

HOUSE OF LORDS

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1st Report of Session 2023–24

Cutting crime: better community sentences

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Justice and Home Affairs Committee

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See Appendix 1.

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Evidence is published online at <https://committees.parliament.uk/work/7425/community-sentences/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

Crime can be reduced through rigorous sentences served in the community. With the right investment, intensive community sentences can succeed where short prison sentences fail. As well as reducing offending, they can ease pressure on prison places. Currently they fall way short of their potential and there has been a dramatic drop in their use. At the same time, prisons, at 99% of operational capacity, are in effect completely full.

The Government acknowledges the critical prison situation, and it is getting worse. We for our part acknowledge the enormity of the challenge it faces.

The use of sentences served in the community has more than halved over recent years. An effective community order can help turn round the life of an offender, providing both treatment and punishment, but the support that is needed is not widely enough provided, or indeed available.

There is an untapped potential for keeping offenders out of prison and supporting them to avoid reoffending. The scope for effective results needs to be better understood, and the good work in the system should be expanded. This needs commitment to increased funding.

In this report, we set out our proposals for making the most out of them.

We looked for the best rehabilitative services (treatment for addictions and mental ill health, tailored to the individual) that, more widely available, would provide a pathway to rehabilitation. The wraparound support offered to female offenders, recognising their circumstances, has proved its effectiveness (Women's Centres can cut reoffending to 5% against a national average of 23%¹). It should be a model for probation services generally.

Youth Offending Services are also said to incorporate good practice when it comes to the supervision of offenders in the community. They are empowered by local partnerships and communicate effectively with young offenders. The adult probation population would benefit from the same approach.

Further investment in treatment places is required. The need for mental health, and alcohol and drug treatment far exceeds the current rate of imposition of Community Sentence Treatment Requirements, which itself exceeds the availability of treatment. 38% of people on probation (c. 91,000 people at any point in time) have mental health issues, but only 1,302 of them started mental health treatment as part of a community sentence in 2022.² The inclusion of drug treatment requirements has more than halved over ten years. Current efforts to increase the availability of treatment services should be sustained and extended.

Incentives should be created to encourage low-level, repeat offenders to engage with rehabilitation. The approach which underpins Ireland's 'integrated' Community Service Order is a helpful model. Mentoring offered to offenders provides guidance towards a life away from crime.

1 Written evidence from Women in Prison ([JCS0030](#))

2 [Q 8](#) (Justin Russell). Ministry of Justice, 'Offender Management Statistics quarterly: October to December 2022—Probation: 2022, Tables A4_8 and A4_13' (27 April 2023): <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2022> [accessed 29 November 2023]

We also looked at best practices in how these services are delivered. When services are provided locally, various agencies can cooperate effectively. The co-location and co-commissioning of services are the gold standard.

Greater trust should be placed by the Probation Service in the expert and experienced third sector organisations who provide treatment. The forthcoming commissioning process should be the opportunity for bringing in a greater number of providers, longer contracts, more funding, and partnership working.

The potential of community sentences will not be maximised until the Probation Service is fully functional. It has faced many changes in recent years, including the privatisation and renationalisation of part of its work through the ‘Transforming Rehabilitation’ reforms. Caseloads are unmanageable and job satisfaction is low. The Probation Service is unable to produce essential Pre-Sentence Reports (PSRs)—without which community sentences are rarely imposed—in a consistent manner and on the scale required (the number of ‘standard’ PSRs, the full form, fell by 92.7% between Q2 2012 and Q1 2023³). For these issues to be addressed, the recruitment and training of new probation staff should be sustained until vacancies are filled by appropriately trained officers.

Every year, thousands of people are sentenced to short spells in prison, serving terms of less than 12 months that fuel their offending behaviour. Having acknowledged the issue, the Government has plans for changes in sentencing: many of these offenders could serve their sentences in the community instead.

Community sentences improved and used more widely, would ease pressure on the prison estate and are valuable in themselves. We detail our conclusions and recommendations in the pages that follow.

3 See Box 9

CONCLUSIONS AND RECOMMENDATIONS

A key sentencing option

A bespoke sentence (paragraphs 15 to 21)

1. Community sentences can be particularly flexible. When passing a community order, judges and magistrates can select from a range of requirements. This allows them to tailor the sentence to the individual case, setting out how to punish and rehabilitate the offender. This meets the objectives of sentencers, helps the offender, and protects society. (Paragraph 21)

An alternative to custody (paragraphs 22 to 47)

2. While we were conducting our inquiry, prisons reached their operational capacity. The Government is building new prisons, originally driven by the need to replace old prisons whose condition is extremely poor and which incur considerable running costs. The focus now is on expanding the number of prison places rather than replacing old prisons. (Paragraph 42)
3. Custody is sometimes necessary, but it is expensive and fuels reoffending. Community orders are a sound alternative in many cases. They can take various forms, giving judges and magistrates the ability to tailor sentences to individual circumstances. They are demanding on the offender and help them stop committing crime, thereby protecting the public. Breach mechanisms mean that offenders are being held to account. (Paragraph 43)
4. Being homeless makes it difficult to comply with the requirements of a community order. For those sent to prison, perhaps after the breach of a community order, custody can make their situation worse. They are likely to lose their accommodation—having stable housing is crucial to being in employment, and to access support networks. Without these, it is more likely that an offender will reoffend. Community sentences do not cut offenders from their support network or employment, which may enable maintaining suitable accommodation. (Paragraph 44)
5. *The Department for Levelling Up, Housing and Communities should recognise the importance of housing to the success of community orders. It should be careful not to undermine the efforts of the Ministry of Justice to rehabilitate people serving community orders.* (Paragraph 45)
6. Increasing the use of community orders is likely to result in a decline of reoffending, which would result in long-term savings. While the most intensive types of community orders are expensive to deliver, they typically cost less than custody. (Paragraph 46)
7. We welcome problem-solving courts, including specialised pilot ‘intensive supervision courts’. By taking a holistic approach and tailoring sentences to individual circumstances, and by holding offenders accountable for their progress through regular court hearings, we believe that problem-solving approaches can be effective solutions against repeat offending. (Paragraph 47)

An underused measure (paragraphs 48 to 69)

8. Despite all the advantages of community orders, their use has been declining in recent years. Various explanations were brought forward. The negative impact of the Transforming Rehabilitation reforms persists—sentencers lost confidence in the ability of Community Rehabilitation Companies (CRCs,

to whom the management of low-risk offenders was outsourced) to enforce community orders. Trust in community sentences is progressively being restored after the Probation Service unified in 2021, putting an end to the Transforming Rehabilitation reforms. (Paragraph 66)

9. Community orders should be used more frequently. While it is the responsibility of the independent Judiciary to decide what sentence is appropriate in each case brought before Courts, it is the role of the Government to make sentences available to the Judiciary. (Paragraph 67)
10. *The Government should invest in the services that underpin community orders to satisfy sentencers of their efficiency and availability. The emphasis should be put on intensive treatment, the effectiveness of which is established.* (Paragraph 68)
11. *Pre-Sentence Reports produced by the Probation Service should include relevant information about the content, effectiveness, and availability of community sentences in the local area (see further conclusions and recommendations on Pre-Sentence Reports starting at paragraph 255 in Chapter 5). Such information should be updated regularly to keep sentencers informed.* (Paragraph 69)

Tailoring sentences to the individual

Scaling up the use of treatment requirements (paragraphs 71 to 91)

12. Many people on probation suffer from mental health issues and from addiction to alcohol or drugs, which fuels their offending behaviour. Few of them are referred to a Community Sentence Treatment Requirement (CSTR). And yet, referrals exceed the availability of treatment, which may in itself deter sentencers from making referrals. (Paragraph 89)
13. *A greater proportion of people on probation should be served one or more treatment requirement(s). This could be achieved by implementing our recommendations on Pre-Sentence Reports (see paragraphs 255—259) and on ‘integrated’ sentences (see paragraphs 123—127), and through a greater emphasis on treatment requirements in sentencing guidelines.* (Paragraph 90)
14. *Current efforts to improve treatment services and increase their availability should be sustained. Further investment in Community Sentence Treatment Requirements is required and should be a priority. CSTRs are key to reducing reoffending, putting offenders on a path away from crime and protecting the public.* (Paragraph 91)

Mainstreaming wraparound support (paragraphs 92 to 104)

15. Women entering the Criminal Justice System in England and Wales are often the victims of abuse and discrimination, or suffering from trauma, addiction, and mental health issues. Many of them have caring responsibilities. These issues, acknowledged by the Government in its Female Offenders Strategy, have been explored in depth by others, notably by Baroness Corston and recently by the National Audit Office. (Paragraph 102)
16. We note that the Ministry of Justice shares these concerns and has commissioned some specialised women’s services. This model, in which offenders receive tailored, wraparound rehabilitative support from a single provider in a single location, is proving effective—it is dignified, drives down reoffending, and costs less than custody. (Paragraph 103)
17. *The Government should provide additional funding for the various rehabilitative services provided by women’s centres and explore options for wraparound support*

to be made available to all people who would benefit from it, giving them the best opportunity to stop committing crimes. This could include the expansion of one-stop-shops and co-located services. (Paragraph 104)

Creating incentives (paragraphs 105 to 128)

18. The rehabilitative needs of low-level, repeat offenders are not being met. Increasing the tariff of their punishment, be it in an individual case or through a revision of sentencing guidelines, is not the solution—it would set people up to fail, further criminalising them rather than encouraging their path to rehabilitation. The solution is to increase the intensity of the rehabilitative support offered to them. (Paragraph 123)
19. The better approach is to incentivise offenders. Deferred sentencing can be used to encourage offenders to engage with probation, rewarding positive behaviour in the deferred sentence. Various initiatives have been or are being piloted to create incentives for low-level, repeat offenders to engage with more intensive rehabilitative activities. (Paragraph 124)
20. *These pilots should be properly monitored and evaluated to determine whether any of them should be made more widely available. A plan for evaluation is essential to the launch of any new pilots. Best practices should be shared and scaled up. (Paragraph 125)*
21. *An interesting approach is being tested in Ireland. While their efficacy remains to be confirmed, the mechanisms of the ‘Integrated’ Community Service Orders are intended to create incentives for people on probation to engage with rehabilitation and in a range of activities that is meaningful to them. They also save time before courts. (Paragraph 126)*
22. *The Government should create incentives for low-level, ‘prolific’ offenders to engage with rehabilitation. It could find inspiration in the principles underpinning ‘Integrated’ Community Service Order from Ireland, also addressing upfront the operational challenges identified in Ireland. Offenders should be given the opportunity to select an intensive rehabilitative activity of their choice, such as residential treatment. The Probation Service should guide them in their choice. If they complete the activity they have opted for, the length of their sentence should be reduced by up to one third, without the individual having to reappear before a court. (Paragraph 127)*
23. *Initiatives for mentoring should be scaled up. Mentors can be people who have previously been on probation themselves or volunteers from the community. The Government should launch a national campaign to recruit mentors from the community. Charitable organisations should be commissioned to train and manage large numbers of mentors. Offenders should be offered the opportunity to be matched with a mentor, who would guide them through their sentence. (Paragraph 128)*

Maximising impact

Borrowing best practices from youth justice (paragraphs 130 to 149)

24. There is a ‘cliff edge’ in the response to offending when a young person transitions from Youth Justice Services to the adult Probation Service. Moving the age at which an offender undergoes this transition is unlikely, in itself, to bear positive results. (Paragraph 146)

25. However, lessons can be learnt from Youth Offending Services about the management of the probation population in general, and of young adults in particular. YOSs do not only work with smaller caseloads and with more experienced staff, but are also embedded in local communities and more effective at communicating with offenders. (Paragraph 147)
26. *The Probation Service should learn best practices from Youth Offending Services, especially about how to communicate with offenders to ensure they understand the sentences that are imposed on them. It should also encourage the local delivery of rehabilitative services and multiagency cooperation.* (Paragraph 148)
27. *Age-appropriate solutions should be found to smooth the transition of those moving from Youth Offending Services to the adult Probation Service. These solutions should be made available to all young adults on probation.* (Paragraph 149)

Facilitating local delivery (paragraphs 150 to 165)

28. Community sentences are more effective when the Probation Service is a fully engaged member of local partnerships, be it through the co-location of services or through cooperation forums, allowing information to circulate. This benefits offenders and there is also a public interest, for instance in making unpaid work placements more punitive and reparative. (Paragraph 164)
29. *We encourage the Probation Service to empower regional directors further, ensuring that a greater proportion of rehabilitative services are commissioned locally. They should be granted further autonomy to develop partnerships with local organisations and public agencies. Co-commissioning should be encouraged.* (Paragraph 165)

Making the most out of partnerships (paragraphs 166 to 197)

30. Commissioned rehabilitative services are a key component of community sentences. The delivery partners of the Probation Service provide valuable services. The most recent commissioning wave, while imperfect, is considered by all parties as a step in the right direction. (Paragraph 192)
31. Partnerships with a range of local organisations, outside formal commissioning processes for rehabilitative services, are also key to securing meaningful unpaid work placements that foster public support for community sentences. (Paragraph 193)
32. The Probation Service, however, is not making the most out of these partnerships. Referrals do not always contain sufficient information, risk assessments are not always produced and shared in a timely manner, and commissioned partners find it difficult to feed back information to the Probation Service. (Paragraph 194)
33. *The Ministry of Justice should seize the upcoming wave of commissioning as an opportunity to apply lessons from the past two years. More funding should be allocated, especially to women's centres and for housing. Contracts should be longer to protect the Probation Service's partners, but subject to termination clauses to protect the taxpayer. More flexibility should be built in, perhaps through regular reviews, to allow partners to innovate.* (Paragraph 195)
34. *The Ministry of Justice should ensure that smaller organisations are enabled to bid for contracts. Smaller organisations should be offered administrative support. They*

should be permitted to apply jointly, or in partnership with larger organisations. Requirements should be adapted to the size of the contract. (Paragraph 196)

35. *The Probation Service should improve communications with its partners. This could include guidance on what can, or cannot, be shared under data protection legislation. It should consider granting them direct access to its databases, as used to be the case prior to unification. (Paragraph 197)*

Challenges faced by the Probation Service

Staffing issues (paragraphs 199 to 215)

36. The Probation Service found itself understaffed when it unified in 2021. This results in unmanageable caseloads and the profession being unattractive. Despite impressive recruitment campaigns in recent years, vacancy rates remain high. New recruits are inexperienced. (Paragraph 213)
37. An offender's relationship with their probation officer can be instrumental to their path away from criminal activity. It is recognised as one of the most important factors, and people who have previously been on probation told us about the influence that good probation officers have had on their lives. Probation staff can only build constructive relationships with offenders if they are appropriately trained and have manageable caseloads; this in turn requires adequate staffing levels and minimal vacancy rates. (Paragraph 214)
38. *Recent recruitment and training waves should be sustained until vacancies are filled and the service effective. Efforts should be targeted at those areas where recent recruitment waves have been least successful. (Paragraph 215)*

An identity crisis (paragraphs 216 to 238)

39. The Probation Service is going through an identity crisis. The role of a probation officer has changed in recent years—the increased focus on public protection distracts the attention of probation staff away from least-serious offenders. Moreover, the expectation that they refer offenders to services provided by others, and the quantity of administrative tasks they are expected to perform, often on flawed IT systems, transforms their mission into an unfulfilling job and means that they have reduced capacity to support low-level offenders on community sentences. (Paragraph 234)
40. The Probation Service's court teams are highly regarded by sentencers, but there are concerns about how their role is perceived by offenders. Due in part to the regularity with which sentencers accept the recommendations in the PSR, court teams themselves are sometimes seen by offenders as sentencing or even as prosecuting, which can undermine the trust of offenders in the Probation Service and lead to proceedings being perceived as unfair. Sentencers might consider being more explicit in the way they take ownership of their sentencing decisions when it aligns with a recommendation made by the Probation Service. Demonstrating that sentences are determined by the judiciary alone could reduce misconceptions. (Paragraph 235)
41. Our impression throughout our inquiry was that Government and senior management seems to have lost sight of low-level offenders and to be preoccupied with the size of the prison population and post-release supervision, perhaps because of recent institutional reorganisations. Supervising low-level offenders on community sentences is central to the mission of the Probation Service. (Paragraph 236)

42. *The Probation Service should not undergo any further large-scale restructuring in the coming few years, to allow time for recent reorganisations to settle down, for more staff to be recruited, and for new recruits to gain experience, enabling them to supervise further recruits. (Paragraph 237)*
43. *HMPPS should continue investing in its IT systems, such that Probation staff can dedicate more time to people on probation (see also section starting at paragraph 166 on “making the most out of partnerships” on the partners of the Probation Service being able to access IT systems). (Paragraph 238)*

Pre-Sentence Reports (paragraphs 239 to 259)

44. Pre-Sentence Reports (PSRs) are an essential part of the sentencing process. They allow courts to tailor sentences to individual circumstances and give sentencers confidence that specific requirements are suitable and available in their area (see paragraph 67). (Paragraph 255)
45. The number of PSRs prepared by the Probation Service, and the quality of these PSRs, have been declining dramatically in recent years. This is the outcome of an effort to save court time but comes at the expense of the quality of sentencing. It also means that offenders are unable to give consent in an informed and systematic way to treatment requirements for which consent is necessary. (Paragraph 256)
46. *We support ongoing efforts that should result in more PSRs being prepared, of a higher standard, avoiding wasting court time. New PSR templates should include a prompt for probation officers to consider whether a treatment requirement would be appropriate, to encourage increased use of such requirements. (Paragraph 257)*
47. *The Probation Service, offenders, and their representatives should be given more opportunity to request Pre-Sentence Reports. Pre-Sentence Reports should be conducted in a way that makes offenders feel that they are being heard. (Paragraph 258)*
48. The imposition of rehabilitative requirements should be guided by the individual circumstances of the case so as to ensure maximum efficiency of sentences. PSRs should provide the opportunity for rehabilitative needs to be assessed and for consent to be sought, in an informed and systematic way. (Paragraph 259)

Cutting crime: better community sentences

CHAPTER 1: INTRODUCTION

About community sentences

1. Over one million people are sentenced in the criminal courts in England and Wales every year.⁴ For every individual sentenced there are many people touched in some way—especially victims and witnesses of crime, their families, and the families of offenders. Confidence in the criminal justice system matters for society as a whole.
2. It is for the independent Judiciary to make decisions on individual cases and for the independent Sentencing Council to set sentencing guidelines. The wider framework, however, is a matter for the Government and, ultimately, for Parliament, which sets maximum sentences for individual offences and established five statutory factors that the Judiciary must consider when making decisions (see Box 1). Resources are set by the Government. Rt. Hon. Damian Hinds MP, then Minister of State for Prisons and Probation, told us that he understood his constitutional role as making “very good, high-quality” sentencing options available to the Judiciary.⁵

Box 1: The five aims of sentencing

When sentencing an offender (aged 18 or over), courts are required to consider the following factors set out in section 57(2) of the Sentencing Act 2020:

- the punishment of offenders;
- the reduction of crime (including its reduction by deterrence);
- the reform and rehabilitation of offenders;
- the protection of the public;
- and the reparation by offenders to persons affected by their offences.⁶

3. Community orders are one of the sentencing options available to Magistrates’ Courts and Crown Courts. A community order sets out one or more requirements, selected from a statutory list, that a convicted offender must fulfil in the community (see Box 2).⁷

4 Ministry of Justice, *Criminal Justice Statistics quarterly, England and Wales, year ending December 2022* (18 May 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1157435/criminal-justice-statistics-december-2022.pdf [accessed 20 October 2023] and [Q 28](#) (Gavin Dingwall)

5 [Q 120](#) (Damian Hinds MP)

6 Sentencing Council, ‘General guideline: overarching principles’ (1 October 2019): <https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/general-guideline-overarching-principles/> [accessed 20 October 2020] and Sentencing Act 2020, [section 57](#). See also Ministry of Justice, *A smarter approach to sentencing*, CP 292 (September 2020): <https://assets.publishing.service.gov.uk/media/5f61d395d3bf7f723c19cb42/a-smarter-approach-to-sentencing.pdf> [accessed 20 October 2020].

7 [Sentencing Act 2020](#)

4. Community sentences are distinct from custodial sentences, which can be immediate or suspended. For the purpose of this report, and unless otherwise stated, the term ‘community sentences’ is used to refer to community orders only. It does not refer to suspended custodial sentences, even if they are served in the community through the fulfilment of requirements akin to those of a community order. The other two non-custodial sentencing options are fines and (absolute or conditional) discharges, where the sentence is added to the offender’s criminal record, but the offender is released from court without any further action.⁸
5. Once a community order has been served by a Court, the Probation Service leads on its delivery. The Probation Service is an executive agency of the Ministry of Justice, in charge of supervising all offenders in the community, including those serving community sentences. The Probation Service forms part of HM Prisons and Probation Service (HMPPS) and is organised around 12 regions, themselves divided into ‘Probation Delivery Units’. In 2021/22, the Probation Service spent a total of £1,054 million.⁹

Box 2: List of requirements that can be attached to a community order

Section 201 of the Sentencing Act 2020 lists the requirements that can be attached to a community order served to an adult offender:

- Unpaid work requirement
- Rehabilitation activity requirement
- Programme requirement
- Prohibited activity requirement
- Curfew requirement
- Exclusion requirement
- Residence requirement
- Foreign travel prohibition requirement
- Mental health treatment requirement
- Drug rehabilitation requirement
- Drug testing requirement
- Alcohol treatment requirement
- Alcohol abstinence and monitoring requirement
- Attendance centre requirement
- Electronic compliance monitoring requirement
- Electronic whereabouts monitoring requirement

8 The Sentencing Council, ‘Types of sentence’: <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/types-of-sentence/> [accessed 6 November 2023]

9 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

Restrictions apply to the use of some of these requirements. Some relate to the consent of the offender (see paragraph 240), while section 207 of the Sentencing Act 2020 provides for restrictions related to the date certain pieces of legislation came into force, the age of the offender, or the combination of requirements.¹⁰

About our inquiry

6. We decided to undertake an inquiry because we were struck by the considerable decline in the use of community orders in recent years. We believe that community sentences merit attention in their own right for the reasons set out in this report, as well as being an essential tool in managing the prison population.
7. In May 2023, we launched our call for evidence, which was disseminated widely to interested stakeholders.¹¹ We wanted to consider practical aspects related to the use and delivery of community sentences. We were interested to assess trends in their use and to identify both barriers to their use and best practice in their delivery. While we decided to focus on community orders specifically, we acknowledged that considerations related to restorative justice and other sentences served in the community may occasionally be of relevance to our assessment of community orders. Our inquiry related to adult offenders only, although we welcomed insights gleaned from the experience of the youth justice system.
8. Over the course of our inquiry, we held nine evidence sessions and spoke to a total of 20 witnesses; we also received over 40 written submissions. We thank everyone who contributed, particularly the former offenders who shared their experience of the system and of serving community sentences. While formal evidence from sentencers with current ‘on the ground’ experience was unfortunately not available, members of the Committee made an informal visit to Westminster Magistrates’ Court in September. The Committee had the opportunity to speak to the then Minister of State for Prisons and Probation, Rt. Hon. Damian Hinds MP, on 19 September 2023, and also to discuss issues relevant to our inquiry with the Lord Chancellor, Rt. Hon. Alex Chalk KC MP, when we met him on 25 October 2023. We are grateful to them and to the officials who supported them.
9. This inquiry relates to community sentences in England and Wales. We nevertheless found it valuable to learn about related developments in Northern Ireland and Scotland. We also took evidence about experience in other countries, including Ireland and the USA (New York). We refer to insights from all these jurisdictions throughout this report.
10. Our Specialist Adviser for this inquiry was Dr Gemma Birkett, Senior Lecturer in Criminology, Department of Sociology and Criminology, at City, University of London. We would like to thank her for her invaluable support and advice throughout the inquiry. We are also grateful to academics who

¹⁰ Drug testing requirements are not available if the offender was convicted before 28 June 2022, the day on which the Police, Crime, Sentencing and Courts Act 2022, [section 154](#), came into force. Attendance centre requirements are subject to the same restriction, and the offender must be aged under 25 when convicted of the offence. An electronic compliance monitoring requirement can only be used together with another requirement, other than an alcohol abstinence and monitoring requirement or an electronic whereabouts monitoring requirement. Alcohol abstinence and monitoring requirements are available since 1 December 2020, following the entry into force of the Sentencing Act 2020 (Commencement No. 1) Regulations 2020 ([SI 2020/1236](#))

¹¹ See Appendix 3

spoke to the Committee before we launched the inquiry, and to organisations and stakeholders who helped us disseminate the call for evidence.

