, which is where they are sent from the court. They will then, I think, move, if they are in a long enough sentence, to a training prison. The point is that at the training prison we want them to start to address some of the rehabilitation needs they have more broadly. Whether that is a deficiency in skills, an addiction or whatever it may be, we want them to address those problems. I expect rehabilitation to happen at every stage of the process. I do not think that that final phase of resettlement, where we move someone to a prison in or near their home area, is the only aspect of rehabilitation that takes place in custody. There are processes that are just as important that will take place in that central portion of a sentence. Just as we were talking earlier about sex offenders, but for others too, not every prison will have the availability of the sorts of courses and interventions that someone may particularly need. So it is sometimes—quite often—necessary to move someone around the prison estate in the course of their
sentence. That will continue to be the case, but we think that that closing stage of someone’s custodial sentence is a very important one in making the links we need to make with a resettlement provider, a rehabilitation provider, who will then continue to support them. It is that personal relationship very often that will persuade someone that they have something to look forward to, that there is a plan in place for them, and that it is worth them making that final effort to ensure that the difficult process of coming out of prison to the outside world is managed safely and effectively.

Chair: We will go straight to Mr de Bois.

Q554 Nick de Bois: Thank you. The current approach of the Ministry is to focus on reducing the cost base of prisons, as opposed to looking at the use or demand for a prison itself. Our previous Committee believed the Government should put the penal system on a sustainable footing by effectively reducing prison numbers per se. Given that we are reportedly very high at capacity—about 99.6%, I am told—do you still believe that reducing the levels of imprisonment is not the way to achieve a legitimate policy? Jeremy Wright: I will say something first and Norman may want to say something about demand. I do not think it is sensible for politicians to start to set targets as to what the prison population should look like. Our job is to provide a safe, secure and decent prison estate for all those that the courts decide need to be there. I have never thought it wise for politicians to say, “We want the prison population to go up,” or, “We want the prison population to go down.” I do think it is right for us to say, though, that we want to see fewer people go to prison for the right reasons, and the right reasons are that they are not reoffending and coming back into the system. So we do have a clear aspiration—we could not be clearer about it—to reduce the rate of reoffending. That is partly because it will help reduce demand on prisons. A very large proportion of the prison population has certainly been in trouble before and a very large proportion has been in custody before. There is every incentive for us, for all sorts of reasons, in reducing demand in that way, but that is the way you do it. You do not say, “My objective here is to get the prison population down below a certain level.” My objective is to say, “I want to see reoffending reduced so that people are not coming back into the system and eventually ending up in custody.” Everything we try to do is focused on that objective to reduce reoffending, but Norman might want to say something about the wider demand point.

Q555 Chair: Might you not want to put people in prison for whom prison is clearly not working and not likely to reduce reoffending—for example, because their problem is primarily a mental health problem or because their problem is an addiction problem, which prison by itself is not going to be able to solve when they go out into the community?

Jeremy Wright: Yes, and we have discussed already the liaison and diversion programme, which is designed to achieve just that, to take people out of the criminal justice system at any stage so that they do not eventually end up in custody, as too many of them do. I entirely accept that. However, I am not of the school that “The courts must sentence people to custody.” They should do so only if they feel they need to do so. If they feel they need to do so because they do not think there is another option, part of our task is to create other options, and we talked about that earlier on around the community orders and other things we can do. But, in the end, it is for the courts to decide who goes to prison, not for politicians, for good and sensible reasons, in my judgment. It is not my job to determine what the size of the prison population should be. It is my job to make sure that places are available for the courts as they choose to use them and to make sure that we do everything we can with the people we have within the system to make sure they do not come back again. That is why the reoffending point matters.

Q556 Nick de Bois: Presumably, if I can perhaps lead into your answer, Mr Baker, between the two of you, you will have to consider the impact of the projections of reduced demand if we get Transforming Rehabilitation right. What period do you expect to see, if you like, the benefit of that, and are you basing that on the evidence of the trials so far?

Norman Baker: Jeremy said his objective is to reduce reoffending. Mine is to reduce offending in the first place and we can do that through a whole range of measures, not simply by establishing laws which act as deterrents but also by removing the opportunities for opportunistic crime. A great deal of crime occurs because someone feels, “Hello, this is something I can get away with,” and therefore commits a crime. If that can be reduced either through technology, for example, or from different practice, that will help reduce the numbers of people who are going through the system in the first place. If we can develop health solutions, for example, for people who have drug addictions which then help them but also stop them reoffending and prevent them being involved in acquisitive crime, that is also a good way of preventing offending in the first place. So there is obviously a link between what we are able to do in stopping crime in the first place, which we are very keen to do, and what Jeremy does, which is to stop people reoffending if they have committed a crime.