11. Our inquiry is timely. Prisons have reached their operational capacity (see section starting on paragraph 22 on “prison capacity”), and community sentences are considered part of the answer. Community sentences are also at the heart of three ‘intensive supervision courts’, a version of problem-solving courts but focused on a particular challenge (substance misuse or female offenders), launched in June 2023 (see section on “intensive supervision courts”, paragraphs 39–47). The Sentencing Council is reviewing its “imposition guidelines” that guide the imposition of community sentences—we will be submitting this report in response to its consultation which is part of the review.¹² The Ministry of Justice is “undertaking extensive evaluation of the existing Commissioned Rehabilitative Services (CRS)” because the majority of contracts by which the Ministry of Justice commissioned rehabilitative services from private and third-sector organisations are due to be renewed in spring 2024 or spring 2025.¹³ NAPO, the trade union and professional association for probation and family court staff, has called for “a fully independent review of the probation service”¹⁴—a call that was echoed by Justin Russell, as he was coming to the end of his appointment as Chief Inspector of Probation.¹⁵ The King’s Speech also contains relevant announcements, particularly the introduction in a new Sentencing Bill of a presumption that custodial sentences of 12 months or fewer should be suspended.¹⁶
12. If community sentences are to be used more extensively to fill a gap in the system, it is all the more important to step back and look at them in the round, to make sure they are as effective as they can be. It is equally important to consider whether the Probation Service and its delivery partners are sufficiently resourced to cope with increased demand.
13. We elaborate on some of these elements of context in Chapter 2, demonstrating that community orders are a key sentencing option. In Chapter 3, we explore why community orders are effective at reducing reoffending by looking at the various ways in which they can be tailored to individual circumstances. Chapter 4 looks at best practices that could be scaled up to maximise the efficiency of community sentences, while Chapter 5 explores some of the challenges that the Probation Service is facing.

12 Sentencing Council, *Imposition of community and custodial sentences guideline to be revised* (29 November 2023): <https://www.sentencingcouncil.org.uk/news/item/imposition-of-community-and-custodial-sentences-guideline-to-be-revised/> [accessed 30 November 2023]

13 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

14 Written evidence from NAPO (JCS0021)

15 HM Inspectorate of Probation, ‘21 September—A farewell from Chief Inspector, Justin Russell’ (21 September 2023): <https://www.justiceinspectors.gov.uk/hmiprobation/2023/09/a-farewell-from-chief-inspector-justin-russell/> [accessed 24 October 2023]

16 [Sentencing Bill](#) [Bill 11 (2023–24)]

CHAPTER 2: A KEY SENTENCING OPTION

14. Community sentences are a key sentencing option. They can be tailored, in each individual case, to suit the purposes of sentencing, to address the rehabilitative needs of offenders, and to meet the expectations of the public that offenders are punished. For these reasons, which we explore in this chapter, rigorous community sentences could constitute a sound alternative to custody and should be used more frequently.

A bespoke sentence

15. Community sentences can take a wide range of forms, depending on which of the ‘requirements’ are selected by the Court (see Box 2). Once sentenced, an offender serving a community order should also receive bespoke, one-to-one supervision from the Probation Service. That is why community sentences have been described to us as “uniquely flexible compared to fines or custody”.¹⁷ As the Ministry of Justice pointed out:

“Community orders play an important role in giving courts flexibility to tailor sentences to the circumstances of particular cases. They allow for a wide range of requirements to be imposed individually or in combination, to deliver the different purposes of sentencing, giving the courts flexibility to tailor the sentence to the risks and needs of individual offenders.”¹⁸

16. Magistrates appreciate the flexibility offered by community sentences. Tom Franklin, Chief Executive of the Magistrates’ Association, said that he “would totally agree that they are uniquely flexible” and that “community sentences are at the absolute core of the work of magistrates.”¹⁹

17. Referring to the five factors underpinning sentencing (see Box 1), Tom Franklin added:

“The thing about community orders is that they can fulfil all those purposes ... Community sentences can provide the most suitable form of punishment, and punishment must be an element in every sentence, but they can also help stop the cycle of offending by providing help that the offender needs.”²⁰

18. While community sentences can take a wide range of forms, there is one constant: every community order must include at least one requirement imposed for the purpose of punishment.²¹ Andrew Neilson, Campaigns Director at the Howard League for Penal Reform, told us about research by his organisation which found that people serving community sentences found them “harder to complete than a short prison sentence” because they typically last longer, and because offenders “need to attend appointments”, which requires them to be disciplined. Compliance with community sentences was difficult because they had “to manage their day-to-day lives” along with the factors leading them to offend. By contrast, some were finding custody to be more comfortable: “There were people expressing a preference for a short prison sentence over a community sentence, because they would

17 [Q 26](#) (Phil Bowen), see also [Q 18](#) (Andrew Neilson) and [Q 17](#) (Gavin Dingwall).

18 Written evidence from the Ministry of Justice ([JCS0013](#))

19 [Q 31](#) (Tom Franklin)

20 *Ibid.*

21 Sentencing Act 2020, [section 208\(10\)](#)

go in, spend a few weeks lying on a prison bunk, come out not challenged in any way and resume the activities they had been before the courts for in the first place.”²²

19. The most well-known form of punishment is the unpaid work requirement—often depicted in the media with images of offenders in high-visibility jackets undertaking manual work. Yet, there is more to community sentences than having offenders “cleaning up our neighbourhoods and scrubbing graffiti off walls”, in the Lord Chancellor’s words.²³ We heard about the “creative” approach taken by the Probation Service during the COVID-19 pandemic, “such as unpaid work at home that needed to be done by charities”.²⁴ As the Lord Chancellor put it: “We can do this more intelligently with modern solutions for a digital age.”²⁵ We were also told that “a good unpaid work system should have a diversity of placements” and that “we need different places for different people.”²⁶ Dr Hannah Graham, Senior Lecturer in Criminology, University of Stirling, told us about examples of unpaid work placements in Scotland: “environmental and gardening activities; activities which support people experiencing poverty and food insecurity; helping charities and activities that benefit particularly vulnerable members of the community; repairing parks and children’s playgrounds; laundry services for community football strips/sportswear and as an emergency referral for people in need; painting; and bike repair and safety workshops.”²⁷
20. The fact that every community order includes a punitive element meets public expectations—in spite of reports that community orders may be perceived as ‘soft’ (see paragraphs 63–64). Gavin Dingwall, Research Fellow, Sentencing Academy, told us that “There is an expectation, certainly amongst the public, that some form of punishment will follow offending behaviour, and it can be tailored, or should be tailored, to the particular needs of an individual to help with desistance further down the line.”²⁸ In Northern Ireland, before the Enhanced Combination Order was introduced, the Probation Board of Northern Ireland (PBNI) undertook surveys, which showed that “victims would support community sentences if they were satisfied they were being managed robustly and if they could have input to the way the sentences were managed”.²⁹
21. **Community sentences can be particularly flexible. When passing a community order, judges and magistrates can select from a range of requirements. This allows them to tailor the sentence to the individual case, setting out how to punish and rehabilitate the offender. This meets the objectives of sentencers, helps the offender, and protects society.**

22 [Q 25](#) (Andrew Neilson)

23 HC Deb, 16 October 2023, [col 60](#)

24 [Q 18](#) (Phil Bowen)

25 HC Deb, 16 October 2023, [col 60](#)

26 [Q 25](#) (Phil Bowen)

27 Written evidence from Dr Hannah Graham ([JCS0006](#))

28 [Q 17](#) (Gavin Dingwall)

29 Written evidence from Paul Doran ([JCS0035](#)). See also written evidence from the Scottish Sentencing Council ([JCS0009](#)) for similar opinion polls in Scotland.

An alternative to custody

Prison Capacity

22. This inquiry was conducted against the backdrop of a crisis in the prison system.³⁰ At the end of May 2023, according to evidence from the National Audit Office, “the prison estate was at 99% of its total capacity, with 85,415 people in prison.”³¹ As of 13 October 2023, there were 88,225 people in prison, only 557 under the absolute maximum. The prison population grew by 209 people in a week between 6 October and 13 October.³²
23. The latest prison population projections were released in February 2023, before recent announcements to reduce pressures on the prison estate. At that time, it was projected that the prison population would rise to 94,400 prisoners by March 2025 and to between 93,100 and 106,300 by March 2027.³³
24. The Government is building more prison places. The 2021 Prisons Strategy White Paper stated that 20,000 prison places would be built by the mid-2020s.³⁴ As of 5 June 2023, 5,202 of these places had been delivered. Two new prisons (HMP Five Wells and HMP Fosse Way) have been opened.³⁵ At the time of writing, two new prisons were still subject to planning appeals by the MoJ.³⁶ The Government did not proceed with earlier plans to close old prisons in a poor condition.³⁷
25. Since we launched our inquiry in May 2023, the pressure on the prison estate has come to wide public attention. In September, the high-profile alleged escape of inmate Daniel Khalife from HMP Wandsworth—the third most overcrowded prison in England and Wales—prompted much comment about the condition of prisons in England and Wales. In October, the Lord Chancellor announced a series of reforms in acknowledgement that the demands being placed on the prison system were unsustainable. These announcements included a commitment to ensure that a greater proportion of lower-level offenders are sentenced to “tough community sentences” which “are shown by the evidence to cut reoffending and hence to cut crime.”³⁸

30 According to the National Audit Office, “Prison capacity can be measured in two ways: uncrowded capacity is the number of prisoners a prison can hold while providing a good, decent standard of accommodation. This is known as Certified Normal Accommodation. Prisons holding more prisoners than this threshold are crowded. Operational capacity is the total number of prisoners that a prison can hold without risk to control, security and the proper operation of the planned regime.” See National Audit Office, *Improving the prison estate* (Session 2019–20, HC 41), 7 February 2020: <https://www.nao.org.uk/wp-content/uploads/2020/02/Improving-the-prison-estate.pdf> [accessed 24 October 2023].

31 Written evidence from the National Audit Office ([JCS0039](#))

32 Ministry of Justice, ‘Population bulletin: weekly 13 October 2023’ (6 January 2023): <https://www.gov.uk/government/publications/prison-population-figures-2023> [accessed 24 October 2023].

33 Ministry of Justice, ‘Prison Population Projections 2022 to 2027, England and Wales’ (23 February 2023): <https://www.gov.uk/government/statistics/prison-population-projections-2022-to-2027> [accessed 29 November 2023]

34 Ministry of Justice, *Prisons Strategy White Paper*, CP 581 (December 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038765/prisons-strategy-white-paper.pdf [accessed 29 November]

35 Written Answer [187206](#), Session 2023–24

36 Letter from the Rt Hon Edward Argar MP, Minister of State for Justice to Sir Bob Neill MP (21 November 2023): <https://committees.parliament.uk/publications/42350/documents/210487/default/>

37 House of Commons Library, *The Prison Estate in England and Wales*, Research Briefing, [SN05646](#), 29 June 2023

38 HC Deb, 16 October 2023, [col 60](#)

26. Custody is necessary in certain instances, even for offences that could attract a community order, particularly but not only for reasons of public safety. Damian Hinds MP said: “You need custodial options. When the same guy is in front of you for the 20th time, for the 200th offence, where do you go? You need those options, even for low-level offences.”³⁹
27. Custody does not guarantee public safety. We received much evidence showing that short-term prison sentences are problematic. As HM Inspectorate of Prisons told us: “When prisoners spend a relatively short time at establishments and the turnover of arrivals and releases is high, our inspectors find that effective offender management can be challenging to achieve.” HM Inspectorate of Prisons explained: “Unless managed effectively, short-term custodial sentences can pose public protection risks” because spending a short amount of time in custody makes an offender more likely to reoffend.⁴⁰ As the Lord Chancellor put it, “prisons should not ruin the redeemable”.⁴¹
28. In that context, we welcome the Government’s recent references to sentences served in the community. As Damian Hinds MP put it, “it is often preferable not to have somebody going into a short custodial sentence and, instead, to have something that is suitably punitive but also rehabilitative that can keep someone close to the job market, closer to home, and so on.”⁴²

An effective option to reduce reoffending

29. A growing body of evidence is emerging that community sentences are more effective than short custodial sentences at reducing reoffending. Lord Justice William Davis, Chair of the Sentencing Council, the body in charge of producing sentencing guidelines, told us that “the strongest conclusion” from a recent review of the effectiveness of sentencing was that “shorter custodial sentences, particularly under 12 months, are less effective than community sentences at reducing reoffending”.⁴³ In the following paragraphs, we review the evidence about the effectiveness of community sentences, including in comparison with short-term custodial sentences.
30. In terms of effectiveness, in the third quarter of 2021, the proven reoffending rate for adult offenders sentenced to a court order (community order or suspended custodial sentence) was nearly half that of adult offenders released from custodial sentences of less than 12 months (see Box 3).⁴⁴ This led Gavin Dingwall to tell us that community sentences “are more effective than custodial sentences” if looking at “the raw reoffending data”.⁴⁵

39 [Q 118](#) (Damian Hinds MP), see also [Q 120](#) (Damian Hinds MP).

40 Written evidence from His Majesty’s Inspectorate of Prisons ([JCS0018](#))

41 HC Deb, 16 October 2023, [col 60](#)

42 [Q 118](#) (Damian Hinds MP), see also [Q 120](#) (Damian Hinds MP).

43 [Q 46](#) (Lord Justice William Davis) and The Sentencing Council, *The Effectiveness of Sentencing Options on Reoffending* (30 September 2022): <https://www.sentencingcouncil.org.uk/wp-content/uploads/Effectiveness-of-Sentencing-Options-Review-FINAL.pdf> [accessed 26 October 2023]

44 Ministry of Justice, *Proven reoffending statistics quarterly bulletin, July to September 2021* (July 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173906/PRSQ_Bulletin_July_to_September_2021.pdf [accessed 10 October 2023]

45 [Q 20](#) (Gavin Dingwall)

Box 3: Reoffending statistics

In the third quarter of 2021, the proven reoffending rate for adult offenders starting a court order (community order or suspended custodial sentence) was 30.6%. The proven reoffending rate for adult offenders released from custodial sentences of less than 12 months was 55.1%.

Proven reoffending is defined as “any offence committed in a one-year follow-up period that leads to a court conviction, caution, reprimand or warning in the one-year follow-up or within a further six-month waiting period to allow the offence to be proven in court.” The one-year period starts when a community order is made or when the offender is released from custody.

The Ministry of Justice warns that “users should exercise caution when comparing the effectiveness of different sentences because the presented rates do not control for differences in offender characteristics receiving those sentences”. In other words, there is no control group to isolate the effect of specific sentences. Differences in reoffending rates may be explained by the different types of sentences imposed but could also be explained by a range of other factors (e.g., those receiving a community order are likely to be less-serious offenders in the first instance), making it impossible to reach a conclusion as to the effectiveness of sentences.

The Ministry of Justice undertook research to overcome that challenge, and found that, accounting for certain differences in offender characteristics, “the one year reoffending rate following short-term custodial sentences of less than 12 months was higher than if a court order had instead been given” by “4 percentage points”.

Jenny George, Director, Justice value-for-money, National Audit Office, urged caution when considering this estimate. She said that the Ministry of Justice “could not match about 80% of the people, so it is likely that the population that we are looking at are more entrenched offenders than may be the average for a community sentence”.

Source: Ministry of Justice, *Proven reoffending statistics quarterly bulletin, July to September 2021 (July 2021)*: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173906/PRSQ_Bulletin_July_to_September_2021.pdf [accessed 10 October 2023] and [Q 109](#) (Jenny George).

31. “You are not necessarily comparing like with like”, was a point made by Gavin Dingwall. There is no control group. He explained that “courts will often be more likely to impose a custodial term if somebody has an entrenched pattern of offending, for example.”⁴⁶ As Jenny George put it: “Overall, the people who go towards a community sentence are likely to be not exactly the same population of people as those who are sentenced to short custodial sentences”.⁴⁷
32. There have been attempts to overcome that challenge. Where research has attempted to match the characteristics of individuals subject to the different types of sentences, Gavin Dingwall told us that it has “found that there is still a notable difference in reoffending rates between them.”⁴⁸ The Ministry of Justice conducted such a “matching analysis study”, Jenny George told us, which “took a whole load of characteristics of people and then took somebody who had a community sentence with the same characteristics as

46 [Q 20](#) (Gavin Dingwall)

47 [Q 108](#) (Jenny George) and supplementary written evidence from the National Audit Office ([JCS0042](#)).

48 [Q 20](#) (Gavin Dingwall)

somebody who went to prison, and tried to look at the reoffending rate”. She cautioned that “there are always some caveats and limitation” and, in this instance, the study is comparing people serving short custodial sentences with “more entrenched offenders than may be the average for a community sentence”. She explained that the Ministry of Justice “did that work in 2015 and again in 2019, and both times it found that there was a slightly lower rate of reoffending for those who had a community sentence”.⁴⁹ As a group of academics told us, “at best, short sentences appear to affect reoffending rates similarly to community sentences and other disposals” while “at worst, short sentences may exacerbate reoffending in some circumstances—particularly for young offenders.”⁵⁰

33. One reason why community sentences are more effective than short custodial sentences at reducing reoffending is that they “allow people to retain contact with the support networks and services which can help to address the factors contributing to their offending.”⁵¹ As the Prison Reform Trust put it: “Unlike imprisonment, they allow for maintenance of family ties, jobs, and childcare responsibilities—all factors which reduce the risk of reoffending.”⁵² As the Lord Chancellor put it:

“It is clear that all too often the circumstances that lead to an initial offence are exacerbated by a short stint in prison, with offenders losing their homes, breaking contact with key support networks and, crucially, meeting others inside prison who steer them in the wrong direction.”⁵³

Justin Russell commented that “There is an irony that HMPPS is now willing to pay for three months’ accommodation for people coming out of prison” where “What you need is to pay for the accommodation before they have had to go into prison in the first place”.⁵⁴ He explained that only five regions of the Probation Service can procure accommodation for prison leavers in that way, and that “We are finding lower recall rates in the areas where that is happening”.⁵⁵

Good value for money

34. Community sentences being more effective than short custodial sentences at reducing reoffending, we should be prepared to fund them. Community sentences, however, also happen to be generally less expensive to deliver than short prison sentences—though the cost is nevertheless significant.
35. The National Audit Office told us that the available data makes it “difficult to give a current estimate on the cost of community sentences”, although witnesses mentioned costs ranging from £2,500 to £18,000, depending on the intensity of the intervention.⁵⁶ By comparison, we heard that “custody is staggeringly expensive”.⁵⁷ The National Audit Office told us that the average

49 [Q 109](#) (Jenny George)

50 Written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton ([JCS0028](#))

51 Written evidence from Revolving Doors ([JCS0016](#)), see also [Q 110](#) (Dr Juste Abramovaite).

52 Written evidence from the Prison Reform Trust ([JCS0019](#))

53 HC Deb, 16 October 2023, [col 60](#)

54 [Q 16](#) (Justin Russell)

55 [Q 4](#) (Justin Russell)

56 Written evidence from the National Audit Office ([JCS0039](#)), Revolving Doors ([JCS0016](#)), [Q 106](#) (Dr Juste Abramovaite) and [Q 122](#) (Damian Hinds MP).

57 [Q 18](#) (Gavin Dingwall)

monthly cost of retaining an individual in custody was estimated at £4,000.⁵⁸ Dr Juste Abramovaite, Research Fellow, University of Birmingham, told us:

“Prison is so expensive that sending someone to prison and then giving them rehabilitation services after prison will always be more expensive than giving someone interventions for substance misuse or mental health, or addressing housing.”⁵⁹

36. This raises the question of whether savings would be made if community orders were used more frequently instead of short custodial sentences. The National Audit Office told us that it “may not result in immediate savings” for the Ministry of Justice because “there are many costs associated with running the prison estate such as staff salaries and the cost of its estate, which would require substantial changes in the prison population before they can be adjusted”.⁶⁰ Jenny George explained that the costs of prison are “fixed or semi fixed”, because “if you save by one person not going to prison, you do not save one prison officer or one prison wing”.⁶¹ Damian Hinds MP also made the point that “if the short custodial sentence cohort were to be managed in the community instead, the intensity of the CO and requirements given may differ from that of the current CO cohort”, affecting the average cost of community sentences.⁶²
37. Savings may however be made thanks to a reduction in reoffending that would result from community sentences being used more widely.⁶³ The Ministry of Justice estimated that the total cost of reoffending by people convicted between January and December 2016 was £18.1 billion, considering it an underestimate.⁶⁴ Some of these costs could be saved if reoffending was to decrease—for instance, Paul Doran, formerly of the Probation Board of Northern Ireland (PBNI), told us that “an independent economic appraisal” of the Northern Ireland Enhanced Combination Order (ECO) had concluded that if ECOs were to be rolled out across Northern Ireland, this would result in an annual net benefit of between £5.7 million and £8.3 million thanks to the corresponding reduction in reoffending.⁶⁵
38. Witnesses also mentioned the intergenerational effects of incarceration—if fewer people are held in custody, it is likely to reduce reoffending in the long term. Dr Abramovaite explained: “Young people and children whose parents are in prison are much more likely to end up in the criminal justice system when they become young adults”, adding that “they have poorer life outcomes in school attainment and performance and worse mental health.”⁶⁶ She specified that “65% of the children of prisoners end up in the criminal

58 Written evidence from the National Audit Office ([JCS0039](#)). Post-release supervision was made compulsory for those serving short-term custodial sentences by the [Offender Rehabilitation Act 2014](#). See also [Q 106](#) (Jenny George)

59 [Q 112](#) (Dr Juste Abramovaite)

60 Written evidence from the National Audit Office ([JCS0039](#)) and [Q 18](#) (Andrew Neilson and Phil Bowen).

61 [Q 114](#) (Jenny George)

62 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

63 [Q 114](#) (Jenny George and Dr Juste Abramovaite)

64 [Q 104](#) (Jenny George)

65 Written evidence from Paul Doran ([JCS0035](#))

66 [Q 104](#) (Dr Juste Abramovaite), see also [Q 27](#) (Gavin Dingwall) and written evidence from Dr Juste Abramovaite ([JCS0046](#))

justice system or prison”, though she was “not aware of any studies or follow-ups of children whose parents get a community sentence.”⁶⁷

Intensive Supervision Courts

39. Community sentences are a key tool of problem-solving courts, designed to promote community-based solutions to offending behaviour. Dozens of such courts are in operation across England and Wales. The latest three, known as ‘intensive supervision courts’, have been piloted since June 2023.⁶⁸ Chief Probation Officer Kim Thornden-Edwards told us that “two are on substance misuse in Teesside and Liverpool, and one is on women in Birmingham.” She explained that “their model has progress reviews built in, so there is a single dedicated judge who oversees the progress of the case with routine reviews”: offenders spend their sentences in the community, and their progress is regularly reviewed by courts.⁶⁹
40. Phil Bowen, Director at the Centre for Justice Innovation, argued that problem-solving courts, such as these ‘intensive supervision courts’, “hold a key to convincing sentencers that community sentences are robust, and it is a way of showing the public that these people are being held to account on a regular basis by a court.”⁷⁰
41. Damian Hinds MP emphasised that intensive supervision courts are “not a soft option”.⁷¹ Similar problem-solving courts exist in various settings, and we heard evidence about such approaches in the Greater Manchester Combined Authority area, Northern Ireland, and New York.⁷²
42. **While we were conducting our inquiry, prisons reached their operational capacity. The Government is building new prisons, originally driven by the need to replace old prisons whose condition is extremely poor and which incur considerable running costs. The focus now is on expanding the number of prison places rather than replacing old prisons.**
43. **Custody is sometimes necessary, but it is expensive and fuels reoffending. Community orders are a sound alternative in many cases. They can take various forms, giving judges and magistrates the ability to tailor sentences to individual circumstances. They are demanding on the offender and help them stop committing crime, thereby protecting the public. Breach mechanisms mean that offenders are being held to account.**
44. **Being homeless makes it difficult to comply with the requirements of a community order. For those sent to prison, perhaps after the breach of a community order, custody can make their situation worse. They are likely to lose their accommodation—having stable housing is crucial to being in employment, and to access support networks. Without these, it is more likely that an offender will reoffend. Community sentences do not cut offenders from their**

67 [QQ 108–109](#) (Dr Juste Abramovaite)

68 [Q 72](#) (Kim Thornden-Edwards)

69 *Ibid.*

70 [Q 24](#) (Phil Bowen)

71 [Q 122](#) (Damian Hinds MP)

72 Written evidence from Greater Manchester Combined Authority ([JCS0044](#)), the Probation Board for Northern Ireland ([JCS0043](#)), [Q 52](#) (Courtney Bryan) and [Q 24](#) (Phil Bowen)

support network or employment, which may enable maintaining suitable accommodation.

45. *The Department for Levelling Up, Housing and Communities should recognise the importance of housing to the success of community orders. It should be careful not to undermine the efforts of the Ministry of Justice to rehabilitate people serving community orders.*
46. **Increasing the use of community orders is likely to result in a decline of reoffending, which would result in long-term savings. While the most intensive types of community orders are expensive to deliver, they typically cost less than custody.**
47. **We welcome problem-solving courts, including specialised pilot ‘intensive supervision courts’. By taking a holistic approach and tailoring sentences to individual circumstances, and by holding offenders accountable for their progress through regular court hearings, we believe that problem-solving approaches can be effective solutions against repeat offending.**

An underused measure

Decline in the use of community orders

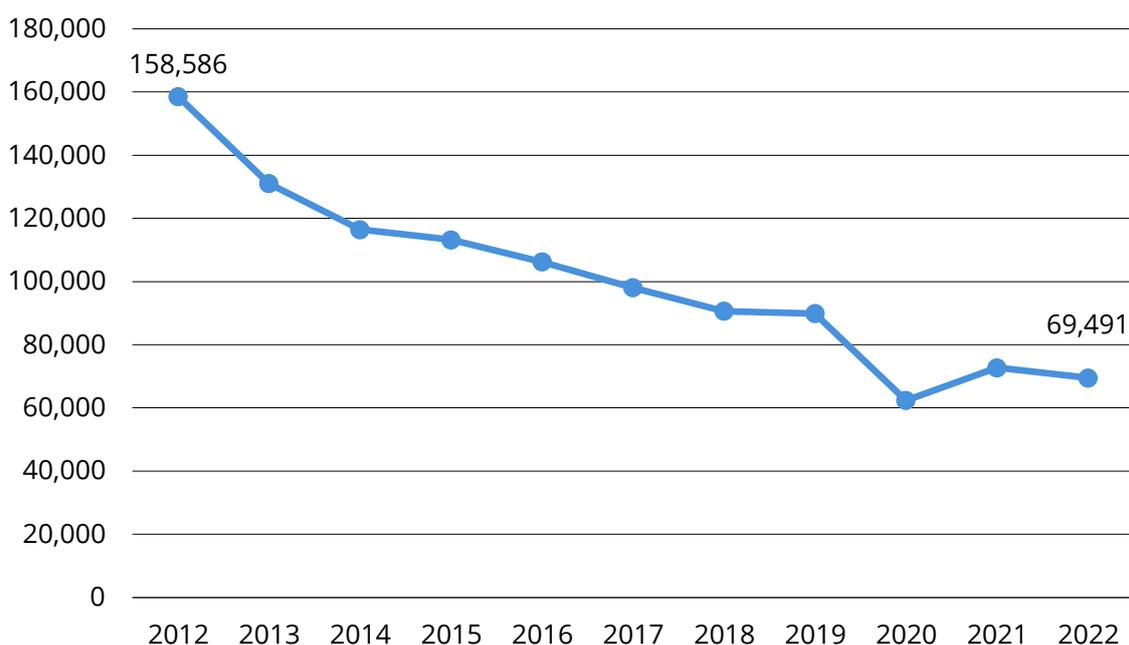
48. The use of community orders (sometimes abbreviated as ‘COs’) has been declining, both in absolute terms and as a proportion of all sentences, since they were introduced in their current form in 2005 (see Figures 1 and 2). The Ministry of Justice set out the figures for us:

“In 2005, 143,000 CO sentences were imposed compared to 60,500 in 2022. Although the volumes of all sentences imposed have reduced over that period, there has been a greater fall in COs than in sentences overall—a 58% reduction for COs compared with a 29% reduction for sentences overall. COs accounted for 6% of sentences given to adults in 2022 compared to 10% in 2005.”⁷³
49. The National Audit Office detailed that the number of offenders starting supervision with the Probation Service under a community sentence fell by 44% (from 106,073 to 59,800) between 2012 and 2022, reflecting the decline in imposition of community orders over the same period.⁷⁴ The Probation Board of Northern Ireland noticed similar trends in the use of the Community Service Orders.⁷⁵

73 Written evidence from the Ministry of Justice ([JCS0013](#))

74 Written evidence from the National Audit Office ([JCS0039](#))

75 Written evidence from the Probation Board for Northern Ireland ([JCS0043](#))

Figure 1: Number of community orders issued every year

Source: Ministry of Justice, ‘Criminal justice system statistics quarterly: September 2022—Overview Table Q5.3’ (16 February 2023): <https://www.gov.uk/government/statistics/criminal-justice-statistics-quarterly-september-2022> [accessed 10 October 2023]

50. The Ministry of Justice told us that “it is likely that various factors have contributed to this reduction in the number of COs imposed”. They mentioned “changes to sentence practice”, such as “an increased use of suspended sentences for Indictable/Triable Either Way offences”.⁷⁶ They suggested the following other explanations:
- “Changes in the number of cases being dealt with at court.
 - Changes in the offence group mix being dealt with at court.
 - Impact of the Covid-19 pandemic.
 - Changes to Legislation.”⁷⁷
51. The Probation Institute added another potential cause, arguing that “the decline in use of community penalties can be partially explained by ‘prisoncentricity’ as a dominant theme in political discourse”, defining “prisoncentricity” as “the dominance of thinking that imprisonment is the only real penalty.”⁷⁸
52. The National Audit Office said that “part of this decline is because the total number of people sentenced over the period has declined by 14%”, but noted that “the proportion of all offenders given community sentences has decreased significantly.”⁷⁹ By comparison, the proportion of offenders given immediate custodial sentences has declined slowly (see Figure 2).

76 Written evidence from the Ministry of Justice (JCS0013). A ‘summary’ offence can be heard only before a Magistrates’ Court. An ‘indictable only’ offence can be heard only before a Crown Court. A ‘triable either-way’ offence can be heard either before a Magistrates’ Court or before a Crown Court.

77 Written evidence from the Ministry of Justice (JCS0013)

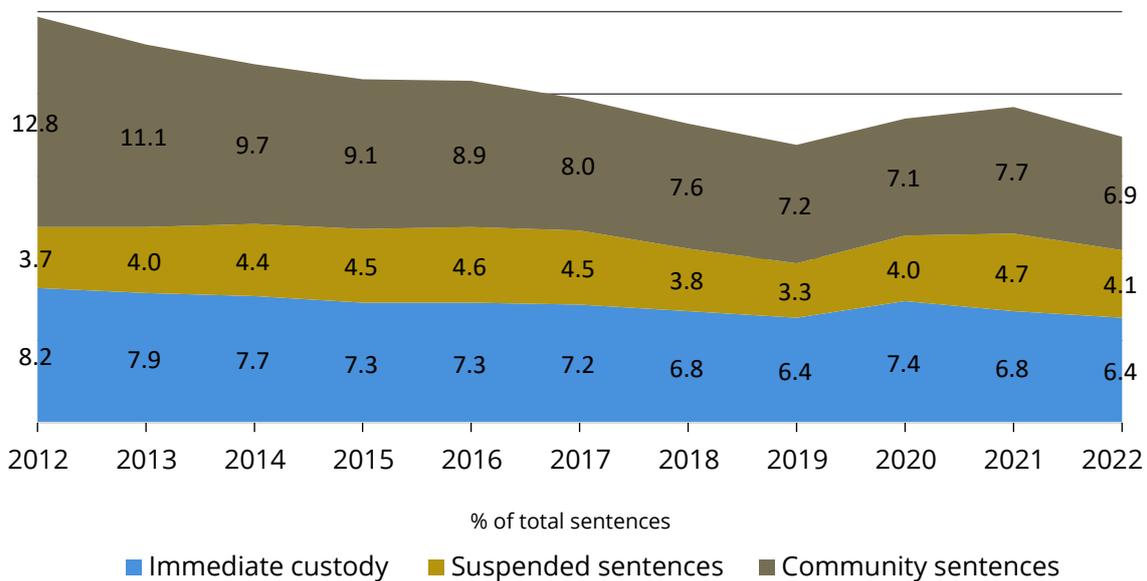
78 Written evidence from the Probation Institute (JCS0015)

79 Written evidence from the National Audit Office (JCS0039)

53. Lord Justice William Davis, Chair of the Sentencing Council, also told us about a change in sentencing practice. He explained that “between about 1991 and 2005, you could get a suspended sentence only if there were exceptional circumstances relating to either the offence or the offender”, such that “suspended sentences were rare.” The entry into force, in 2005, of the relevant provisions of the Criminal Justice Act 2003 meant “there was a dramatic increase in suspended sentences and a corresponding fall in community orders.”⁸⁰ Damian Hinds MP also said:

“I think it makes sense to put together community orders and suspended sentence orders, which share some of the same characteristics. If you do that, the decline in the number is not so great. Between 2005 and 2022, the decline was around 33%. That has to be seen in the context of sentences overall, which was down by about 29%.”⁸¹

Figure 2: Sentences passed



Source: Ministry of Justice, ‘Criminal justice system statistics quarterly: September 2022—Overview Table Q5.3’: <https://www.gov.uk/government/statistics/criminal-justice-statistics-quarterly-september-2022> [accessed 10 October 2023]

54. Damian Hinds MP argued that the apparent decline was the result of a change in the crime mix, with those offences which frequently attract a community sentence being less frequently committed, but nevertheless being penalised by a community sentence: “if you were to measure the number of community orders and suspended sentences per 100 domestic burglaries, say, you would not see a decline”.⁸² The National Audit Office, however, told us that “data do not indicate that changes in the frequency of different offences explains the decline in community sentences”. They explained that: “For each type of offence, the proportion of sentences issued that were community sentences has decreased, with the exception of violence against the person, for which there was a small increase of one percentage point.”⁸³

80 Q 45 (Lord Justice William Davis), see also written evidence from the Ministry of Justice (JCS0013).

81 Q 118 (Damian Hinds MP)

82 *Ibid.*

83 Written evidence from the National Audit Office (JCS0039)

55. Women in Prison also said that legislation might have had an impact. They claimed that “the introduction of the offence ‘Assault on Emergency Worker’ in 2018 is sweeping a significant number [of] women ... into the justice system”, and noted that this offence was most commonly attracting a community order (43% of cases), ahead of suspended custodial sentences (12%) and immediate custody (9%).⁸⁴
56. Witnesses suggested other explanations for the decline in the imposition of community orders mostly related to the relationship between sentencers and the Probation Service. The Prison Reform Trust pointed in the direction of Pre-Sentence Reports (PSRs), which sentencers can request from the Probation Service: “courts are over 10 times more likely to impose a community sentence if a pre-sentence report (PSR) is conducted” but standard PSRs “have almost entirely been phased out” in recent years (see Box 9, after paragraph 244).⁸⁵ Phil Bowen also mentioned “a deterioration in the relationship between sentencers and Probation” (see section on “a matter of confidence”, paragraphs 57–69) as a potential explanation. The National Audit Office listed the “quality and availability of information about offenders available to sentencers”, “sentencers’ confidence in community sentences due to probation arrangements”, and “awareness and availability of options for managing offenders in the community.”⁸⁶

A matter of confidence

57. We heard that the decline in the use of community sentences may also be related to sentencers having, at some point, lost trust in them or how they used to be enforced. Lord Justice William Davis, Chair of the Sentencing Council, told us that “there is considerable anecdotal evidence” of “judges and magistrates losing confidence in community sentences. He elaborated:
- “We as the Council are constantly talking to judges and magistrates about different guidelines and aspects of sentencing as part of our evaluation process. In the course of those conversations from 2015 to 2017 it was a theme that judges and magistrates felt— ‘We simply do not think that the orders we are imposing will be enforced’.”⁸⁷
58. Dr Cracknell drew a link with the Transforming Rehabilitation reforms (see Box 4), through which the management of least-serious offenders was outsourced to private organisations, known as “Community Rehabilitation Companies” (CRCs), between 2014 and 2021. He explained that “these reforms have damaged the trust that sentencers have” in the Probation Service’s “ability to deliver effective community sentences.”⁸⁸

84 Written evidence from Women in Prison ([JCS0030](#))

85 Written evidence from the Prison Reform Trust ([JCS0019](#))

86 Written evidence from the National Audit Office ([JCS0039](#))

87 [Q 45](#) (Lord Justice William Davis)

88 Written evidence from Dr Matthew Cracknell ([JCS0014](#))

Box 4: The ‘Transforming Rehabilitation’ reforms

“Transforming Rehabilitation was a major structural reform programme introduced shortly after Chris Grayling MP became Lord Chancellor and Secretary of State for Justice in 2012. The programme implemented in 2014–15 introduced fundamental changes to how probation was organised and delivered. The primary change was the division of service delivery into two parts:

- The National Probation Service (NPS)—responsible for managing offenders who posed the highest risk of harm to the public and who had committed the most serious offences. The NPS was organised into seven geographic areas.
- Community Rehabilitation Companies (CRCs)—run by a mix of providers from private, statutory and voluntary sectors, contracted to deliver community sentences for medium and low-risk offenders, and paid, in part, for results achieved in reducing reoffending. In 2014, private companies (including Sodexo, Interserve, and MTC Novo) won bids to provide services in 21 CRC areas.”⁸⁹

In June 2020, CRC contracts were terminated and the Probation Service unified.⁹⁰ The House of Commons Justice Select Committee responded: “We welcome the decision to unify the Probation Service once more. We warn, however, that, after the disruption of the past seven years, changes proposed and begun to the probation system must be fully thought through, properly funded and expected to remain in place for a period of decades rather than months or a few years.”⁹¹

59. Tom Franklin, Chief Executive of the Magistrates’ Association, confirmed that “the changes in the Probation Service over the last decade have certainly not helped at all” because “there is a feeling that a lot of the expertise in the Probation Service was lost as a result”, such that “the level of confidence has taken a knock over the last few years.” Tom Franklin, however, told us that community sentences are now “as popular as ever” among magistrates.⁹² Lord Justice William Davis agreed that the lack of confidence was “historical and does not apply any more.”⁹³
60. Part of the issue was that CRCs “were not allowed to engage directly with the courts” according to the National Audit Office.⁹⁴ As the Association of Police and Crime Commissioners (APCC) put it, “there was dissatisfaction about the inability of sentencers to direct the shape of the community order”.⁹⁵ An inspection by His Majesty’s Inspectorate of Probation (HMIP) found that, “in the final months” of the Transforming Rehabilitation years, magistrates “liked the idea of drug rehabilitation requirements, but felt that they were being poorly delivered” because “they did not have confidence in CRCs to meet the needs of people on probation who had a drug problem”.⁹⁶

89 Justice Committee, *The future of the probation service* (Eighteenth Report, Session 2019–21, HC 285)

90 HC Deb, 11 June 2020, cols 425–438

91 Justice Committee, *The future of the probation service*

92 Q 32 (Tom Franklin)

93 Q 45 (Lord Justice William Davis)

94 Written evidence from the National Audit Office (JCS0039)

95 Written evidence from the Association of Police and Crime Commissioners (JCS0020)

96 Q 3 (Justin Russell)

61. We heard that “there has been a big push in the service to improve liaison, which is paying off”.⁹⁷ The Minister for Prisons and Probation told us about the Judicial Engagement Charter, which “sets out how judges are kept informed of the availability of interventions”.⁹⁸ Chris Jennings, HMPPS’s Executive Director for Wales who led the introduction of the Judicial Engagement Charter, explained its purpose:

“It was a promise of what we would do to engage with the judiciary to make sure that they felt we were fulfilling our obligations and giving them the information they need. We set out a series of commitments as part of that charter, to make sure that at local, regional and national level we have proper engagement structures where we can listen to the concerns of magistrates and provide them with any information that they need to have confidence in our system.”⁹⁹

62. A tangible outcome was the creation of “a national forum” chaired by the Chief Probation Officer and of local “liaison committees”.¹⁰⁰ Damian Hinds MP also told us about “online region-by-region summaries of the different interventions provided by probation and what they involve” which are “primarily aimed at members of the judiciary”.¹⁰¹ Kim Thornden-Edwards, the current Chief Probation Officer, told us that she was “satisfied” that local probation teams “have some really connected, vibrant arrangements with their local sentencers, both in quarterly meetings where the higher level progress and performance is reported, and in newsletters and ad hoc events.”¹⁰² Tom Franklin, on behalf of the Magistrates’ Association, echoed this position: he told us that “magistrates see the relationship between themselves and the Probation Officers as entirely symbiotic” and that there is a “high degree of confidence” among them.¹⁰³
63. Against this “generally positive picture”, we heard that sentencers “would like more information on the outcomes of the people they sentence”.¹⁰⁴ As Chris Jennings explained, “in usual circumstances the only time sentencers note progress of an order is usually when it is in breach”, meaning that the offender has been recalled before the Court for non-compliance with the terms of their sentence.¹⁰⁵ The then Chief Inspector of Probation, Justin Russell, told us that “it would seem like a good idea to build in some sort of feedback mechanism”.¹⁰⁶ Lord Justice William Davis remembered a time when “judges would ask for a short progress report from the supervising

97 [Q 3](#) (Justin Russell)

98 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>, see also [Q 106](#) (Damian Hinds MP). The Judicial Engagement Charter is published as supplementary written evidence from HM Prison and Probation Service ([JCS0047](#)).

99 [Q 72](#) (Chris Jennings)

100 [Q 3](#) (Justin Russell) and [Q 72](#) (Chris Jennings)

101 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

102 [Q 72](#) (Kim Thornden-Edwards)

103 [Q 34](#) (Tom Franklin), see also [Q 3](#) (Justin Russell) and [Q 22](#) (Phil Bowen).

104 [Q 3](#) (Justin Russell)

105 [Q 72](#) (Chris Jennings), see also [Q 49](#) (Lord Justice William Davis), [Q 56](#) (Dr Eoin Guilfoyle), and [Q 56](#) (Courtney Bryan).