Q557 Nick de Bois: Could I bring you back to the point on trying to anticipate, if you like, the reduced demand? Jeremy Wright: Yes. I think we would not want to take too much for granted here, and the Committee will appreciate that, in terms of the financial and economic case for what we are doing, we have not factored into that the wider savings that society and the system gets from reductions in reoffending. But we would expect to see year-on-year progressive reductions in reoffending, and there are financial benefits to that. There are, of course, much wider societal benefits to that too, which are not financially measurable but are very real. To support what Norman says, I would not want the Committee to think, especially when we discussed joined-up Government,
that I am not interested in preventing offending in the first place; I am, of course, but the nature of what we do in the Ministry of Justice is that the people who come to us have, by definition, already offended, and therefore the challenge for us specifically is to deal with recidivism. There is one exception to that, in relation to young people, where youth offending teams have a very real and important deterrent role too, and there is an opportunity for them to engage with young people early and persuade them that following a life of crime is not a good thing. Youth offending teams across the country do very good work in that respect. That is probably the one notable exception, but, other than that, we are, as has been said before, a down-stream Department and we are dealing with those who are already within the system.

**Norman Baker:** The other factor which has an influence on prison population is the length of sentence, of course, for those who are subsequently sentenced in court. That is partly down to legislation which my Department or others will pass, but it is also down to what society wants for particular crimes and what the judiciary themselves conclude is the correct outcome. If you take rape, for example, the average length of custodial sentence has increased by nearly 21 months since 2005. I happen to think that is quite a good thing, but there is an implication for Jeremy’s Department from that.

**Q558 Nick de Bois:** I would just like to talk about how the Secretary of State used the example of competing the community payback in London as an indicator of efficiency savings that could be achieved potentially under Transforming Rehabilitation, in which we are all very interested. I understand this contract will now be terminated at the end of the year. Could you explain why it is ceasing, given that it was touted as a way forward?

**Jeremy Wright:** It is not ceasing as any reflection of performance. It is ceasing because, if we want to implement the Transforming Rehabilitation reforms, part of that is the provision of community payback. So it would be difficult, I think, to maintain, especially in a contract package area like London, a separate contract for community payback and for the rest of rehabilitation services. It is designed to roll up community payback in the competition for that particular contract package area under the Transforming Rehabilitation reforms. There is no sinister motive here. That is the reason for it and we have done that in agreement with the current provider.

**Q559 Nick de Bois:** You are kind of rolling it up, in effect.

**Jeremy Wright:** Yes, because part of rehabilitation and the provision of those services will be community payback. We want to make sure that whoever ends up with the contract to run London as a contract package is also running that. As you know, that will not be the current provider.

**Chair:** We published an interim report on Transforming Rehabilitation. We are approaching some of the key dates now in the roll-out of the Government’s measures. You have responded to the Committee that that response has not yet been published. We will publish it in the next day or so. It is in the form of a letter, but there are issues and concerns that we would want to raise and I am going to ask Mr McDonnell to raise them.

**Q560 John McDonnell:** The letter dated 16 March from the Secretary of State, if we go to the third paragraph, says: “…we have now reached agreement on core issues, resulting in Probation Trade Unions and the employers’ side ratifying the National Agreement on Staff Transfer at a meeting of the probation national collective bargaining machinery on 29 January 2014. Trade Unions have also withdrawn all local trade disputes.”

I was quite shocked at that, and I read that paragraph to the union Napo, which I believe is an inadvertent breach of privilege and I apologise for that because I thought this letter was a public letter at the time. Napo’s response to me was that actually there has been no agreement reached on staff transfer: “However, the staff transfer scheme is still under negotiation...” The local disputes have not been withdrawn. In fact, for example, there are disputes in the Wales Probation Trust and Warwickshire. There is a two-day national strike next week as a result of the Government’s proposals going through. There are 800 appeals that “have been lodged by staff.” There are “800 grievances lodged against Trusts.” That does lend it an air, to some people considering the letter from the Secretary of State, of maybe being misleading.