106 [Q 3](#) (Justin Russell)

officer”, while acknowledging that probation staff would not have capacity to produce them systematically (see paragraphs 239–259).¹⁰⁷

64. The public, too, is questioning the use and enforcement of community sentences. Gavin Dingwall told us that, “too often, there is a public perception that anything other than a custodial sentence is not an adequate response to an offence” and that, “often this is borne out of ignorance of different types of sentencing.”¹⁰⁸ The House of Commons Justice Select Committee recently reported on these issues, finding that a significant proportion of the public has little knowledge of sentencing policy.¹⁰⁹ The Ministry of Justice cited the work of the Sentencing Council on the public understanding of sentencing:
- “These reports indicate that most respondents were of the view that COs may be most appropriate for less serious crimes, such as minor theft. Some however felt that they were too ‘soft’ to be effective.”¹¹⁰
65. Revolving Doors told us that polling commissioned by them in 2022 “found that the majority of the public (65%) think that the reason why most people commit non-violent, low-level crimes is due to poverty, mental health issues, and problems with drugs and alcohol.” They went on to say that “the majority (58%) also believe that alternatives to prison should be found in these cases”.¹¹¹ The National Association of Probation Officers told us: “Greater understanding of the guidelines but also what a community sentence involves would enable the public and victims to not only understand why a sentence was handed down but may go some way to offering reassurances.”¹¹²
66. **Despite all the advantages of community orders, their use has been declining in recent years. Various explanations were brought forward. The negative impact of the Transforming Rehabilitation reforms persists—sentencers lost confidence in the ability of Community Rehabilitation Companies (CRCs, to whom the management of low-risk offenders was outsourced) to enforce community orders. Trust in community sentences is progressively being restored after the Probation Service unified in 2021, putting an end to the Transforming Rehabilitation reforms.**
67. **Community orders should be used more frequently. While it is the responsibility of the independent Judiciary to decide what sentence is appropriate in each case brought before Courts, it is the role of the Government to make sentences available to the Judiciary.**
68. *The Government should invest in the services that underpin community orders to satisfy sentencers of their efficiency and availability. The emphasis should be put on intensive treatment, the effectiveness of which is established.*
69. *Pre-Sentence Reports produced by the Probation Service should include relevant information about the content, effectiveness, and availability of community sentences in the local area (see further*

107 [Q 49](#) (Lord Justice William Davis), see also [Q 72](#) (Chris Jennings).

108 [Q 18](#) (Gavin Dingwall)

109 Justice Committee, *Public opinion and understanding of sentencing* (Tenth Report, Session 2022–23, HC 305)

110 Written evidence from the Ministry of Justice ([JCS0013](#))

111 Written evidence from Revolving Doors ([JCS0016](#))

112 Written evidence from NAPO ([JCS0021](#))

conclusions and recommendations on Pre-Sentence Reports starting at paragraph 255 in Chapter 5). Such information should be updated regularly to keep sentencers informed.

CHAPTER 3: TAILORING SENTENCES TO THE INDIVIDUAL

70. Of all the reasons why community orders are a key sentencing option, one stands out: they can be tailored to the circumstances of individual offenders. In this chapter, we reflect on how best community orders can fit the individual. We consider the fact that many people on probation need help with mental health issues or addictions and the corresponding need for treatment services. We also explore best practices arising from the wraparound support delivered by women’s centres and discuss how to create incentives for low-level, ‘prolific’ offenders to engage voluntarily with rehabilitation.

Scaling up the use of treatment requirements

Treatment needs

71. We heard that “many offenders experience mental health and substance misuse problems”.¹¹³ His Majesty’s Inspectorate of Probation (HMIP) estimated that, in 2021, “about 75,000 people being supervised in the community by Probation had a drugs problem linked to their offending”.¹¹⁴ In “about 38%” of the cases inspected by HMIP (which cuts across the entire probation population), “someone has a mental health issue”.¹¹⁵ Given that the Probation Service was supervising around 240,000 people in December 2022, this would mean that around 91,000 people on probation suffer from mental health issues.¹¹⁶ Writing about a different cohort, Revolving Doors pointed out that “one in three people in prison have issues with problematic substance use, 38% of people in prison believe that their drinking is ‘a big problem’ and more than half (52%) of people in prison report having mental health problems”.¹¹⁷ The Probation Board of Northern Ireland (PBNI) told us that: “The complexity of people PBNI is supervising on community orders is increasing with more people presenting with poor mental health, addictions and trauma.”¹¹⁸
72. The Government acknowledges that helping people on probation face their addictions or mental health issues helps reduce crime. Damian Hinds MP told us that: “Drug addiction is the fuel, the driver, behind acquisitive crime and all manner of other crimes that come off the back of it and which drag young people and children into criminality”.¹¹⁹ Dr Abramovaite concurred that “there is very strong evidence that substance misuse and mental health issues are big drivers for crime overall”.¹²⁰ She also told us about her evaluation of the New Chance scheme operating in the West Midlands: she found that, “after treatment, people who had mental health issues had a 37% lower reoffending rate than the control group”. She added that “among those who had substance misuse ... the results were 55% lower”.¹²¹ As Damian Hinds MP put it: “If you can resolve some of those issues, so much else follows in its wake.”¹²²

113 Written evidence from NHS England’s Mental Health Treatment Requirement Service ([JCS0037](#))

114 [Q 10](#) (Justin Russell)

115 [Q 8](#) (Justin Russell)

116 Ministry of Justice, ‘Offender Management Statistics quarterly: October to December 2022 and annual 2022—Probation: Table A4_13’ (27 April 2023): <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2022> [accessed 19 September 2023]

117 Written evidence from Revolving Doors ([JCS0016](#))

118 Written evidence from the Probation Board for Northern Ireland ([JCS0043](#))

119 [Q 119](#) (Damian Hinds MP), see also [Q 10](#) (Justin Russell).

120 [Q 110](#) (Dr Juste Abramovaite)

121 [Q 109](#) (Dr Juste Abramovaite)

122 [Q 130](#) (Damian Hinds MP)

73. Three “Community Sentence Treatment Requirements” (CSTRs) exist to support offenders on their path away from crime: “the Drug Rehabilitation Requirement (DRR), the Mental Health Treatment Requirement (MHTR), and the Alcohol Treatment Requirement (ATR)”.¹²³ Speaking about DRRs specifically, Damian Hinds MP told us that “tackling drugs is a multi-faceted, multi-stage thing, but this opportunity at the point of sentencing to get people into a rehabilitation requirement is crucial”.¹²⁴ The delivery of CSTRs is “co-worked between probation and specialist treatment providers”.¹²⁵
74. For instance, we were told that Alcohol Treatment Requirements “are aimed at those with alcohol dependence, who are thought to require an alternative approach comprising (residential or non-residential) rehabilitative treatment”, and that “in such cases, treatment is thought to tackle offenders’ drinking problems where these underlie reasons for their criminal behaviour”.¹²⁶
75. Similarly, NHS England’s MHTR Service told us that they provide “treatment and interventions for individuals who present with a range of low/medium level mental health issues, neurodiversity, personality disorders, trauma, and abuse” through primary care, and that Integrated Care Boards can commission secondary care “for those who require specialist care”.¹²⁷ For instance, our witness, Caroline, was sentenced to mental health treatment which “involved 12 sessions of emotional regulation treatment” followed by the “Thinking Skills Programme”.¹²⁸ Academics from the University of Northampton told us: “80% of individuals who complete the Primary Care MHTR intervention experience a statistically significant benefit in terms of mental distress, anxiety and/or depression.”¹²⁹
76. Witnesses told us about “the importance of dual diagnosis”.¹³⁰ Niki Scordi, the then CEO of Advance, spelled out the problem: “mental health professionals will use the fact that you have a drug or alcohol addiction as a barrier to prevent you from accessing services and support, but you are abusing substances because you are trying to cope, so your mental health needs to be supported.” She explained that, as a result, some people “fall between the cracks and both services will deny support”.¹³¹ Professor Brooker (Royal Holloway, University of London) and Dr Sirdifield (University of Lincoln) agreed that “it is very difficult for the general population to access ‘dual diagnosis’ services let alone those with the added complication of personality disorder.”¹³²
77. In the presence of a dual diagnosis, Niki Scordi argued that “services being available for mental health, rather than addiction, is particularly important”.¹³³ Talking in generic terms about a woman on probation, she explained that “she

123 [Q 67](#) (Kim Thornden-Edwards). See the Sentencing Act 2020, [Chapter 2](#) as well as Parts 9, 10, and 11 of [Schedule 9](#) to the Act.

124 [Q 119](#) (Damian Hinds MP)

125 [Q 67](#) (Kim Thornden-Edwards)

126 Written evidence from Dr Carly Lightowlers ([JCS0017](#))

127 Written evidence from NHS England’s Mental Health Treatment Requirement (MHTR) Service ([JCS0037](#))

128 [Q 84](#) (Caroline)

129 Written evidence from Miss Joanna Binley, Mrs Kathryn Cahalin, Professor Matthew Callender and Miss Greta Sanna ([JCS0010](#))

130 [Q 89](#) (Pavan Dhaliwal)

131 [Q 95](#) (Niki Scordi)

132 Written evidence from Professor Charlie Brooker and Dr Coral Sirdifield ([JCS0001](#))

133 [Q 95](#) (Niki Scordi)

may know that she is using alcohol to cope, but telling her to stop and taking her to a treatment will not take away the reason why she is self-medicating”. This led her to conclude that “you have to address the underlying issues”.¹³⁴

78. Pavan Dhaliwal, Chief Executive of Revolving Doors, alluded to “combined orders”, involving more than one treatment requirement.¹³⁵ Caroline told us that she “had the mental health treatment” and “just needed that Alcohol Treatment Requirement (ATR) as well”, emphasising the value of “the combination of both”.¹³⁶

Referrals for treatment

79. Justin Russell argued that treatment requirements “are not used as widely as they could be”.¹³⁷ Speaking specifically about drug treatment, Justin Russell told us that there is a “huge gap” between the “need for specialist treatment” and the number of offenders served a treatment requirement.¹³⁸ Revolving Doors wrote that “the use of treatment requirements is far too low” across the board.¹³⁹ NHS England agreed that “the use of treatment requirements as part of a Community Order (CO) or Suspended Sentence Order (SSO) remains low”.¹⁴⁰ Kim Thornden-Edwards told us that CSTRs “have been around for some time, but they seem to have fallen out of regular volume use”.¹⁴¹ Phil Bowen also told us that “the use of drug rehabilitation requirements has collapsed over the past 10 years”.¹⁴² Caroline regretted that she had not been served a MHTR earlier: “I wish I had had the MHTR a lot sooner in my life”.¹⁴³ For comparison with another jurisdiction, “all offenders subject to ECO [an Enhanced Combination Order] were offered assessments by the Probation Board for Northern Ireland (PBNI) psychology staff”.¹⁴⁴

Box 5: Statistics on the imposition of Community Sentence Treatment Requirements (CSTRs) in 2012 and 2022

Over the course of a decade, the number of Alcohol Treatment Requirements and Drug Treatment Requirements imposed by courts decreased. The number of Mental Health Treatment Requirements imposed, however, grew more than twofold. More specifically:

- 5,971 Alcohol Treatment Requirements were commenced in 2012, representing 3.10% of requirements commenced that year as part of a community order. The number of ATRs commenced dropped to 3,796 in 2022, representing 3.80% of community order requirements commenced that year.

134 [Q 98](#) (Niki Scordi)

135 [Q 89](#) (Pavan Dhaliwal), see also written evidence from Revolving Doors ([JCS0016](#)).

136 [Q 84](#) (Caroline)

137 [Q 1](#) (Justin Russell)

138 [Q 10](#) (Justin Russell)

139 Written evidence from Revolving Doors ([JCS0016](#)) and NHS England’s Mental Health Treatment Requirement (MHTR) Service ([JCS0037](#))

140 Written evidence from NHS England’s Mental Health Treatment Requirement (MHTR) Service ([JCS0037](#))

141 [Q 67](#) (Kim Thornden-Edwards)

142 [Q 21](#) (Phil Bowen)

143 [Q 84](#) (Caroline)

144 Written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton ([JCS0028](#))

- 9,290 Drug Rehabilitation Requirements were commenced in 2012, representing 4.82% of requirements commenced that year as part of a community order. The number of DRRs commenced dropped to 3,601 in 2022, representing 3.60% of community order requirements commenced that year.
- 570 Mental Health Treatment Requirements were commenced in 2012, representing 0.30% of requirements commenced that year as part of a community order. The number of MHTRs commenced increased to 1,302 in 2022, representing 1.30% of community order requirements commenced that year.

Source: Ministry of Justice, 'Offender Management Statistics quarterly: October to December 2022—Probation: 2022, Table A4_8' (April 2023): <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2022>

Availability of treatment

80. Witnesses told us that referrals exceed availability and that increasing availability “would save lives”, especially in respect of mental health.¹⁴⁵ Tom Franklin told us that “local services may not be available” to deliver treatment requirements, such that the Probation Service would not recommend them in Pre-Sentence Reports in the first place, adding that “this is particularly the case with mental health treatment requirements”.¹⁴⁶ Niki Scordi also told us that “mental health services are not sufficient anywhere”, as she explained that there are “waiting lists and insufficient services” across all six Probation regions in which her charity operates.¹⁴⁷ Damian Hinds MP told us that “over the years, there has been much more provision of mental health services, but there has also been a huge growth in demand, which has been a strain”.¹⁴⁸ He nevertheless assured us that “secondary care mental health treatment requirements already exist throughout the system”.¹⁴⁹
81. Referrals exceed availability for drug treatment, too. Justin Russell told us waiting lists “are not huge” for community-based drug treatment services commissioned by local authorities.¹⁵⁰ He added that there had been “a big drop” in the availability of such services, “partly because it is very expensive and they can only be commissioned on a consortium basis” if service providers are to be viable (see Chapter 4 for further information on the co-commissioning of services).¹⁵¹ He also pointed out that “there is a lack of residential services” for drug treatment, in addition to issues related to services in the community.¹⁵² We were told that “residential substance misuse rehabilitation services are sparse and it is very much a ‘post code lottery’.”¹⁵³
82. Even when treatment is available, witnesses told us about delays before it starts. Justin Russell said that “as with services for others living in the community, there are huge waiting lists at the moment for things like mental health treatment, and people on probation are joining a very long

145 Written evidence from the Independent Advisory Panel on Deaths in Custody ([JCS0040](#)), see also [Q 8](#) (Justin Russell).

146 Written evidence from Tom Franklin ([JCS0007](#))

147 [Q 95](#) (Niki Scordi)

148 [Q 130](#) (Damian Hinds MP)

149 [Q 119](#) (Damian Hinds MP)

150 [Q 12](#) (Justin Russell)

151 [Q 9](#) (Justin Russell)

152 [Q 12](#) (Justin Russell)

153 Written evidence from Together Women ([JCS0033](#))

queue.”¹⁵⁴ The Criminal Justice Alliance added that “the way we deliver community sentences is often too slow” and that “a common frustration for judges is hearing that ... ordered rehabilitative services have been delayed”.¹⁵⁵ Revolving Doors confirmed that “needing to wait for treatment to start when given a community sentence that involves mental health, drug and/or alcohol treatment” is a “key issue” identified by people on probation involved with the charity. They argued that “this waiting period can jeopardise a person’s chances, potentially leading to relapse and/or reoffending”.¹⁵⁶ Caroline told us: “I relapsed back to my old behaviour in that time that I had to wait”.¹⁵⁷

83. And when treatment is nominally available, it is not always completed. Justin Russell said that HMIP had “followed an entire quarterly cohort of people” who had been given a Drug Rehabilitation Requirement. They found that “only half of them had actually completed the DRR” and that “there had been very little drug testing”. Justin Russell also flagged that “in nine out of 10 orders, there had been no court oversight”, arguing that it “is a crucial part of the order; you go back to court to report on your progress”.¹⁵⁸ The Association of Police and Crime Commissioners explained that they “were told through the judiciary that review appointments for Drug Rehabilitation Requirements (DRRs) had stopped because people weren’t attending, there were no sanctions for this, and it simply tied up court time which could be better used”.¹⁵⁹ Dr Carly Lightowlers, Senior Lecturer in Criminology, University of Liverpool, shared similar findings about Alcohol Treatment Requirements, citing a study by the Ministry of Justice and the Office for Health Improvement and Disparities: “fewer than half (46%) of those sentenced to an ATR engage with any treatment and just under half of those who do go on to complete it ‘successfully’ (48%), with most continuing to use alcohol”.¹⁶⁰
84. In the face of such challenges regarding the availability of treatment, Damian Hinds MP told us that “the Government made a commitment in the 10-year drugs strategy paper *From Harm to Hope* to making sure that there is a treatment place for every offender with an addiction and that there is money behind that”. He told us that he “would like to see considerably more drug rehabilitation requirements”.¹⁶¹ Justin Russell noted that “after the Government published their drug strategy at the end of 2021, there was a significant increase in treatment funding”, but that “it was not in the control of the Probation Service, so it still has to join the queue with everybody else”.¹⁶²
85. Chris Jennings also told us he was determined to see an increase in the availability of treatment services:

“The Community Sentence Treatment Requirements are the area where I want to see most progress. If we cannot address people’s mental health and drug and alcohol issues, we will not be able to get them to keep on

154 [Q 2](#) (Justin Russell)

155 Written evidence from Criminal Justice Alliance ([JCS0022](#))

156 Written evidence from Revolving Doors ([JCS0016](#))

157 [Q 85](#) (Caroline)

158 [Q 10](#) (Justin Russell)

159 Written evidence from the Association of Police and Crime Commissioners ([JCS0020](#))

160 Written evidence from Dr Carly Lightowlers ([JCS0017](#))

161 [Q 119](#) (Damian Hinds MP)

162 [Q 12](#) (Justin Russell)

the right path and move their life to a more positive stage. Solving those root-cause issues is the key focus as pertains to community sentences.”¹⁶³

86. To enact such changes, witnesses told us about the “Community Sentence Treatment Requirement (CSTR) protocol” between the Ministry of Justice and HMPPS, on the one hand, and NHS England and Public Health England, on the other hand.¹⁶⁴ The protocol aimed to increase the use of CSTRs and to introduce new primary Mental Health Treatment Requirements (MHTRs). NHS England told us that the new approach was launched in Milton Keynes in 2014 and later extended to four more areas in 2017 and 2018. They added that it involves £12 million of funding per year and was covering 65% of criminal courts as of May 2023.¹⁶⁵ We heard that “this pilot programme recognises that mental health and substance use are prevalent issues among offenders” and that “suitable community requirements have been significantly underused”.¹⁶⁶ HMPPS told us that the protocol “focused on strengthening local arrangements to improve joint work across substance misuse and mental health services” and “worked to promote the use of CSTRs with probation staff and sentencers”. They told us that “the roll out of new MHTRs is on track to achieve coverage in 100% of English courts by 2024” and that “one site has been established in Wales”.¹⁶⁷ Since 2018, “about 2,500 people” have already received mental health treatment thanks to the new approach, Justin Russell told us.¹⁶⁸
87. Chief Probation Officer Kim Thornden-Edwards told us about “a new national partnership agreement on health and social care”, agreed in February 2023. This new partnership, between the Ministry of Justice and the Department of Health and Social Care, “funds some dedicated criminal justice-focused staff, who will work across police custody, courts, probation and prison to improve those treatment pathways” and “creates over 54,000 new substance misuse treatment places”.¹⁶⁹ This corresponds to a commitment, in the 10-year drug strategy, that 54,000 more people will receive treatment in the three years between April 2022 and April 2025 than would otherwise have been the case, a 19% increase from previous capacity.¹⁷⁰ This new partnership also involves “NHS England rolling out primary care mental health treatment requirements for offenders who are at a lower level of mental health needs.”¹⁷¹
88. Damian Hinds MP assured us of his “commitment to high-quality community sentences and non-custodial alternatives and to ensuring that ... both are available”.¹⁷² He told us that sentencers “must have the range of options to be able to choose what is right” in an individual case.¹⁷³ He argued

163 [Q 78](#) (Chris Jennings)

164 Written evidence from HM Prison and Probation Service ([JCS0045](#))

165 Written evidence from NHS England’s Mental Health Treatment Requirement (MHTR) Service ([JCS0037](#))

166 Written evidence from Dr Matthew Cracknell ([JCS0014](#)) and Ministry of Justice, ‘Vulnerable offenders steered towards treatment’ (10 August 2018): <https://www.gov.uk/government/news/vulnerable-offenders-steered-towards-treatment> [accessed 10 October 2023]

167 Written evidence from HM Prison and Probation Service ([JCS0045](#))

168 [Q 4](#) (Justin Russell)

169 [Q 67](#) (Kim Thornden-Edwards)

170 HM Government, *From harm to hope: A ten year drugs plan to cut crime and save lives* (29 April 2022): <https://www.gov.uk/government/publications/from-harm-to-hope-a-10-year-drugs-plan-to-cut-crime-and-save-lives> [accessed 24 October 2023]

171 [Q 67](#) (Kim Thornden-Edwards). See also [Q 119](#) (Damian Hinds MP).

172 [Q 122](#) (Damian Hinds MP)

173 [Q 120](#) (Damian Hinds MP)

that availability is “the first thing” that matters for sentencers to have “the confidence to know that what you think will happen ... will happen”.¹⁷⁴

89. **Many people on probation suffer from mental health issues and from addiction to alcohol or drugs, which fuels their offending behaviour. Few of them are referred to a Community Sentence Treatment Requirement (CSTR). And yet, referrals exceed the availability of treatment, which may in itself deter sentencers from making referrals.**
90. *A greater proportion of people on probation should be served one or more treatment requirement(s). This could be achieved by implementing our recommendations on Pre-Sentence Reports (see paragraphs 255–259) and on ‘integrated’ sentences (see paragraphs 123–127), and through a greater emphasis on treatment requirements in sentencing guidelines.*
91. *Current efforts to improve treatment services and increase their availability should be sustained. Further investment in Community Sentence Treatment Requirements is required and should be a priority. CSTRs are key to reducing reoffending, putting offenders on a path away from crime and protecting the public.*

Mainstreaming wraparound support

The needs of female offenders

92. The Ministry of Justice recognises that “women in the CJS [Criminal Justice System] are amongst the most vulnerable in society”. The Department referred to the 2023 “Female Offender Strategy Delivery Plan”, thanks to which “bespoke pathways for women have been developed”.¹⁷⁵ The National Audit Office added that “as part of its 2021 probation reforms the Ministry let contracts worth £46 million for services ‘tailored to female offenders’”, through women’s centres (see section starting at paragraph 166 on “making the most out of partnerships”).¹⁷⁶
93. Representatives from two such women’s centres told us about the specific needs of women in the criminal justice system. Niki Scordi, the then CEO of Advance, told us about high rates of “self-harm, depression and suicide”. She added that some “have experienced some of the highest levels of disadvantage”, and “the community has left them behind”.¹⁷⁷
94. Rebecca Robson, from Women’s Community Matters, explained that “a lot of the mental health difficulties we see are the result of experiences of domestic and sexual abuse in childhood, and then ongoing domestic abuse”. She went on to explain that “frequently that is mixed in with addiction, which is often a coping technique for experiences of abuse” and that “there is a lot of suicidal ideation, self-harm, anxiety, and fear of crowds” among female offenders.¹⁷⁸
95. Nikki Scordi added that “women in particular worry about their children, whether they are with them or not”. She explained that “often, they are

174 [Q 119](#) (Damian Hinds MP)

175 Written evidence from the Ministry of Justice ([JCS0013](#))

176 Written evidence from the National Audit Office ([JCS0039](#))

177 [Q 95](#) (Nikki Scordi)

178 [Q 95](#) (Rebecca Robson)

separated because of prison and cannot have them back, and that is a real concern for them”.¹⁷⁹ The Prison Reform Trust told us that “some pregnant women experienced difficulties in adhering to community sentence requirements, whilst also attending hospital appointments”.¹⁸⁰ The charity Birth Companions told us about “significant issues with a lack [of] recognition of, and responsiveness to, pregnancy and motherhood in policing, community sentence requirements and probation supervision.”¹⁸¹

96. We heard about female offenders “facing multiple disadvantage who may have different competing and intersecting needs”.¹⁸² Women in Prison also argued that “Black, Asian, minoritised and migrant women experience ‘double disadvantage’ as a result of the combined impact of sexism and racism that manifests at both a structural and interpersonal level, including when coming into contact with the justice system”.¹⁸³ Together Women told us that many women in the Criminal Justice System “have experienced trauma, abuse, and discrimination throughout their lives” and that “by considering factors such as personal circumstances, history of trauma, substance abuse, and mental health conditions, the requirements of a community sentence can be designed to address a woman’s specific challenges and needs”.¹⁸⁴

Lessons from women’s centres

97. We heard about the best practices arising from the work of women’s centres. Women in Prison told us that “approaches based around prevention, early intervention and community-based support, are evidenced to be effective at reducing reoffending and support women in rebuilding their lives”, arguing that “research found Women’s Centres can cut reoffending to 5% against a national average of 23%”.¹⁸⁵ The Prison Reform Trust added that “women’s centres can play a vital role in reducing reoffending, providing safe, non-stigmatising settings for women to address issues surrounding their offending behaviour such as access to support with abusive relationships”.¹⁸⁶
98. Rebecca Robson, for instance, told us about Women’s Community Matters in Cumbria and the wide range of services the organisation offers:

“We run an eight-week group course called Women’s First, which each week responds to a different pathway to reoffending, or a different vulnerability or issue ... We have confidence-building courses ... which are available to all women, including women who are accessing the service on this contract. We have a range of one-to-one support from lots of different skilled practitioners, including independent domestic violence advisers and mental health workers. We have courses that are specific to domestic abuse and the effects on the woman and her family; different peer support groups; social activities that help with reintegration back into the community and with making meaningful and purposeful friendships that perhaps help them to make better life choices; activities that support mental health improvement; different coping strategies such as mindfulness and grounding; and a range

179 [Q 95](#) (Nikki Scordi)

180 Written evidence from the Prison Reform Trust ([JCS0019](#))

181 Written evidence from Birth Companions ([JCS0008](#))

182 Written evidence from Women in Prison ([JCS0030](#))

183 *Ibid.*

184 Written evidence from Together Women ([JCS0033](#))

185 Written evidence from Women in Prison ([JCS0030](#))

186 Written evidence from the Prison Reform Trust ([JCS0019](#))

of practical support like a clothes bank, access to free toiletries, baby supplies and a crisis fund. We have warm hub spaces, particular drop-in and craft sessions, employment and education and training support, volunteer opportunities, a range of training, access to specialist support, survivor network groups, social enterprise opportunities, lots of one-off events and activities, and access to specialists to support and unpaid work placements.”¹⁸⁷

99. HMIP receives “good feedback on women’s services”, including from people on probation: “the feedback for women is broadly more positive than it is for men.”¹⁸⁸ The Probation Institute also pointed out that an intervention by a women’s centre costs between £1,223 to £4,125 (depending on the needs of the benefitting woman), whilst a place in prison “costs £52,121” per woman per year.¹⁸⁹
100. The question was raised of how male offenders could benefit from this practice. Carrie Peters, Director of Justice Services at Ingeus, told us that “we need men’s services to be commissioned in a holistic way by region in the same way that women’s services are” because “men also have multiple and complex needs”. She explained that “women’s services have been commissioned in a holistic way” but “men’s services have been commissioned according to all the separate needs”. As a result, she said, “for someone who finds it difficult to engage, we are setting up all sorts of hurdles for them, because they have to go to all these different places, and nothing facilitates all those different providers talking to each other and working together”. She added that “at the moment, every contract is managed separately, and there is a lot of waste in the system for all those individual contracts”.¹⁹⁰
101. In the same spirit, the Greater Manchester Combined Authority told us that after a 12-month pilot, “we have recently commissioned Well-being services which are predominantly focused on supporting the needs of men, adapting many of the principles and learning from the Greater Manchester Whole System Approach for Women with unmet need”.¹⁹¹
102. **Women entering the Criminal Justice System in England and Wales are often the victims of abuse and discrimination, or suffering from trauma, addiction, and mental health issues. Many of them have caring responsibilities. These issues, acknowledged by the Government in its Female Offenders Strategy, have been explored in depth by others, notably by Baroness Corston and recently by the National Audit Office.**
103. **We note that the Ministry of Justice shares these concerns and has commissioned some specialised women’s services. This model, in which offenders receive tailored, wraparound rehabilitative support from a single provider in a single location, is proving effective—it is dignified, drives down reoffending, and costs less than custody.**

187 [Q 92](#) (Rebecca Robson)

188 [Q 9](#) (Justin Russell)

189 Written evidence from the Probation Institute ([JCS0015](#))

190 [Q 99](#) (Carrie Peters)

191 Written evidence from Greater Manchester Combined Authority ([JCS0044](#))

104. *The Government should provide additional funding for the various rehabilitative services provided by women’s centres and explore options for wraparound support to be made available to all people who would benefit from it, giving them the best opportunity to stop committing crimes. This could include the expansion of one-stop-shops and co-located services.*

Creating incentives

A “gap in the market”¹⁹²

105. Witnesses told us about the “multiple and complex needs” of ‘prolific’ offenders.¹⁹³ For instance, Rebecca Robson told us that “mental health problems are very common in what we call prolific offenders, together with poor experiences of the education system and the care system”; she also spoke of “poverty” and of ‘prolific’ offenders having no “safety net” among their relatives to turn to.¹⁹⁴ Carrie Peters told us that “substance misuse is also very common” and that “there is a big link between shoplifting and homelessness, as well as lack of family, lack of support and, of course, debt and poverty”.¹⁹⁵
106. The then Chief Inspector of Probation told us about a “gap in the market for people with very profound needs who commit very prolific low-level offending but are probably not being reached by community sentences at the moment”.¹⁹⁶ He argued that “the link in our sentencing framework between the seriousness of the offence, the tariff and the intensity of the intervention that can be offered ... leaves a lacuna around the group of low-level offenders with very serious needs”.¹⁹⁷ He explained:
- “One of the interesting things in the way sentencing works is that the intensity of the sentence, particularly the intensity of the interventions associated with it, tends to be associated with the seriousness of the offence that is before the court. It has to be a fairly high-tariff offence before the most intensive interventions, such as drug rehabilitation requirements or mental health requirements, can be attached. That is slightly unfortunate, because quite often the people with the most profound needs are stuck in cycles of very low-level but extremely persistent offending. Typically, a street heroin user who is constantly shoplifting or committing minor, petty offences will not get a long community order; they will get a fine or a short prison sentence. That does nothing to tackle the underlying needs that drive the offending.”¹⁹⁸
107. Lord Justice William Davis explained that, according to sentencing guidelines: “The seriousness of the offence should be the initial factor in determining which requirements to include in a community order.” He added, “if, in the individual case, there is a clear requirement for some fairly intensive drug intervention for a low-level shoplifter, that is what should happen”.¹⁹⁹ The Magistrates’ Association also proposed that magistrates are granted

192 [Q 1](#) (Justin Russell)

193 [Q 97](#) (Carrie Peters)

194 [Q 97](#) (Rebecca Robson)

195 [Q 97](#) (Carrie Peters)

196 [Q 1](#) (Justin Russell)

197 [Q 16](#) (Justin Russell), see also [Q 36](#) (Tom Franklin).

198 [Q 1](#) (Justin Russell)

199 [Q 47](#) (Lord Justice William Davis)

the power “to add rehabilitative provisions to sentences that currently do not cross the community penalty threshold”, such as “a small number of unpaid work hours, or one or two rehabilitation activity requirement (RAR) appointments” as a substitute for fines that an offender would otherwise be unable to pay.²⁰⁰

108. On the other hand, witnesses warned against the temptation of “up-tariffing people into more supervision”.²⁰¹ While he acknowledged that “a legal decision has already been made that repetition aggravates an offence”, Gavin Dingwall told us that this should not be “a given, by any stretch of the imagination”. He argued that “somebody who is shoplifting and continually stealing £20 worth of goods has a problem but is a minor offender”.²⁰²
109. Witnesses were particularly concerned about “putting people into situations where they have multiple appointments that they need to keep which they fail to do so”: it can result in them being found in breach of their sentence and recalled before a Court, where they face an additional sentence.²⁰³ We were told that “research indicates that over-programming (e.g. too many or too onerous rehabilitative requirements) individuals who are assessed as low risk of reoffending sets them up to fail”.²⁰⁴ Tom Franklin agreed:
- “there could be low-level but prolific offenders who live very chaotic lifestyles, find it very difficult to turn up regularly to things and really struggle with that. That would nullify their involvement in particular schemes. Sometimes it is almost like, if they did them, they would be set up to fail because they would find themselves in breach, have to come back and end up in that cycle back into court.”²⁰⁵
110. Justin Russell said that to reduce the criminal activity of low-level, ‘prolific’ offenders, their rehabilitation “would need to involve a residential element” and “treatment for mental health and/or drug and alcohol problems”, which “would probably need to involve someone consenting” to such interventions.²⁰⁶ At the moment, however, “the danger is that they would say, ‘I’d rather have the six-week prison sentence than spend six months in a rehab, thank you very much’”.²⁰⁷ Therefore, Justin Russell argued that “the way you set up the incentives to take the alternative to prison would need to be carefully thought through”.²⁰⁸
111. We heard that “there is a plethora of pilot schemes all over the place”, some of which are designed to create such incentives.²⁰⁹ Dr Abramovaite explained that, sometimes, police forces “do not know themselves what they are running” because they are running “hundreds” of schemes.²¹⁰ Tom Franklin told us that “there is a feeling that these schemes never really go anywhere”. He regretted the “very large amount of wasted effort” as these schemes “are

200 Written evidence from Tom Franklin ([JCS0007](#))

201 [Q 29](#) (Phil Bowen)

202 [Q 29](#) (Gavin Dingwall)

203 [Q 29](#) (Phil Bowen)

204 Written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton ([JCS0028](#))

205 [Q 36](#) (Tom Franklin)

206 [Q 16](#) (Justin Russell)

207 *Ibid.*, see also [Q 25](#) (Andrew Neilson).

208 [Q 16](#) (Justin Russell)

209 [Q 36](#) (Tom Franklin)

210 [Q 110](#) (Dr Juste Abramovaite)

rarely scaled up”.²¹¹ Transform Justice expressed concerns that programmes, whether accredited by the Probation Service or not, are rarely evaluated.²¹² These issues could be explained by the perception that schemes “are often set up because of the initiative of an individual”, whose goodwill may be insufficient for the scheme to gain scale.²¹³ Examples of schemes we heard about included:

- The Choices and Consequences (C2) programme, run since 2007 by Hertfordshire Constabulary. It was described to us as “a comprehensive reformatory programme offered jointly by the Hertfordshire Police and Probation Services, and the Crown Court which is designed to safeguard the public by changing the attitudes and behaviour of offenders and detecting and reducing offending.”²¹⁴ Eligible people (adult ‘prolific’ offenders with addiction issues) are expected to “admit to the entirety of their past offending” to show commitment, in exchange for which “they are sentenced to a comprehensive rehabilitative programme in the community, closely monitored by the Court over a three-to-four-year period”.²¹⁵ It has, however, been criticised for involving the use of polygraph testing “outside the current statutory framework which governs the use of the polygraph for offender management”.²¹⁶
- The “Prolific Intensive” package initiated in 2017 by the Bedfordshire probation team and Bedfordshire Police. Eligible people (typically “3rd strike burglars who usually have entrenched history of drug use”) are released on bail for six weeks, during which they must engage with “a trial run Community Order”. If they engage positively, Probation “will propose an intensive three-year Community Order as an alternative to custody”, usually involving unpaid work, a treatment requirement, and monthly court reviews, among other requirements.²¹⁷
- The “problem-solving court” approach adopted by Manchester & Salford Magistrates Court since 2014, by all Manchester Magistrates’ Courts since 2017, and by Greater Manchester Crown Courts since 2019. Eligible people (women with “multiple support needs” who have offended at a level around the custodial threshold) are sentenced to a community order and are invited to regular, informal review hearings.²¹⁸

112. Dr Eoin Guilfoyle, Lecturer in Criminal Law and Criminal Justice, Brunel University London, drew our attention to the ‘integrated Community Service Order’ (CSO) in Ireland, which creates incentives for people on probation to engage with rehabilitative activities. He explained the integrated CSO to us:

“In recent years, Ireland has introduced an integrated element into the Community Service Order. A person can, in discussion with a Probation Officer, agree to participate in an education, treatment or training programme. If successfully completed, they will get a reduction of up to one-third of their community service hours.”

211 [Q 36](#) (Tom Franklin)

212 Written evidence from Transform Justice ([JCS0002](#))

213 [Q 36](#) (Tom Franklin)

214 Written evidence from Hertfordshire Constabulary ([JCS0031](#))

215 *Ibid.*

216 Written evidence from Dr Kyriakos N. Kotsoglou and Dr Marion Oswald ([JCS0005](#))

217 Written evidence from the Integrated Offender Management Team ([JCS0041](#))

218 Written evidence from Greater Manchester Combined Authority ([JCS0044](#))

113. “The concept of an integrated Community Service Order aligns better with principles of desistance”, Dr Guilfoyle argued.²¹⁹ He explained that “giving a person the option to opt in and the ability to choose the type of personal development activity they undertake, is likely to result in better outcomes than an approach that requires participation in a specific programme that the person had no part in choosing.”²²⁰ He added that “there is a much greater likelihood of the person benefiting from it and succeeding in those programmes” thanks to the choice and the incentive structure.²²¹
114. Integrated CSOs are rewarding. Dr Guilfoyle pointed out that “it also means that the Probation Service is encouraging the person to participate, and rewarding them if they do so” whereas, “by comparison, the approach here in England and Wales is that a judge will impose the requirement and a person who does not succeed is punished and could be returned to court and imprisoned”.²²² Other witnesses told us about reward mechanisms for offenders. Dr Hannah Graham explained that, in Scotland, “it is possible for a justice social worker and the court to consider the early completion or termination of an order, or its variation, in recognition of good progress being made towards the requirements of a Community Payback Order”.²²³ Talking about drug testing requirements in England and Wales, Justin Russell explained that when offenders “were tested and came back clean it was a very validating thing for them”.²²⁴
115. ‘Integrated’ sentences also save time before courts. Dr Guilfoyle explained that if offenders do not successfully complete their integrated CSO, “it does not result in a revocation of the order; they just go back to doing the normal community service hours.”²²⁵ This means that the Probation Service can mark the breach of the ‘integrated’ element of the order without the offender being brought back before a court.
116. However, Dr Guilfoyle cautioned that the integrated CSO, first piloted in 2016, “has not been hugely effective”. He told us that it may be because “when it first became operational the individuals themselves had to source the training or treatment programme” which “was a barrier to a person opting in”. He said this might change and “ideally, it would operate where the Probation Officer encouraged the person, and if they do want to opt in they would work with them to identify and source an education or treatment programme”.²²⁶ A committee has been set up to consider how the integrated CSO could be improved.²²⁷
117. Inspiration could be found in that model. Chief Probation Officer Kim Thornden-Edwards told us that she has “not looked at the Ireland model”, but said that “the idea of being able to reduce the sentence by up to one-third is definitely very interesting, and we should probably consider that”. She pointed out that “people on unpaid work can use 30% of their unpaid work hours specifically on employment training and education”, recognising

219 Q 54 (Dr Eoin Guilfoyle)

220 Written evidence from Dr Eoin Guilfoyle (JCS0004), see also written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton (JCS0028).

221 Q 54 (Dr Eoin Guilfoyle)

222 *Ibid.*

223 Q 54 (Dr Hannah Graham)

224 Q 15 (Justin Russell)

225 Q 52 (Dr Eoin Guilfoyle)

226 Q 57 (Dr Eoin Guilfoyle)

227 Written evidence from Dr Eoin Guilfoyle (JCS0004)

that “it is not quite the same thing”.²²⁸ Damian Hinds MP also referenced the “ability to bring employability and job training into unpaid work” in England and Wales.²²⁹

Mentoring

118. We heard that mentors could encourage offenders engage with rehabilitation, whether they have been on probation themselves or are lay members of the public. Damian Hinds MP told us that “there definitely is a role” for mentors.²³⁰ He defined a mentor as “an ‘expert by experience’ who can help others by using relationship-based support to address rehabilitative needs”. He told us that “peer mentoring schemes” are available in seven of the 12 Probation regions “with an estimated 200 volunteer mentors”. Volunteers “are generally individuals with lived experience of prison and/or probation services” but “some probation regions also provide opportunities for volunteers without lived experience (e.g students studying relevant degrees)”. Mentors are expected to “complete a comprehensive training course (a minimum of 22 hours)” and they “receive regular supervision and support”.²³¹ He added that “there can definitely be more, both directly with the Probation Service but also indirectly, and probably at a much bigger volume, through charities, church organisations, community groups and so on.”²³²
119. When someone is sentenced to a community order, it is “vital” that they are assigned a peer mentor, we heard from Pavan Dhaliwal. She explained that someone who has previously been on probation can help an offender make the most out of what is offered to them.²³³ Revolving Doors shared the conclusions of an inquiry of its own, through which they found that “many people on probation supervision felt that peer support would have likely helped them to engage with probation more, and more honestly, from an earlier stage, which would have supported earlier desistance from crime”.²³⁴

Other measures

120. We also heard about deferred sentences. Dr Graham told us that Scottish sheriff courts can decide to “defer sentence for approximately six months” during which the offender is supported and supervised, and to “sentence at the end of that”, giving courts a greater opportunity to monitor progress.²³⁵ The Probation Board of Northern Ireland told us about the “Substance Misuse Court (SMC) which was introduced in Belfast Magistrates’ Court at Laganside in April 2018”: “it places people on intensive treatment programmes in the community to specifically target drug and alcohol linked offending behaviour, with final sentencing reflecting their participation.” They explained that “evaluations have indicated that those successfully completing the programme exhibited lower longer-term re-offending rates than those who did not”.²³⁶

228 [Q 77](#) (Kim Thornden-Edwards)

229 [Q 126](#) (Damian Hinds MP)

230 [Q 124](#) (Damian Hinds MP)

231 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

232 [Q 124](#) (Damian Hinds MP)

233 [Q 88](#) (Pavan Dhaliwal)

234 Written evidence from Revolving Doors ([JCS0016](#))

235 [Q 52](#) (Dr Hannah Graham)

236 Written evidence from the Probation Board for Northern Ireland ([JCS0043](#))

121. We also heard that “the greater use of appropriate and well-supervised out of court disposals is an option in that area”.²³⁷ Phil Bowen told us about a service in Highbury Corner Magistrates’ Court provided by the Centre for Justice Innovation, primarily targeted at people “who are constantly getting fines but cannot pay them”.²³⁸ The service provides “advice, support and referral” to other services in a way that the Probation Service would only provide to someone on a community order. Courtney Bryan, Executive Director, US Center for Justice Innovation, told us about “early diversion” mechanisms in New York State: people who committed “low-level misdemeanours” are referred by the police to the US Center for Justice Innovation, where they “complete a brief service” before “their case is dismissed”, without appearing before a court.²³⁹ She told us that they witnessed “tremendous compliance”.²⁴⁰
122. Some witnesses, however, expressed reservations about the current use of out-of-court disposals (where the police deal with a low-level, often first-time offender without prosecution) in the UK. Tom Franklin referred to “an unregulated increase over the past few years”, and a lack of clarity as to any assessment of offenders’ needs. He called for out-of-court disposals “to be properly regulated”.²⁴¹ Gavin Dingwall also told us that “we have to be slightly careful, because the nature of out of court disposals has changed greatly”, adding that “the police now have far too much power”.²⁴² Issues related to the use of out-of-court disposals, while important, fall outside the scope of our inquiry. They merit further consideration.
123. **The rehabilitative needs of low-level, repeat offenders are not being met. Increasing the tariff of their punishment, be it in an individual case or through a revision of sentencing guidelines, is not the solution—it would set people up to fail, further criminalising them rather than encouraging their path to rehabilitation. The solution is to increase the intensity of the rehabilitative support offered to them.**
124. **The better approach is to incentivise offenders. Deferred sentencing can be used to encourage offenders to engage with probation, rewarding positive behaviour in the deferred sentence. Various initiatives have been or are being piloted to create incentives for low-level, repeat offenders to engage with more intensive rehabilitative activities.**
125. *These pilots should be properly monitored and evaluated to determine whether any of them should be made more widely available. A plan for evaluation is essential to the launch of any new pilots. Best practices should be shared and scaled up.*
126. *An interesting approach is being tested in Ireland. While their efficacy remains to be confirmed, the mechanisms of the ‘Integrated’ Community Service Orders are intended to create incentives for people on probation to engage with rehabilitation and in a range of activities that is meaningful to them. They also save time before courts.*

237 [Q 29](#) (Phil Bowen)

238 *Ibid.*

239 [Q 52](#) (Courtney Bryan), see also written evidence from Courtney Bryan ([JCS0003](#)).

240 [Q 52](#) (Courtney Bryan)

241 [Q 38](#) (Tom Franklin)

242 [Q 26](#) (Gavin Dingwall)

127. *The Government should create incentives for low-level, 'prolific' offenders to engage with rehabilitation. It could find inspiration in the principles underpinning 'Integrated' Community Service Order from Ireland, also addressing upfront the operational challenges identified in Ireland. Offenders should be given the opportunity to select an intensive rehabilitative activity of their choice, such as residential treatment. The Probation Service should guide them in their choice. If they complete the activity they have opted for, the length of their sentence should be reduced by up to one third, without the individual having to reappear before a court.*
128. *Initiatives for mentoring should be scaled up. Mentors can be people who have previously been on probation themselves or volunteers from the community. The Government should launch a national campaign to recruit mentors from the community. Charitable organisations should be commissioned to train and manage large numbers of mentors. Offenders should be offered the opportunity to be matched with a mentor, who would guide them through their sentence.*

CHAPTER 4: MAXIMISING IMPACT

129. Over the course of our inquiry, we were told about a range of best practices in the delivery of probation services across England and Wales. In this chapter, we consider how they could be scaled up. We look at the experience of the youth justice system, at lessons learnt from areas where probation services are delivered by local agencies working together, and at the relationship between the Probation Service and its commissioned partners.