**Jeremy Wright:** I do not accept that, as you will perhaps not be surprised to hear. Let me deal with some of those issues specifically. As to the issue of local disputes, it certainly was our impression that the disputes at local level had been withdrawn, and indeed the national negotiating machinery, which you have referred to, issued a statement following ratification of the agreement saying, “Disputes at a local level are now withdrawn.” So it is something of a surprise to me that Napo’s view is that local disputes have not been withdrawn. I am sure you will appreciate, Mr McDonnell, I have only seen the letter to the Chair from Napo as I was coming into this Committee. I have not had the chance to check all of the details, but that is my clear understanding. Secondly, in relation to appeals, there is a small number of staff for whom the results of their appeals are still outstanding. We think that is in the region of 20 individuals. You should also know that I see that Napo say that 800 appeals have been lodged by staff. To put that in context, that is about 4% of staff who have lodged an appeal. In relation to grievances, I obviously cannot comment on exactly where all of these grievances have reached, but it is the case that grievances can continue beyond the key dates that the Chair has already referred to. All of those do not have to be completed, as I understand it, by 1 June. The broader point, if I may say so, is that it does not come as a surprise to me that Napo do not support these reforms and do not wish it to be thought that they do. No impression has been sought to be given that they do support these reforms. What we have said, which as I understand it is entirely factually accurate, is that the national negotiating body has
reached agreement on specific things connected to the transfer of staff. That includes “continuity of service, pension eligibility and an enhanced voluntary redundancy scheme,” as set out in the Napo letter. I do not think there is any dispute about that.

Equally, there is no dispute that Napo do not support these changes. They have made that very clear and I understand that. I do not agree with them, but I understand exactly their point of view and I am sure no one is misled into thinking, or has ever been misled into thinking, that they do.

Q561 John McDonnell: You agree that the staff transfer scheme has not been agreed.

Jeremy Wright: I do not think we have ever sought to say that anything has been agreed other than what clearly has been agreed, which are the specific details of what protection staff will get when the transfer takes place, which, I may add, are extremely generous, so I am not surprised they have been agreed. But there has never been any attempt, as far as I am concerned, to mislead anybody about that.

Q562 John McDonnell: So the expression “Trade Unions have also withdrawn all local trade disputes” is inaccurate.

Jeremy Wright: That, as I have said—and I will check and of course come back to the Committee—

Q563 John McDonnell: And there is a national dispute next week for two days.

Jeremy Wright: Again, we have never sought to dispute the fact that there is a dispute and I do not think that that has ever been said. In so far as particular local disputes are concerned, it was our very clear understanding—and you will understand why that was our understanding, given what I read to you—

Q564 John McDonnell: Would it not have been better for the Secretary of State to inform the Committee?

Jeremy Wright: There was a very clear understanding—and you will understand that that was our understanding, given what I have read to you—that local disputes had been withdrawn. I will go away and check the position and will of course come back to the Committee, but it is very difficult for me to respond in detail to a letter I saw as I was walking into the meeting.

Q565 John McDonnell: You knew there was a dispute next week.

Jeremy Wright: Of course.

Q566 John McDonnell: Would it not have been better for the Secretary of State to inform the Committee of that?

Jeremy Wright: I am not sure that the Committee needed to be told by the Secretary of State that there was a dispute or that there was—

John McDonnell: It gives the impression that—

Chair: Let the Minister answer.

Jeremy Wright:—industrial action intended to be taken by Napo. As far as I am aware, Napo have not sought to make a secret of it.

Q567 John McDonnell: It gives the impression that all the local disputes have been withdrawn—to try and imply to the Committee that agreement has been secured.

Jeremy Wright: I am conscious that, Mr McDonnell, you are much more expert in these things than I am, but there is a distinction, is there not, between a local and a national dispute? Our view was that local disputes had been withdrawn. That was our clear understanding. If that is a mistaken understanding, we will go back and look again. But in terms of a national dispute, there has never been any doubt that that was the course of action that Napo have taken in the past and clearly wish to take again. That is against a backdrop of a wider disagreement that they have with what we are doing. That, I think, is, and has long been, understood.

Q568 Jeremy Corbyn: Can I come in on this? Like Mr McDonnell, I shared the contents of the letter with Napo and if there is a breach of privilege I apologise; it was inadvertent, like in Mr McDonnell’s case. But why was a letter sent to us saying that disputes have been withdrawn when they clearly have not? It would have been very easy to have checked with Napo, or indeed with your own human resources Department.