Borrowing best practices from youth justice

Key differences

130. In our search for best practices in the delivery of non-custodial sentences, it was suggested that “Youth Justice Services seem to be doing much better” than the adult Probation Service.²⁴³ The Minister for Prisons and Probation, Damian Hinds MP, agreed that “there definitely are lessons to be learned” from Youth Justice Services.²⁴⁴ Witnesses identified key differences between Youth Justice Services and the adult Probation Service that would explain that discrepancy.
131. In the first instance, we heard about the importance of “manageable caseloads”.²⁴⁵ Kim Thornden-Edwards told us that a youth offending officer may be supervising “10 to 12 cases” at a time, whereas Justin Russell said that “the typical caseload for a Youth Offending Service case manager might be between six and 10 children”.²⁴⁶ By comparison, the National Audit Office told us that, in the adult service: “many probation staff were managing more than 70 cases, against a suggested case load of 30 to 60” (see section starting at paragraph 199 on “staffing issues”).²⁴⁷ Justin Russell, told us that the size of the caseload “has to make a difference to how much attention you can pay someone” and argued that “bringing caseloads down ... has to be at the heart of how you improve performance” in the adult Probation Service.²⁴⁸
132. Besides caseloads, Justin Russell told us that the Youth Offending Services have “very stable staff groups, very low vacancy rates”, and “staff remaining in post for long periods of time”, including senior members of staff being in post since YOSs were first set up in 2001.²⁴⁹ By contrast, we were told that “the impact of Transforming Rehabilitation (TR) has been disastrous for the retention of staff and experienced staff”, because “the impact of experienced staff leaving at the point of TR and unification means that the workforce is skewed towards less experienced staff” (see Box 4 and section starting at paragraph 199 on “staffing issues”).²⁵⁰
133. Best practice was also identified in “properly embedded multi-agency working” and “the range of local services that youth offending services have a connection to”.²⁵¹ Kim Thornden-Edwards explained that “youth offending services are very networked into services for young people” (see section

243 [Q 20](#) (Andrew Neilson), see also [Q 16](#) (Justin Russell).

244 [Q 125](#) (Damian Hinds MP)

245 [Q 20](#) (Andrew Neilson)

246 [Q 76](#) (Kim Thornden-Edwards), [Q 16](#) (Justin Russell). See also [Q 125](#) (Damian Hinds MP).

247 Written evidence from the National Audit Office ([JCS0039](#))

248 [Q 16](#) (Justin Russell)

249 *Ibid.*

250 Written evidence from Dr Jake Phillips, Nichola Cadet, Andrew Fowler and Laura Riley, Sheffield Hallam University ([JCS0025](#))

251 [Q 20](#) (Andrew Neilson)

starting at paragraph 150 on “facilitating local delivery”), whereas “adult services are usually with different providers” and can only be accessed when exhibiting higher levels of needs.²⁵²

134. We also heard that Youth Offending Services were able to communicate effectively with those they supervised. Justin Russell explained that speech and language therapists working in Youth Offending Services “are finding huge levels of communication need that have to be met” (one example of how this need is met is through “easy-read guides to sentence plans”). He pointed out that it is “the same population that will then migrate into the adult population with no equivalent provision there”. He wondered “about the extent to which people on probation properly understand the requirements that are put on them”.²⁵³

Moving the threshold

135. We heard about the transition from Youth Offending Services to the adult Probation Service. Currently, “Youth Offending Services stop supervision at 18, and there is effectively a cliff edge where children go from quite a personalised service, with speech and language, into the adult provision world”. He caveated that, in specific circumstances, “Youth Offending Teams can actually hold on to people beyond their 18th birthday if they feel that it is in their interest, at least to allow them to complete their sentence”—which may smooth the cliff edge in certain individual cases.²⁵⁴
136. However, maturation continues past the age of 18. Justin Russell explained that “there is evidence that the full maturation process does not happen until you are 25”.²⁵⁵ Carrie Peters, as a practitioner, confirmed that “because of brain development and maturity, we need to approach young adults in a different way”.²⁵⁶ Academics told us that young people “warrant special consideration” and that “most young offenders will cease committing crimes through maturation”.²⁵⁷ T2A argued that young people “are in a strong position to benefit from rehabilitative sentences and restorative measures” due to the “brain development” people undergo at that age.²⁵⁸
137. We heard further evidence about the specific vulnerabilities of young adults. Rebecca Robson told us that young adults tend to “struggle much more with relationships”, perhaps “because much of their life is spent online as opposed to in person”. She added that “accommodation also tends to be more difficult for young people, particularly if they are single and do not have family”.²⁵⁹ Niki Scordi explained that many young people on probation “have been in care, under community orders and in the prison system, which means that they need practical support” as they are learning to live an independent life.²⁶⁰ Carrie Peters told us that “we might need to work harder to engage people who are resistant and to think about different ways to get people on board,

252 [Q 76](#) (Kim Thornden-Edwards)

253 [Q 15](#) (Justin Russell)

254 [Q 16](#) (Justin Russell)

255 *Ibid.*

256 [Q 96](#) (Carrie Peters)

257 Written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton ([JCS0028](#))

258 Written evidence from The Transition to Adulthood Alliance ([JCS0032](#))

259 [Q 96](#) (Rebecca Robson)

260 [Q 96](#) (Niki Scordi)

perhaps using the arts, or sports” because “sitting one to one in a room with someone is not that attractive to a lot of young people”.²⁶¹

138. Damian Hinds MP acknowledged that “there is a watershed moment that happens on your 18th birthday”, when someone transitions from Youth Offending Services to the adult Probation Service.²⁶² He questioned:

“That is not how human beings are, is it? It is now pretty broadly recognised in the academic community—probably you cannot be quite this precise, but this is the general picture—young people’s brains are not fully developed until they are 25.”²⁶³

139. Because the maturation process continues past the age of 18, Justin Russell told us that “one of the obvious things you could do would be to shift the younger age range in probation into the Youth Offending Services themselves”.²⁶⁴ He said that “it might be better to do it incrementally, moving up to 19, 20 and 21”, as he explained:

“The peak age for offending is 18 and it is exactly at that point that you hand them over to a once-a-month probation interview with no speech and language, no CAMHS [Child and Adolescent Mental Health Services] and no ETE [Education, Training, and Employment] worker. It is an obvious idea. Why not allow Youth Offending Teams (YOTs) to work with children and young adults?”²⁶⁵

140. We heard reservations about this proposal. Phil Bowen told us that, while he was “attracted to the proposal”, he was also “concerned that youth justice services would need to differentiate how they supervise and treat 14 year-olds compared to 21 year-olds”. He argued that “there would be different characters, and you would not want to mix those populations in particular ways” and that “it would require a sophisticated approach”.²⁶⁶ Kim Thornden-Edwards said that “you would need to think about the safeguarding issues of seeing both children and adults in the same service, potentially in the same building”.²⁶⁷ Damian Hinds MP agreed that “there is something unique about dealing with children”.²⁶⁸ Andrew Neilson stated that his “worry about the proposal is that it could dilute what Youth Offending Services are successfully providing to under-18s”. He argued that “if it were done simply by adding all these extra people in and seeing what happened, it would need to be properly resourced”. Instead, the Howard League for Penal Reform considered the idea of “a separate, but very similar service for 18 to 25 year olds, rather than expanding the Youth Offending Service in that way”.²⁶⁹

Innovating to support young adults

141. Whether or not the threshold is moved, Chris Jennings told us that “the cliff edge at 18, when you have one level of intensive support and then suddenly you do not, is the thing we have to worry about”. He told us that “we must

261 [Q 96](#) (Carrie Peters)

262 [Q 125](#) (Damian Hinds MP)

263 *Ibid.*

264 [Q 16](#) (Justin Russell)

265 *Ibid.*

266 [Q 28](#) (Phil Bowen)

267 [Q 76](#) (Kim Thornden-Edwards)

268 [Q 125](#) (Damian Hinds MP)

269 [Q 28](#) (Andrew Neilson)

make the cliff edge not a cliff edge and make the transition as smooth as we can”.²⁷⁰

142. We heard about a range of innovative practices that have been, are being, or could be piloted initially for the benefit of young adults on probation. Academics argued that if lessons were learnt from the Scottish presumption against short sentences (PASS), the Northern Ireland Enhanced Combination Order, or the Integrated Community Service Order in Ireland, changes might be targeted at young people or women “rather than the entire population in the first instance”.²⁷¹
143. Looking at historical precedents, the Probation Institute wrote that “specialist teams used to manage the transition” for young adults “with reduced caseloads and focussed training”, and they told us that they “should be reinstated”.²⁷² T2A also told us about “specialised probation orders tailored to the specific needs of young adults designed to optimise compliance and completion of sentence” as “tested in Greater Manchester in the 2000s with the creation of Intensive Community Orders which were demonstrated to be beneficial to young adults”.²⁷³
144. Currently, another approach is being piloted. The Ministry of Justice told us about the introduction of Young Adult Hubs in Cardiff, Manchester and Newham. They described these hubs as “psychologically informed spaces that aid engagement and reinforce young adults’ strengths while increasing their self-regulation ability”.²⁷⁴ The Young Adult Hub pilot in the London Borough of Newham includes the “co-location of a multi-disciplinary team”, which consists of “health and probation staff and commissioned services” and seeks to provide “wrap-around support” that is “tailored” to the specific needs of young adults.²⁷⁵ Kim Thornden-Edwards told us that this “dedicated group of people who manage that cohort of younger people on probation ... have had special training in trauma-informed approaches, in neurodiversity and in maturity”, and that the approach “is already showing some promising outcomes, certainly in attendance and compliance”.²⁷⁶
145. Looking forward, the Transition to Adulthood Alliance (T2A) told us about a range of potential innovative practices, including:
 - Specialised courts. They argued that “young adult specific courts” could deliver “specific arrangements” for young people “without legislative change”. They told us that “young adult cases could be heard by judges with experience of dealing with children who could receive specific training on dealing with young adults”. In that context, Pre-Sentence Reports would “focus on maturity in relation to the context of the offence”. Using such a model could allow for a “problem-solving court model” underpinned by “ongoing sentencer engagement and the principles of ‘procedural fairness’”.

270 [Q 76](#) (Chris Jennings)

271 Written evidence from Dr Jay Gormley, Dr Louise Kennefick and Professor Melissa Hamilton ([JCS0028](#)). For more information on the Scottish presumption against short sentences, see written evidence from Dr Hannah Graham ([JCS0006](#)).

272 Written evidence from the Probation Institute ([JCS0015](#))

273 Written evidence from The Transition to Adulthood Alliance ([JCS0032](#))

274 Written evidence from the Ministry of Justice ([JCS0013](#))

275 Written evidence from The Transition to Adulthood Alliance ([JCS0032](#))

276 [Q 76](#) (Kim Thornden-Edwards)

- More flexibility in sentencing. T2A told us that “greater discretion within the existing sentencing framework” could allow sentencers to consider how to “support the development of a positive identity” within young adults. This could include looking at the “mitigating factor” of age and maturity within sentencing guidelines, or the introduction of “overarching sentencing principles for young adults”, as already exists for children.
 - Greater access to primary care. T2A recommended that young people could be given facilitated “access to high-quality, sustained drug, alcohol and mental health treatment” in their communities, “as well as support for needs related to neurodivergence”.²⁷⁷
146. **There is a ‘cliff edge’ in the response to offending when a young person transitions from Youth Justice Services to the adult Probation Service. Moving the age at which an offender undergoes this transition is unlikely, in itself, to bear positive results.**
147. **However, lessons can be learnt from Youth Offending Services about the management of the probation population in general, and of young adults in particular. YOSs do not only work with smaller caseloads and with more experienced staff, but are also embedded in local communities and more effective at communicating with offenders.**
148. *The Probation Service should learn best practices from Youth Offending Services, especially about how to communicate with offenders to ensure they understand the sentences that are imposed on them. It should also encourage the local delivery of rehabilitative services and multiagency cooperation.*
149. *Age-appropriate solutions should be found to smooth the transition of those moving from Youth Offending Services to the adult Probation Service. These solutions should be made available to all young adults on probation.*

Facilitating local delivery

A case for local delivery

150. Much of the evidence we received related to how the Probation Service cooperates with local agencies, such as local teams of the Probation Service and of the Prison Service, the Police, the NHS, local authorities, and their contracted partners. NAPO told us that “while there are some formal approaches to mandate cooperation between agencies ... too often this is lacking”, citing “the excessive workload and staff shortages faced by so many public sector bodies” as an explanation. They added that there was “a huge variance between levels of cooperation” between local agencies.²⁷⁸
151. We heard that the Probation Service “needs the local empowerment and local multiagency links that can make a difference for the people they are supervising”.²⁷⁹ Justin Russell told us that “regional directors would welcome more devolution, and more power to innovate and do things a bit differently” and added that some of those in charge of Community Rehabilitation

277 Written evidence from The Transition to Adulthood Alliance ([JCS0032](#))

278 Written evidence from NAP ([JCS0021](#))

279 [Q 16](#) (Justin Russell)

Companies (CRCs) that existed under the Transformation Rehabilitation scheme “rather miss the days of CRC, when they had more control over the services they could buy, the way they did recruitment or the way that they organised their workforce”. He recommended that “regional directors or local probation should have the flexibility” to commission specialist support and “have it in their offices, rather than necessarily do it through an externally commissioned contractual arrangement”.²⁸⁰

152. We heard about best practices in Northern Ireland. The Probation Board for Northern Ireland (PBNI) told us that Enhanced Combination Orders involve “a multiagency, multidisciplinary, collaborative approach, with PBNI leading on the Order, and support provided by a range of organisations including Barnardo’s, Community Restorative Justice Ireland (CRJI), Northern Ireland Alternatives and Victim Support”. They added that: “Within PBNI, ECOs involve Probation Officers (POs), Probation Service Officers (PSOs), Community Service Officers (CSOs) and PBNI Psychologists providing greater flexibility and choice.”²⁸¹ As a result, “the associated wrap around services are now well embedded and excellent working relationships have developed between stakeholders”.²⁸²

153. Witnesses identified best practices in the management of Youth Offending Services (YOSs, see section starting at paragraph 130 on “borrowing best practices from youth justice”) to make the case for the local delivery of adult probation services. Phil Bowen, who agreed that “we need to ground the Probation Service’s organisational locus in its communities”, told us that “we need to professionalise and localise the Probation Service, fundamentally taking a leaf out of the Youth Justice Services’ book”.²⁸³ Justin Russell, too, mentioned the operating model of Youth Offending Services, explaining that “YOSs feel locally empowered and locally governed”.²⁸⁴ He told us that “they are an integral part of children’s services now in local authority areas” and that “they are also tied into a very strong multiagency governance process”. He explained further:

“A typical Youth Offending Service has an embedded Child and Adolescent Mental Health Services (CAMHS) worker, an embedded speech and language therapist and an embedded educational psychologist. They are specialists who really know their stuff. They are in the office and can interact on a daily basis with case managers. There is no real equivalent in probation.”²⁸⁵

154. Co-commissioning and co-location were also recognised as best practice. Dr Abramovaite said: “to have all the services sitting together as a multidisciplinary team trying to assess and help individuals in the best possible way is definitely very much needed.”²⁸⁶ The best example came from the Greater Manchester Combined Authority.

280 Q 9 (Justin Russell)

281 Written evidence from the Probation Board for Northern Ireland (JCS0043). Over half of Probation Staff in Northern Ireland are Probation Officers, while other grades are described as operational support staff. See PBNI, ‘Careers’: <https://www.pbni.org.uk/careers> [accessed 9 December 2023]. For an explanation of the roles of Probation Officer and Probation Services Officer in England and Wales, see para 200.

282 Written evidence from the Probation Board for Northern Ireland (JCS0043)

283 Q 30 (Phil Bowen)

284 Q 16 (Justin Russell), see also Q 125 (Damian Hinds MP).

285 Q 8 (Justin Russell)

286 Q 116 (Dr Juste Abramovaite)

155. The Greater Manchester Combined Authority (see Box 6) told us about co-commissioning, where the same services are “supported by a range of local commissioners which may include health, local authority, adult learning and skills etc, as well as criminal justice” to work with people on probation, as well as with other cohorts. They explained that they “identified the risk of clear duplication with already commissioned local authority statutory substance misuse services” and therefore “sought to ensure that people on probation get appropriate access to existing locally commissioned services rather than commissioning a separate service and therefore create duplication”. They told us about “the importance of building on existing services in our communities that already work with people facing multiple unmet needs and have the skills to engage with such people” because these services “are connected to wider support networks, both in the voluntary and statutory sectors and can help individuals access the wider support they need where they need it”.²⁸⁷
156. They told us that co-commissioning benefits users as well as providers. They explained that “the benefit of this approach is the person accessing these services can stay engaged with them as long as their need dictates rather [than] just while they are subject to probation”.²⁸⁸ They went on to explain that co-commissioning “helps to build a ‘one stop shop’ where services can be located together to meet the varying needs of the client and bring financial resilience to voluntary sector organisations that are often struggling to ‘make ends meet’”. The GMCA added that “this approach also means that services are not commissioned to be in competition with one another i.e. a support service for people on probation compared to another service that is to support people with similar needs, but not in the justice system”.²⁸⁹
157. Furthermore, we heard that local delivery could also help achieve the punitive and reparative aims of sentencing. The Criminal Justice Alliance told us that “in Scotland there is legislative responsibility to consult specific people and organisations on the types of unpaid work activity that should be carried out in their area”. They recommended that “Probation should also develop more hyper-local partnerships by engaging with victims of crime and community groups to identify local needs”. They added that “greater involvement of the voluntary and community sector in unpaid work placements would also be beneficial”, pointing out that “many voluntary and community sector organisations employ staff with lived experience of the criminal justice system in roles where engagement and rapport building is important”.²⁹⁰ The APCC also told us that “what has been seen to work well are the examples of visible community reparation, especially when the identification of suitable projects arise from the input of community safety partnerships or other locally based public opinion”.²⁹¹

Ongoing efforts towards more local delivery

158. Kim Thornden-Edwards told us that HMPPS has “a stated commitment to looking to devolve more autonomy and authority to the regions”.²⁹² In practice, the APCC told us that “engagement with the Probation Service

287 Written evidence from Greater Manchester Combined Authority (JCS0044)

288 *Ibid.*

289 *Ibid.*

290 Written evidence from Criminal Justice Alliance (JCS0022)

291 Written evidence from the Association of Police and Crime Commissioners (JCS0020)

292 Q 75 (Kim Thornden-Edwards)

and PCCs is moving in a positive direction”. They explained that “there is commitment from HMPPS to ensure strong local relations exist and where possible co-commissioning of services is undertaken”. In that context, “HMPPS and the APCC have supported the delivery of guidance to local areas to enhance how data is shared across agencies to understand what works and to influence how local community payback schemes respond to community needs”.²⁹³

159. In terms of best practice in information sharing, the APPC pointed to the example of “sharing discussions” which arise from “Multi-Agency Public Protection Arrangements (MAPPA)”. These are “statutory arrangements bringing together the police, probation and prison services to assess and manage the risk posed by certain sexual and violent offenders”. At least one of the APPC’s members found that such discussions had been “a helpful way locally to obtain the necessary information and build a better risk picture of individuals involved in domestic abuse cases to then assess their suitability for community sentences”.²⁹⁴
160. We also heard about Integrated Offender Management (IOM), which the Government defines as “a cross-agency response to the crime and reoffending threats faced by local communities”.²⁹⁵ Pavan Dhaliwal told us that IOM provides a “good example” of “where the different agencies are working together in a really intense way, particularly when you are working with a cohort of people where the drivers around poverty, trauma and discrimination are playing out through substance misuse and mental health issues”.²⁹⁶ Justin Russell welcomed “a revival of investment in integrated offender management” involving “joint police and probation teams working together, sharing an office, hopefully with drugs workers and employment workers, doing joint home visits and really getting on top of the people who are the most prolific offenders in a local area”.²⁹⁷

Box 6: Devolution of justice powers to the Greater Manchester Combined Authority

1. The Greater Manchester Combined Authority (GMCA) enjoys “extra powers over Criminal Justice and Health and Social Care”, which include powers over the commissioning of rehabilitative services for people on probation, thanks to devolution arrangements unique among English local authorities. The GMCA had adopted its own approach, known as the “Greater Manchester Integrated Rehabilitative Services” (GMIRS).
2. The devolution arrangement involves some oversight by HMPPS. The GMCA told us that “HMPPS require rehabilitative and resettlement services to ensure sentence delivery options are available which meet the needs of service users and court-ordered sentencing requirements, using standard national specifications to be in place”, explaining that “these core needs are based on HMPPS data and therefore reflect common needs, which exist at a national level”.

293 Written evidence from the Association of Police and Crime Commissioners (JCS0020)

294 *Ibid.*

295 Home Office, ‘Integrated offender management (IOM)’ (26 March 2013): <https://www.gov.uk/guidance/integrated-offender-management-iom> [accessed 11 October 2023]

296 Q 89 (Pavan Dhaliwal)

297 Q 4 (Justin Russell)

3. We heard that the GMCA and Greater Manchester Probation Service were cooperating to develop “a ‘total system’ of integrated rehabilitative services for People on Probation” and that they “share a joint ambition to: *Increase the alignment of services to avoid fragmented delivery; improve support through sequencing of needs for People on Probation and recognise the voluntary and community assets that already exist within Greater Manchester communities*” (emphasis in the original).
4. The GMCA told us about some of the benefits of this approach, such as:
 - The possibility of “co-commissioning”.
 - A “coordinated approach to homelessness and accommodation support”.
 - Some “additional investment to the Whole System Approach to Women which continues to demonstrate significant reducing reoffending rates against comparable metropolitan areas”.
 - The “co-location of substance misuse service provision”.

Source: Written evidence from Greater Manchester Combined Authority ([JCS0044](#)). See also written evidence from Justin Russell ([JCS0034](#)).

Communication issues

161. While we heard about best practices in the local delivery of probation services, we were also told that communication may be difficult among the various local agencies involved in the delivery of community sentences. Justin Russell, for instance, told us that “there has been a lot of investment in identifying people with a mental health problem when they first come into the system”. He told us that “liaison diversion mental health workers”, who work in “almost every police custody suite”, identify “over 100,000” cases a year. Yet, he explained, “the issue then is whether that information is passed on to the CPS, the courts and the Probation Service” as HMIP “found that often it is not”.²⁹⁸ They identified causes of these communication issues: as is the case for communication between the Probation Service and its commissioned partners (see section starting at paragraph 173 on “the operation of current contracts”), “quite often, people did not realise that they could share the information and felt that there were data protection restrictions, which was unfortunate, or they forgot to share it or did not have the systems that would enable them to do it”.²⁹⁹
162. The APCC pushed for more communication among local agencies. They told us about Drug Rehabilitation Requirements and “the example of an offender who needs to be tested twice a week”: “Probation and Police should be notified of every test; if there are constant positive tests, this allows probation to breach the offender and get them back to Court.”³⁰⁰
163. The Probation Service is aware of these challenges. Chris Jennings told us that “there are still definitely areas where sharing information across the system is complicated”. For instance, he told us that “getting information on child safeguarding is not straightforward” because “each local authority does it differently and has its own system”, such that “there is no one place you can go to draw off a system a nice piece of data that will enable us to

298 [Q 8](#) (Justin Russell)

299 *Ibid.*

300 Written evidence from the Association of Police and Crime Commissioners ([JCS0020](#))

move forward”. The exception is in Wales, where the Probation Service can now get better information: “if there is what we call a reportable incident and the police attend an incident, we get notified about that in the Probation Service.”³⁰¹ Damian Hinds MP also pointed in the direction of “criminal justice boards”, which he described as “ways of making sure that people locally, Police and Crime Commissioners, Probation, Police and the courts are able to communicate”.³⁰²

164. **Community sentences are more effective when the Probation Service is a fully engaged member of local partnerships, be it through the co-location of services or through cooperation forums, allowing information to circulate. This benefits offenders and there is also a public interest, for instance in making unpaid work placements more punitive and reparative.**
165. *We encourage the Probation Service to empower regional directors further, ensuring that a greater proportion of rehabilitative services are commissioned locally. They should be granted further autonomy to develop partnerships with local organisations and public agencies. Co-commissioning should be encouraged.*

Making the most out of partnerships

166. Chris Jennings told us that the Probation Service commissions “hundreds of third sector partners across England and Wales to come in and do particular work on specialist areas” because the Probation Service does “not always have the in-house skill set”.³⁰³ Justin Russell said that there were two ways that the Probation Service can commission services from the voluntary sector.³⁰⁴
167. The first of these is through contracts for “Commissioned Rehabilitative Services” (CRSs) which are centralised at national level and cover six different pathways (Women’s Services; Personal Wellbeing Services; Finance, Benefits, and Debt; Dependency and Recovery; Education, Training, and Employment Services; and Accommodation Services).³⁰⁵ Kim Thornden-Edwards told us that HMPPS have over 200 suppliers from the private or voluntary and community sector which are qualified to bid for contracts, and a total of 133 contracts with suppliers to deliver services locally.³⁰⁶ Many of these contracts are due to expire in March 2024 but can be extended by HMPPS by up to one year. They are worth £348 million with extensions, or £242 million without extensions.³⁰⁷
168. The second way of commissioning services is through the “Regional Outcomes and Innovation Fund” (ROIF), which is funding made available by HMPPS to regional probation directors to commission services locally.³⁰⁸ Justin Russell described this as a “devolved funding stream, where individual regional directors have an innovation fund which they give out as grants to smaller organisations that are not currently providing any of the other

301 [Q 69](#) (Chris Jennings)

302 [Q 121](#) (Damian Hinds MP)

303 [Q 70](#) (Chris Jennings)

304 [Q 7](#) (Justin Russell)

305 *Ibid.*

306 [Q 70](#) (Kim Thornden-Edwards)

307 [Q 75](#) (Kim Thornden-Edwards).

308 [Q 70](#) (Kim Thornden-Edwards)

services”. He told us that this “has been a positive thing, but it is a small amount of money”.³⁰⁹

The 2021 commissioning process

169. Kim Thornden-Edwards told us that the national contracts came in “at pace” in 2021, when the end of the Community Rehabilitation Companies led to the unification of the Probation Service (see Box 4), with 110 contracts being live at the time of unification.³¹⁰ She added that HMPPS “will be looking to learn the lessons” from that first-generation commissioning process.³¹¹
170. Niki Scordi told us that the commissioning process in 2021 was a considerable improvement on the previous process five years earlier. She talked about “massive improvements”, and specifically welcomed the commissioning of “a holistic service” for women, allowing organisations like hers to become a one-stop-shop where all the rehabilitative needs of female offenders can be addressed (see section on “mainstreaming wraparound support” starting at paragraph 92). She also welcomed the fact that the regions at the level of which services are commissioned “are smaller so that local services can engage” and the fact that contracts last for five years.³¹² Together Women also told us that they have been impressed by the role of Probation teams, highlighting “extensive efforts to engage with women’s specialists”.³¹³
171. We heard, however, that “there is a mismatch between referrals and what is being commissioned”.³¹⁴ Justin Russell told us that HMPPS “underestimated the potential demand for things like women’s services and accommodation” whereas “there have not been enough referrals for well-being services”. Carrie Peters, whose company is commissioned to deliver all types of services except women’s services (Personal Wellbeing Services; Finance, Benefits, and Debt; Dependency and Recovery; Education, Training and Employment Services; and Accommodation Services), told us that “accommodation is in the greatest demand”, whereas “there is capacity in some of the other services”.³¹⁵ On the other hand, Niki Scordi told us that, for her women’s centre, “referrals are often much higher than we were expecting—25% to 75% more”. She explained that they “sometimes have waiting lists for just engaging with a dedicated key worker”.³¹⁶ She added that there is not “sufficient funding for accommodation or mental health”.³¹⁷
172. We also heard that “the feedback from the voluntary sector involved in those contracts is that the contracts have felt quite constraining and they have gone to the big national organisations” whereas “smaller providers have felt squeezed out” and that “they were not able to compete”.³¹⁸ Niki Scordi told us that the commissioning processes excluded smaller organisations unless they

309 [Q 7](#) (Justin Russell)

310 [Q 75](#) (Kim Thornden-Edwards)

311 *Ibid.*, the Ministry of Justice commissioned a review of the commissioning process, resulting in the publication of the Oldfield report. Richard Oldfield, Oldfield Partners, *Review of the Dynamic Framework of the National Probation Service* (September 2021): <https://www.clinks.org/sites/default/files/2021-08/Review%20of%20the%20Dynamic%20Framework%20of%20the%20National%20Probation%20Service%20-%20Richard%20Oldfield.pdf> [accessed 26 September 2023]

312 [Q 99](#) (Niki Scordi)

313 Written evidence from Together Women ([JCS0033](#))

314 [Q 7](#) (Justin Russell)

315 [Q 92](#) (Carrie Peters)

316 [Q 92](#) (Niki Scordi)

317 [Q 99](#) (Niki Scordi)

318 [Q 7](#) (Justin Russell)

were able to partner with a larger one. She said that her charity—a larger one in terms of women’s services—“struggled” with the commissioning process and yet “had to step in and partner with local organisations” to help them bid.³¹⁹ Rebecca Robson explained that, as someone running “a small charity without separate IT teams, HR teams and contract management teams”, applying to be awarded a contract “was a very lengthy and complicated process”. She mentioned “a lot of legal language and very technical language”, though acknowledged that she received support from “Ministry of Justice staff and Probation staff, who have been lovely, understanding and patient”.³²⁰ She added that she also received support from a larger organisation and “if it was not for them we probably would not have secured the contract”, mentioning various “policies” that bidders were expected to have in place, as well as “IT security” standards.³²¹ Damian Hinds MP conceded that “procurement rules, legal risk, and due diligence” can sometimes “restrict the number of bidders”.³²²

The operation of current contracts

173. Besides the commissioning process, we also sought evidence on the operation of existing contracts. Witnesses told us about communication issues between the Probation Service and its partners, focusing specifically on referral mechanisms, updates on needs and risk assessments, and the sharing of IT databases.
174. Communication issues arise at referral stage. Damian Hinds MP told us that “Probation practitioners are required to share information with CRS [Commissioned Rehabilitative Services] providers to enable them to engage with people on their caseloads appropriately and be responsive to individual risks and needs”.³²³ Justin Russell commented that “the actual referral mechanism is not giving the providers of services enough information about the people being referred”, explaining that they are “not being told the potential risk levels of people or of their other needs”.³²⁴ He explained that in theory, “a very comprehensive assessment is done when someone first starts their community order and that then informs their sentence plan”.³²⁵ Niki Scordi told us that in practice “we definitely find that risk assessments are not always available”.³²⁶ Even when they are available, Niki Scordi told us that “the quality of the initial assessment” by the Probation Service “might be limited”.³²⁷
175. Communication issues persist after initial referrals. Carrie Peters told us that “risk and need are dynamic”, meaning that the risk presented by an offender, as well as their rehabilitative needs, may evolve while they are on probation. She explained that her organisation is often unable to pick up on such changes as they occur.³²⁸ Niki Scordi confirmed that “as we build

319 [Q 99](#) (Niki Scordi)

320 [Q 99](#) (Rebecca Robson)

321 [Q 100](#) (Rebecca Robson)

322 [Q 127](#) (Damian Hinds MP)

323 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

324 [Q 7](#) (Justin Russell)

325 [Q 9](#) and [Q 11](#) (Justin Russell)

326 [Q 93](#) (Niki Scordi)

327 [Q 91](#) (Niki Scordi)

328 [Q 91](#) (Carrie Peters)

that trusting relationship, the woman can share much more about her needs”.³²⁹ However, “it is very rare that we can add dynamically” to initial needs and risk assessments, Niki Scordi told us as she explained that “the most challenging thing is that the system and the way it has been designed does not allow for that flexibility”.³³⁰ Rebecca Robson also told us that “it is getting live information about risk that presents us with a challenge”³³¹

176. Rudimentary facts are often missing. Niki Scordi told us that “basic information like accurate contact details” is often missing in initial referrals.³³² Carrie Peters added that “practical changes like someone having moved address or having a different officer” are not always communicated past initial referrals.³³³
177. Lack of clarity around data protection regulation, some of which came into effect after the IT systems were designed, was put forward as a potential cause of communication problems. Rebecca Robson told us about “probation practitioners who worry about sharing too much” with delivery partners, under a misapprehension about data protection. She argued that “there is more work to be done on that to really understand what can and should be shared” with commissioned services.³³⁴ Carrie Peters acknowledged that “there are things that have to be taken out of the risk information, like the names of victims and particular information about them” but agreed that “it can go too far and too much is taken out”. She told us that “some of it probably comes down to trusting us as partners to hold sensitive information, to deal with it and to treat it with the respect it needs, and to let it inform the work we need to do”.³³⁵
178. Previously, “voluntary sector providers had direct access to probation case management systems”: the case management tool nDelius and the risk assessment tool OASys (see Box 8).³³⁶ They were able to receive and share updates on people on probation, but lost access to these systems when the Probation Service unified in 2021.³³⁷
179. Damian Hinds MP confirmed that “Commissioned Rehabilitative Service (CRS) providers do not have access to nDelius ..., OASys ..., NOMIS (the Prison Service’s case management system) or an equivalent system in place in privately contracted prisons”. He explained that “these systems contain sensitive information relating to people in prison and under probation supervision that is not required by CRS providers to deliver their services”.³³⁸
180. The Probation Service now uses a platform called “Refer and Monitor” (R&M) to communicate with its partners. Damian Hinds MP explained that “R&M facilitates a speedy and effective referral process, with easy access to information about the services offered by CRS providers and allows information sharing between probation practitioners and providers to ensure

329 [Q 91](#) (Carrie Peters and Niki Scordi)

330 [Q 91](#) (Niki Scordi)

331 [Q 90](#) (Rebecca Robson)

332 [Q 90](#) (Niki Scordi)

333 [Q 91](#) (Carrie Peters)

334 [Q 91](#) (Rebecca Robson)

335 [Q 93](#) (Carrie Peters)

336 [Q 7](#) (Justin Russell)

337 *Ibid.*

338 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

progress is managed robustly”.³³⁹ Kim Thornden-Edwards, who admitted that “sometimes we did not have the availability to transfer information in a safe way to some of our delivery partners”, told us that “we have unblocked most of the problems now” since the Probation Service has “made real changes in those systems”.³⁴⁰ Damian Hinds MP confirmed that “several enhancements have been made to the R&M digital tool since CRS services commenced in 2021”.³⁴¹ Carrie Peters agreed that “what is put on to Refer and Monitor has certainly improved in the last two years” while noting that “there are still gaps”.³⁴² Because a single offender, especially among male offenders, will likely be interacting with a range of commissioned services, Carrie Peters told us that organisations delivering them would also like to get updates from each other, which the platform doesn’t allow: “We are all on Refer and Monitor but we cannot see anything anybody else has put on there.”³⁴³

181. Carrie Peters told us that her company carries out their own “in-depth assessment” and that if they realise that persons on probation “need to be on different pathways or they have a higher level of complexity” of needs, then they have to go back to their probation officer, “sometimes for an amendment and sometimes to cancel the referral or for a re-referral, which takes an awful lot of time”.³⁴⁴
182. Voluntary sector organisations “repeatedly” told HM Inspector of Probation that they would like direct access to probation case management systems.³⁴⁵ “Access to the authority systems OASys and nDelius would put us in a better position for keeping abreast of all those changes as we go along”, we heard from Carrie Peters.³⁴⁶ Rebecca Robson agreed that, for those days when her organisation is not hosting a probation officer, she would like “access to live information about risk that we had before when we had access to the other systems”.³⁴⁷ Carrie Peters argued that this would also be in the interest of the Probation Service, because partners “could also record directly on to those systems, which would ... save probation practitioners time”.³⁴⁸
183. Rebecca Robson told us that probation staff are based in her organisation “one or two days a week”, and thanks to this “information sharing works really well, including about the ongoing risk”.³⁴⁹ She explained that “in Cumbria, it is generally working well, and we are getting quality referrals” because her charity has “developed relationships between Probation staff and our staff”.³⁵⁰

339 *Ibid.*

340 [Q 69](#) (Kim Thornden-Edwards)

341 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

342 [Q 93](#) (Carrie Peters)

343 [Q 99](#) (Carrie Peters)

344 [Q 90](#) (Carrie Peters)

345 [Q 7](#) (Justin Russell)

346 [Q 91](#) and [Q 93](#) (Carrie Peters)

347 [Q 103](#) (Rebecca Robson)

348 [Q 91](#) (Carrie Peters)

349 [Q 91](#) (Rebecca Robson)

350 [Q 90](#) (Rebecca Robson)

The next commissioning process

184. We asked three of the Probation Service’s delivery partners about how they would like the Ministry of Justice to approach the next national commissioning process.
185. They asked for longer contracts. “Longer contracts certainly help to build relationships and stability, and people understand where they need to go”, Carrie Peters told us.³⁵¹ Niki Scordi said she would like contracts to last “ten years”.³⁵² Rebecca Robson agreed that she would “not want to go through that process too many times”.³⁵³ Chris Jennings, talking about cooperation between UK Government and Welsh Government, sympathised as he regretted that he has “a short-term funding solution for a long-term problem” and was hoping for a “long-term funding arrangement”.³⁵⁴ Damian Hinds MP acknowledged that “in an ideal world, you would probably always want to have rolling contracts, so that the organisation can always have some certainty” but argued that “there is a balance to be struck” because “that is not the way we do public finance in this country” and “it never has been”.³⁵⁵
186. Delivery partners asked for flexibility to be built into the contracts, allowing them to adapt their services to the circumstances of the people referred to them. Carrie Peters, who argued that current contracts “can stifle innovation and stop you from going the extra mile”, told us that “flexibility needs to be built in and you need to be able to adapt to a changing environment as you go”.³⁵⁶ Niki Scordi said the challenge with long-term contracts is that they are often fixed and there is an unwillingness to flex them sufficiently until they are renewed”.³⁵⁷
187. They also argued for more funding for women’s services. Niki Scordi argued that women’s services have been “underfunded up and down the country for over a decade”.³⁵⁸ She welcomed the fact that women’s services are now commissioned in a holistic way but found that, “as a result ... those services are underfunded, because obviously if you are funding one service for all needs, you are likely to under record that as opposed to funding separate needs”.³⁵⁹ She said that “women’s highest level of need is in mental health, and there is a real shortage and no specific funding for that”, adding that counselling was funded separately from those services commissioned by the Ministry of Justice for people on probation.³⁶⁰ She added that women who see the benefit of the services they receive “will often want to engage for longer than the service is funded for”, and that her organisation offers services to girls aged 15 to 18 that are “not funded in most areas up and down the country”.³⁶¹ Going beyond women’s services, Dr Matthew Cracknell, Senior Lecturer, Middlesex University, wrote that, instead of trying to make custodial sentences increasingly tough, “significant funding needs to be given to probation services and related community services including those

351 [Q 99](#) (Carrie Peters)

352 [Q 99](#) (Niki Scordi)

353 [Q 99](#) and [Q 103](#) (Rebecca Robson)

354 [Q 71](#) (Chris Jennings)

355 [Q 128](#) (Damian Hinds MP)

356 [Q 101](#) and [Q 99](#) (Carrie Peters)

357 [Q 91](#) (Niki Scordi)

358 [Q 100](#) (Niki Scordi)

359 [Q 99](#) (Niki Scordi)

360 [Q 92](#) and [Q 95](#) (Niki Scordi)

361 [Q 96](#) and [Q 97](#) (Niki Scordi)

concerned with housing, mental health and substance use, in order to make community orders more attractive and viable to sentencers.”³⁶²

188. The National Audit Office told us that “the Ministry let contracts worth £46 million for services ‘tailored to female offenders’” through its 2021 commissioning process (see sections on “the 2021 commissioning process” starting at paragraph 169 and on “mainstreaming wraparound support” starting at paragraph 92) but that, otherwise, “the Ministry of Justice had only spent £9.5 million on grants for women’s community services over four years (2018–19 to 2021–22) and that the short-term nature of grants made it difficult to sustain services”. The NAO pointed out that “in January 2023 MoJ announced that it had launched multi-year grant competitions to invest up to £24 million in community support services for women as part of its new female offender strategy delivery plan”, which “would equate to around £8 million a year, an increase of over three times compared to the previous four-year period (around £2.4 million a year), without adjusting for inflation in the comparison.”³⁶³
189. Two of the delivery partners also sought a different funding approach, “based on outcomes rather than the number of needs, sessions and RAR days”.³⁶⁴ They explained that, currently, when someone is referred to an organisation to complete RAR days, “the probation practitioner sets what those rehabilitation days are”. If, after having met the offender, the organisation believes that their needs would require a different intervention, they have two options: either the organisation complies and the offender “does not engage very positively, and we do not see the benefits”, or they “have to go back and amend the system”.³⁶⁵ To ensure that they have “that positive approach right from the beginning”, Niki Scordi asked for “payment by results”, mentioning a “grant-based” approach.³⁶⁶ Carrie Peters agreed that her organisation Ingeus “would like to be a genuine partner ... and to be flexible and adapt as we go, and for the contract to be the agreement as to how we are going to work together; not to restrict, not to stifle, but to allow us to learn together and to get better at changing people’s lives”.³⁶⁷ Damian Hinds MP pointed out that “payment by results” is “part of what the Transforming Rehabilitation programme was to do” and told us: “I want to make sure that we retain some of that ethos, bearing in mind that it is really hard to do a full payment-by-results model.”³⁶⁸
190. Witnesses also spoke about the role of regional directors of the Probation Service in the next commissioning wave. “Regional probation directors would like to see far more of that budget being devolved to them so that they can make their own choices about what they purchase”, Justin Russell told us. He cited the example of the Greater Manchester Combined Authority, which co-commissions services with the regional probation director, aside from national HMPPS commissioning. “We are seeing a more nuanced and flexible range of services there as we inspect”, Justin Russell explained.³⁶⁹ Kim Thornden-Edwards responded that the services commissioned by

362 Written evidence from Dr Matthew Cracknell ([JCS0014](#))

363 Supplementary written evidence from the National Audit Office ([JCS0042](#))

364 [Q 99](#) (Niki Scordi)

365 [Q 98](#) (Niki Scordi)

366 [Q 102](#) (Niki Scordi)

367 [Q 103](#) (Carrie Peters)

368 [Q 128](#) (Damian Hinds MP)

369 [Q 8](#) (Justin Russell)

HMPPS “are built to address needs that we know are pretty standardised across our probation services”, within which there can be “some flex” to adapt to local needs. She also referred to the “regional innovation fund” available to regional directors as the way for them to commission services locally. Where services might be commissioned centrally, HMPPS was “certainly alive to the potential learning from some of the bespoke and smaller niche commissions locally and what that may tell us that we should think about nationally”.³⁷⁰

191. We asked them whether there would be value in literacy and numeracy services being commissioned to support people serving community sentences. Carrie Peters remembered the discontinued Offenders’ Learning and Skills Service (OLASS), whereby “funding went to probation services and colleges delivered literacy, numeracy and ESOL classes in probation settings in the same way as the education provision is delivered in prison”. She was “a big supporter” of that approach, because colleges “often do not want people who have committed certain types of offences, or sometimes any offences, to attend, so bringing their services on to probation premises works well”.³⁷¹ Niki Scordi and Rebecca Robson, representing two women’s centres, felt that “numeracy and literacy tend to be at the very bottom” of the needs of the people they are supporting.³⁷² Their organisations prioritise more urgent needs, for instance around mental health and trauma.
192. **Commissioned rehabilitative services are a key component of community sentences. The delivery partners of the Probation Service provide valuable services. The most recent commissioning wave, while imperfect, is considered by all parties as a step in the right direction.**
193. **Partnerships with a range of local organisations, outside formal commissioning processes for rehabilitative services, are also key to securing meaningful unpaid work placements that foster public support for community sentences.**
194. **The Probation Service, however, is not making the most out of these partnerships. Referrals do not always contain sufficient information, risk assessments are not always produced and shared in a timely manner, and commissioned partners find it difficult to feed back information to the Probation Service.**
195. *The Ministry of Justice should seize the upcoming wave of commissioning as an opportunity to apply lessons from the past two years. More funding should be allocated, especially to women’s centres and for housing. Contracts should be longer to protect the Probation Service’s partners, but subject to termination clauses to protect the taxpayer. More flexibility should be built in, perhaps through regular reviews, to allow partners to innovate.*

370 [Q 75](#) (Kim Thornden-Edwards)

371 [Q 95](#) (Carrie Peters)

372 [Q 95](#) (Niki Scordi)

196. *The Ministry of Justice should ensure that smaller organisations are enabled to bid for contracts. Smaller organisations should be offered administrative support. They should be permitted to apply jointly, or in partnership with larger organisations. Requirements should be adapted to the size of the contract.*
197. *The Probation Service should improve communications with its partners. This could include guidance on what can, or cannot, be shared under data protection legislation. It should consider granting them direct access to its databases, as used to be the case prior to unification.*

CHAPTER 5: CHALLENGES FACED BY THE PROBATION SERVICE

198. Throughout our inquiry, we heard that the Probation Service is facing a range of challenges. It suffers from staff shortages, resulting in unmanageable caseloads, and its mission is being questioned as its focus has shifted from the supervision of low-level offenders to the protection of the public against high-risk criminals. It also comes under criticism for the decline in the number and quality of pre-sentence reports it produces. This affects whether community orders are imposed, as well as their effectiveness. We review these challenges in this chapter.