Jeremy Wright: I can only repeat what I have already said, which is that it was our clear understanding that local disputes had been withdrawn.

Q569 Jeremy Corbyn: How did this clear understanding come about?

Jeremy Wright: Let me read it again. The national negotiating machinery, of which we and Napo are part, issued a statement following ratification of the agreement at the end of January saying the following: “Disputes at a local level are now withdrawn.” I am sure the Committee can understand why I got the impression from that that local disputes are now withdrawn.

Q570 Chair: You have given us an undertaking that you will come back to the Committee in one form or another clarifying what you understand the position to be.

Jeremy Wright: Yes, I will of course do so.

Q571 Mr Llwyd: May I associate myself with what my colleagues have said? I am also deeply concerned, but you do mischaracterise Napo in one way in your response. They would have been quite prepared for the pilots to be completed and evaluated properly and then to see whether change is realistic. You say it as if they were not interested in any change at all. That is not quite correct, is it?

Jeremy Wright: I did not say that Napo were not interested in any change at all. I said they opposed what we are doing, and that is very clearly the case. It seems to me equally clear that one of the bases on which they oppose us is that they do not wish to see any involvement of anyone other than the public
sector in the delivery of rehabilitation services. They certainly do not—

Mr Llwyd: That is not what—

Chair: Order. We ask questions and Ministers give answers.

Jeremy Wright: They certainly do not wish to see the involvement of the private sector. That is a position they are perfectly entitled to hold. Others hold it too. It is not a position I agree with, and therefore there has always been a fundamental disagreement between us and Napo on this point. That does not mean to say that we have not been able to agree certain things with them. We have. That is evidenced by the agreement which was ratified at the end of January. I will look again at the specific points that are made in this letter, and if I need to clarify to the Committee what has happened I will of course do so, but I hope the Committee will accept I have done my best to deal with it today.

Q572 John McDonnell: Chair, can I clarify one other matter on the letter which is confusing? In the final paragraph are the corrections—could I say?—to the timetable for implementation, which shifts meeting by meeting. Can we be absolutely explicit now on what the Government are saying? They are now saying that the new working structures have shifted from what we were told, from 1 April and then, we were told originally, June, but now it is 31 May. I suspect it will be June. We are told the deadline tenders will be due in June. “We envisage that contracts will be awarded in Autumn 2014, rather than December 2014.” I am not sure what autumn is, but it is probably 30 November. Then it says, “New providers will therefore commence service delivery in late Autumn 2014, not April 2015.” What is it? Is it autumn or is it 2015?

Jeremy Wright: The contracts should be awarded towards the end of this year, and then, of course, we will expect mobilisation to take place by 2015.

Q574 John McDonnell: That is not what it says. It says: “It is our intention to award and mobilise the contracts by 2015.” Then, “New providers will therefore commence service delivery in late Autumn.”

Jeremy Wright: Yes, that is what I think I have said. But let me go away and look at exactly what Napo are saying about the letter we have written. If there is clarification to be made—

Q575 John McDonnell: That is because you have unrealistic timetables and that is what the Risk Register told you. Can you clarify this? It says, “It is our intention to award and mobilise the contracts by 2015.” Overleaf, it says, “New providers will therefore commence service delivery in late Autumn 2014, not April 2015.” What is it? Is it autumn or is it 2015?

Jeremy Wright: The contracts should be awarded towards the end of this year, and then, of course, we will expect mobilisation to take place by 2015.

Q576 John McDonnell: It changes at every meeting. Jeremy Wright:—I will make it. But I am sure the Committee will understand, as I have said, that the first I have seen of this particular letter from Napo was walking into this Committee. So it is very difficult for me to—

John McDonnell: No. This was the Secretary of State’s letter.

Q577 Chair: We are quoting from the Secretary of State’s letter.

Jeremy Wright: I understand that, but the point of difficulty—

Chair: Order. I have to say I find some of this timetable detail unclear.

John McDonnell: Bizarre.

Q578 Chair: Order. I find the timetable is getting unclear and I would like the Committee to have a clear and reliable timetable. It is of some public significance, of course, because these are very important services and they also involve the working lives of a great many people. So we would be grateful if we could have that clarified as soon as possible.

Jeremy Wright: I shall certainly do that.

Chair: We are grateful to you for the wide-ranging discussion that we have had on the main area of our forthcoming report. Thank you very much to both of you, Mr Baker and Mr Wright.