Staffing issues

199. The Probation Service is understaffed. The National Audit Office told us that “in December 2022, 1,762 out of 6,158 Probation Officer roles were unfilled, a vacancy rate of 29%”.³⁷³ Academics from Sheffield Hallam University confirmed that, as of March 2023, there was “a shortfall of 1,771 level 4 Probation Officers against the required staffing level of 6,158”.³⁷⁴ The then Chief Inspector of Probation Justin Russell pointed out that the vacancy rate was “34% in London” and “over 50%” in certain areas of London.³⁷⁵ Vacancy rates for probation officer roles are high in all 12 regions of the Probation Service (see Table 1).

200. Academics at Sheffield Hallam University told us that “The impact of Transforming Rehabilitation (TR) has been disastrous for the retention of staff and experienced staff”. They explained that “the departure of a generation of qualified and experienced staff including Probation Officers and Probation Services Officers ... who could not accommodate the changes resulting from TR and chose to exit probation work”.³⁷⁶ (A Probation Services Officer (PSO) supervises low- and medium-risk offenders while a Probation Officer (PO) also supervises higher-risk offenders.)

201. Understaffing results in unsustainable caseloads. The National Audit Office told us that “many probation staff were managing more than 70 cases, against a suggested case load of 30 to 60”. They added that over 90% of the Probation Service’s “sub-regions” on which data is held “were operating at or above 100% of their operational capacity”.³⁷⁷ As Justin Russell put it, “the key challenge with staffing is that, if you do not have enough staff, it translates into big caseloads, and unmanageable caseloads; 70% of the Probation Officers we interview think that their caseloads are unmanageable”.³⁷⁸ NAPO argued that “Chronic staff shortages mean workloads are dangerously high and unmanageable for the majority of staff”.³⁷⁹

373 Written evidence from the National Audit Office (JCS0039). See also Q 115 (Jenny George).

374 Written evidence from Dr Jake Phillips, Nichola Cadet, Andrew Fowler and Laura Riley, Sheffield Hallam University (JCS0025)

375 Q 2 (Justin Russell)

376 Written evidence from Dr Jake Phillips, Nichola Cadet, Andrew Fowler and Laura Riley, Sheffield Hallam University (JCS0025)

377 Written evidence from the National Audit Office (JCS0039) citing Comptroller and Auditor General, National Audit Office, *Improving resettlement support for prison leavers to reduce reoffending* (Session 2022–23, HC 1282), 12 May 2023: <https://www.nao.org.uk/reports/improving-resettlement-support-for-prison-leavers-to-reduce-reoffending/> [accessed 24 October 2023]

378 Q 2 (Justin Russell)

379 Written evidence from NAPO (JCS0021)

Table 1: Staffing levels (Full-Time Equivalent) for probation officers across the 12 regions of the Probation Service as of 30 June 2023

Region	Staff in post	Required staffing	Difference	Vacancy rate	Trainees ³⁸⁰
London	521	913	-392	43%	273
South Central	228	379	-151	40%	106
East of England	431	704	-273	39%	199
Kent, Surrey and Sussex	249	400	-151	38%	113
East Midlands	294	463	-169	37%	214
Yorkshire and the Humber	497	771	-273	35%	271
North West	431	667	-236	35%	235
Greater Manchester	261	401	-140	35%	156
Probation Service Total	4,390	6,780	-2,390	35%	2,385
South West	326	481	-155	32%	177
West Midlands	479	688	-209	30%	309
North East	318	433	-115	27%	128
Wales	346	470	-125	26%	205

Source: Ministry of Justice, ‘HMPPS workforce quarterly: Probation Officer Recruitment annex—June 2023’: <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-workforce-quarterly-june-2023> [accessed 20 September 2023]

202. Unsustainable caseloads make the profession unattractive. Several witnesses mentioned “very high sickness rates”—in the 12 months to 30 June 2023, an average of 12.1 days of work were lost to sick leave among all Probation staff, or 15.1 days among probation officers specifically.³⁸¹ Others mentioned “low morale”.³⁸² The National Audit Office also flagged “high turnover” and NAPO wrote about “poor retention of experienced staff”³⁸³ (see Box 7).
203. Unsustainable caseloads also result in poor performance. Justin Russell told us that—of the 23 local probation areas HMIP had, at that point, inspected since the unification of the service in 2021—13 of them were rated as “inadequate”.³⁸⁴ NAPO shared anecdotal evidence from probation

380 Trainee figures include staff that should have qualified by the time the statistics were published but “have deferred their training”, as well as “staff that were previously seconded to [Community Rehabilitation Companies (CRC)] and also former CRC staff who have transferred to HMPPS as result of the unification of the Probation Service in June 2021”.

381 Q 2 (Justin Russell). See also written evidence from the National Audit Office (JCS0039). Ministry of Justice and HM Prison and Probation Service, ‘HMPPS workforce quarterly bulletin: June 2023 tables—Table 19’: <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-workforce-quarterly-june-2023> [accessed 20 September 2023]

382 Written evidence from Dr Jake Phillips, Nichola Cadet, Andrew Fowler and Laura Riley, Sheffield Hallam University (JCS0025)

383 Written evidence from the National Audit Office (JCS0039) and NAPO (JCS0021)

384 Q 2 (Justin Russell)

staff that “they only spend about 10–15 minutes with a client”.³⁸⁵ Revolving Doors explained that many people on probation have the “strong belief” that “probation practitioners simply did not have the time to spend getting to know them, their goals, aspirations, and the kinds of support needed to address the root causes of their offending”.³⁸⁶ The charity User Voice finds that people on probation in London are less satisfied with the performance of the Probation Service than people on Probation elsewhere in the country, perhaps because vacancy rates and caseloads are higher in London.³⁸⁷ Women in Prison pointed out that some women do not have an “allocated Probation Officer at all”, do not get an appointment with the Probation Service “unless they ring to arrange it”, and may have to report “to a duty officer rather than a familiar individual officer with whom they can develop a relationship”.³⁸⁸ This all tallies with the finding by HMIP that “the needs of the person are not being met”:

“To give you some data, employment and education needs are being met in only 46% of the cases we inspect; alcohol misuse in only 26% of cases, and drug misuse in only 28% of cases. A lot of needs are not being addressed by the services in place.”³⁸⁹

204. We heard that poor performance disproportionately affects people serving community sentences. “When caseloads are stretched, this may hamper the ability [to] provide detailed support”, the Prison Reform Trust told us, explaining that “this is particularly the case for ‘lower risk’ individuals, who may not be receiving the coverage needed, so drift more towards a higher severity of offending, and are caught up in the cycle of imprisonment.”³⁹⁰ Revolving Doors also said that, because of staff shortages and high caseloads, “probation staff face significant barriers in providing rehabilitative support to people under probation supervision in the community”.³⁹¹ One of our witnesses who had served a community order told us that she had had 15 probation officers over the years, and that only one had stood out as helpful.³⁹² Another of these witnesses explained that “there were no consistent relationships with Probation”, adding that she “always felt it was just for a tick in the box that they had seen me”.³⁹³
205. The Probation Service has been recruiting “a record-breaking number of trainee Probation Officers” in recent years.³⁹⁴ Chief Probation Officer Kim Thornden-Edwards told us that HMPPS has “done brilliantly well” during its recruitment campaign, despite the challenges induced by the unification of the Service and by the pandemic.³⁹⁵ Damian Hinds MP explained that “the Government have put £155 million of extra funding annually into the Probation Service” and told us that the recruitment campaign “will help to bring caseloads down”.³⁹⁶

385 Written evidence from NAPO ([JCS0021](#))

386 Written evidence from Revolving doors ([JCS0016](#))

387 Written evidence from User Voice ([JCS0038](#))

388 Written evidence from Women in Prison ([JCS0030](#))

389 [Q 9](#) (Justin Russell)

390 Written evidence from the Prison Reform Trust ([JCS0019](#))

391 Written evidence from Revolving Doors ([JCS0016](#))

392 [Q 81](#) (Caroline)

393 [Q 81](#) (Ayesha)

394 Written evidence from HM Prison and Probation Service ([JCS0045](#))

395 [Q 65](#) (Kim Thornden-Edwards), see also [Q 122](#) (Damian Hinds MP).

396 [Q 122](#) (Damian Hinds MP)

206. Specifically, HMPPS told us about the recruitment of “1,007 (against a target of 1,000), 1,518 (against a target of 1,500) and 1,514 (against a target of 1,500) trainee [probation officers] in 2020/21, 2021/22 and 2022/23 financial years respectively.” HMPPS added that the capacity increase affected all grades and all regions, explaining that “across Probation Service regions (excluding Approved Premises in England), Staff in Post increased from 16,331 full-time equivalent posts (FTE) as of 30 September 2021 to 18,953 FTE as of 30 June 2023”, which “represents a net increase of 2,622 FTE.”³⁹⁷
207. Recruitment has been slower in certain areas. Kim Thornden-Edwards told us about “a north/south divide”: while “target staffing levels for Probation Service Officers” have been reached in the north, “in the south, particularly London, there is a slower growth trajectory” (see Table 1), which begs questions about the attractiveness of the job.³⁹⁸ Justin Russell explained that “the issue now is not necessarily the lack of money; it is the inability to recruit to fill the vacancies that are being funded.”³⁹⁹
208. Talking about new recruits, Damian Hinds MP told us that “the single most important thing over the next few years will be them developing and becoming full Probation Officers”.⁴⁰⁰ Justin Russell explained that “there are now many inexperienced trainee Probation Officers who are sometimes not doing the basics”, which means that the recent recruitment campaign “is not yet sufficient to push up the quality”.⁴⁰¹ We also heard that “the workforce is skewed towards less experienced staff”, in the early years of their career.⁴⁰² Statistics show that over 55% of new recruits in non-managerial positions from 2021–22 were aged under 30.⁴⁰³ Kim Thornden-Edwards pointed out that “Probation Officer training takes somewhere between 15 and 21 months, so there is a lag in the system before trainee Probation Officers actually qualify and become competent and confident in role”.⁴⁰⁴
209. The focus seems to be progressively shifting from recruitment to retention. The Lord Chancellor told us that the Probation Service is recruiting “an additional 500” members of staff during the 2023/24 financial year, down from previous recruitment targets (he explained this was out of concerns that the Probation Service would not have the capacity to onboard a greater number of recruits), adding that “over the coming years, there will be a strong effort to retain” staff.⁴⁰⁵ We were also told that “an updated Recruitment and Retention Strategy was published internally in May 2023”, which “champions recruitment and retention equally”.⁴⁰⁶ HMPPS explained that they “aim to increase retention by boosting career progression, improving the overall pay and reward package, prioritising employee health and wellbeing, and improving ways of working for staff”. They also told us about a “Retention

397 Written evidence from HM Prison and Probation Service ([JCS0045](#)), see also [Q 122](#) (Damian Hinds MP).

398 [Q 65](#) (Kim Thornden-Edwards)

399 [Q 15](#) (Justin Russell)

400 [Q 122](#) (Damian Hinds MP)

401 [Q 2](#) (Justin Russell)

402 Written evidence from Dr Jake Phillips, Nichola Cadet, Andrew Fowler and Laura Riley, Sheffield Hallam University ([JCS0025](#)). See also the comment by Lord Bellamy, Parliamentary Under-Secretary of State at the Ministry of Justice, HL Deb, 17 October 2023, [col 126](#).

403 Written evidence from HM Prison and Probation Service ([JCS0045](#))

404 [Q 65](#) (Kim Thornden-Edwards), see also [Q 15](#) (Justin Russell).

405 Oral evidence taken on 25 October 2023 (Session 2022–23), [Q 17](#) (The Rt Hon Alex Chalk KC MP, Lord Chancellor and Secretary of State for Justice)

406 Written evidence from HM Prison and Probation Service ([JCS0045](#))

Research Team”, said to be researching “the drivers of attrition with the aim of identifying potential causes of resignations” and to be supporting the subsequent “design and implementation of interventions to address the issues”.⁴⁰⁷ Thanks to these efforts, Kim Thornden-Edwards told us that “retention rates have improved” (see Box 7) such that “we now have a net gain in staff, month on month, for every region across the country”.⁴⁰⁸

Box 7: Attrition rates among probation staff

HMPPS detailed that attrition rate for all grades (calculated on 12-month rolling averages) had “peaked” in September 2022 at 10.7% and had fallen to 9.9% in the 12 months to 30 June 2023.

In relation to qualified probation officers specifically, HMPPS also flagged that:

- The attrition rate was lower than among all probation staff, at “7.4% for the 12 months ending 30 June 2023.”
- Attrition rates “vary considerably by Probation Service Region, varying from 4.9% for Wales to 12.2% for London for the 12 months ending 30 June 2023.”

Source: Written evidence from HM Prison and Probation Service ([JCS0045](#))

210. Probation officers can exert a positive influence over people on probation. Justin Russell told us that “there is very strong research evidence that one of the best predictors of reoffending is whether you have a strong relationship with your Probation Officer.”⁴⁰⁹ Andrew Neilson said that “there is plenty of academic literature in the field of desistance which shows that key to helping people to turn their lives around and not commit crime is having a good relationship with a Probation Officer who understands your particular problems and is trying to do something to help you.”⁴¹⁰ Chief Probation Officer Kim Thornden-Edwards said: “We know from theories of change—desistance theory—that the power of the personal relationship, having somebody who is in your corner, who is championing you and who believes in you is very important to the creation of self-efficacy and the ability to believe in your agency to make change.”⁴¹¹
211. We heard from witnesses with lived experience of being on probation about the qualities of a good probation officer. Ayesha described “someone who is compassionate, understanding, with a willingness to ... listen”, and argued that “making those connections with somebody out there struggling with drug addiction can mean a great deal to that individual.”⁴¹² Caroline said that “they need to be non-judgmental and have a real willingness to help the person.”⁴¹³ DeQeon considers a good probation officer “someone who has been on the street—someone who has been there and understands what it is like.”⁴¹⁴ DeQeon told us about one particular probation officer who had been instrumental to his rehabilitation: “she made me see the light in probation”.⁴¹⁵

407 *Ibid.*

408 [Q 65](#) (Kim Thornden-Edwards), see also [Q 122](#) (Damian Hinds MP).

409 [Q 1](#) (Justin Russell)

410 [Q 17](#) (Andrew Neilson)

411 [Q 63](#) (Kim Thornden-Edwards)

412 [Q 81](#) and [Q 82](#) (Ayesha)

413 [Q 82](#) (Caroline)

414 [Q 82](#) (DeQeon)

415 [Q 81](#) and [Q 89](#) (DeQeon)

212. Ayesha told us that she “looked at the job role for a Probation Officer” with a view to qualifying. She also said that she was studying “so I can have the knowledge, not just the experience, and maybe give something back and do something within the criminal justice system.”⁴¹⁶ Caroline added that, in her case, “due to my criminal record I have been pushed back quite a few times” from jobs.⁴¹⁷ Pavan Dhaliwal pointed out that “clearance and vetting” may take “seven, eight months” when someone with a criminal record applies to join the Probation Service.⁴¹⁸
213. **The Probation Service found itself understaffed when it unified in 2021. This results in unmanageable caseloads and the profession being unattractive. Despite impressive recruitment campaigns in recent years, vacancy rates remain high. New recruits are inexperienced.**
214. **An offender’s relationship with their probation officer can be instrumental to their path away from criminal activity. It is recognised as one of the most important factors, and people who have previously been on probation told us about the influence that good probation officers have had on their lives. Probation staff can only build constructive relationships with offenders if they are appropriately trained and have manageable caseloads; this in turn requires adequate staffing levels and minimal vacancy rates.**
215. *Recent recruitment and training waves should be sustained until vacancies are filled and the service effective. Efforts should be targeted at those areas where recent recruitment waves have been least successful.*

An identity crisis

216. We heard that “there is lack of clarity about the fundamentals of what a Probation Officer is”.⁴¹⁹ The role has evolved in recent years, giving more prominence to supervision, administrative tasks, and IT systems. Recent reorganisations have also left the Probation Service with “a sense of crisis”.⁴²⁰

Tension between ‘befriending’ and ‘supervising’

217. Justin Russell reminded us that “the roots of the Probation Service lie in the voluntary sector”. He referenced “Salvation Army volunteers” and “people from Church of England temperance societies” to argue that the Probation Service “is firmly rooted in the voluntary sector ethos and commitment.”⁴²¹ This early form of the Probation Service was put on a statutory basis by the Probation of Offenders Act 1907, section 4(d) of which made it the duty of probation officers to “advise, assist, and befriend” offenders.⁴²² However, Gavin Dingwall explained: “As community sentences have become more punitive, one issue is that the role of a Probation Officer has changed and

416 [Q 82](#) (Ayesha)

417 [Q 84](#) (Caroline)

418 [Q 89](#) (Pavan Dhaliwal)

419 [Q 8](#) (Justin Russell)

420 Written evidence from Dr Matthew Millings *et al* ([JCS0027](#))

421 [Q 7](#) (Justin Russell)

422 Probation of Offenders Act 1907, [section 4\(d\)](#), see also [Q 17](#) (Andrew Neilson).

their supervisory role has increased”.⁴²³ The Probation Service’s tagline is now to “assess, protect, and change”.⁴²⁴

218. Chief Probation Officer Kim Thornden-Edwards told us that “there is still a role for advising, assisting and befriending.”⁴²⁵ The Minister for Prisons and Probation told us that “advise, assist and befriend” is “*how*” probation officers can “assess, protect and change”. He added that “there are studies that illustrate that forming strong, trusting relationships is crucial to achieving those aims.”⁴²⁶ While questioning the appropriateness of “befriending”, Chris Jennings agreed that “building really positive relationships with the people we supervise is key to keeping them on the right path”.⁴²⁷
219. Kim Thornden-Edwards emphasised, however, that the role of probation officers lies “very much in the realms of assessing, protecting and changing”. To illustrate her point, she mentioned “the role we have on public protection” and, specifically, “managing critical cases of concern” and “managing terrorist cases”.⁴²⁸ Chris Jennings agreed that what the Probation Service is “really responsible for is keeping members of the public safe”.⁴²⁹
220. The tension between ‘befriending’ and ‘supervising’ means that “the role of the Probation Officer is extraordinarily complex”.⁴³⁰ Phil Bowen explained that “we are asking them to enforce an order as well as promote healthy relationships and form a trusting relationship with that person”.⁴³¹ This also leads the Ministry of Justice to describe the task of “supervising offenders serving community orders” as “a skilled and difficult job, requiring the assessment and management of risk with the skill to engage and motivate offenders to make positive change and engage with rehabilitative interventions.”⁴³² Damian Hinds MP pointed out that probation officers “deal with people who are on community sentences but also with those who are leaving prison on licence” and that “they must make what are sometimes very difficult judgments”.⁴³³ Justin Russell explained that probation staff are expected to perform a “very difficult balancing act” between building a “strong and trusting relationship” with people on probation and showing “professional curiosity” to ensure public protection. He argued that “that balance is a difficult thing to get right and our inspections have shown that they do not always get it right”.⁴³⁴

*A “desiccated” role.*⁴³⁵

221. The then Chief Inspector of Probation Justin Russell posed this question about the role of probation officer: “Is it directly to provide interventions to

423 [Q 30](#) (Gavin Dingwall)

424 See HM Prison and Probation Service, *The Target Operating Model for probation services in England and Wales* (February 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061047/MOJ7350_HMPPS_Probation_Reform_Programme_TOM_Accessible_English_LR.pdf [accessed 26 October 2023]

425 [Q 63](#) (Kim Thornden-Edwards)

426 [Q 123](#) (Damian Hinds MP), see also [Q 17](#) (Andrew Neilson).

427 [Q 63](#) (Chris Jennings)

428 [Q 63](#) (Kim Thornden-Edwards)

429 [Q 63](#) (Chris Jennings)

430 [Q 26](#) (Phil Bowen)

431 *Ibid.*

432 Written evidence from the Ministry of Justice ([JCS0013](#))

433 [Q 123](#) (Damian Hinds MP)

434 [Q 9](#) (Justin Russell)

435 [Q 8](#) (Justin Russell)

people on probation, or is it merely to manage the interventions and inputs of a range of other people they are referring on to”? While he acknowledged that “there are certainly things that specialist staff can do better than a generic Probation Officer”, he also thought that “if all that probation work is just about referring people on and filling in assessment forms, it is a desiccated and not particularly satisfying role”.⁴³⁶

222. Damian Hinds MP responded: “I do not want that to be how it seems to them or to anyone else.” He added that he wished “there were ways for more people to really understand the contribution that our Probation Service makes”.⁴³⁷ Chris Jennings acknowledged that “one of the challenges for our service is how a Probation Officer can be an expert in young people, female offenders, neurodiversity, drug issues and accommodation issues”, calling probation officers “superhuman”.⁴³⁸ Carrie Peters, representing a company commissioned to deliver services on behalf of the Probation Service, agreed that “you cannot provide all services as the Probation Officer”, such that “you need specialist services”.⁴³⁹

What role for court teams?

223. Questions were also raised about the performance of the court teams of the Probation Service. DeQeon, who was sentenced to a community order, told us that he felt that “Probation is the judge”.⁴⁴⁰ He had observed in court: “If Probation says, ‘Do this’, the magistrates do what Probation says”.⁴⁴¹ Ayesha, who has been through the same process, agreed: “In my opinion, the judge is only there to deliver what Probation has said.”⁴⁴²
224. In fact, “there is a lack of congruence in whether sentencers always follow the recommendations of Probation Officers” in Pre-Sentence Reports.⁴⁴³ In a sample of cases inspected by HM Inspectorate of Probation, “sentencers were more likely to give immediate custody than was recommended in the court reports” and “if sentencers gave a community-based order, it was much more likely to be a suspended sentence order” than suggested by the Probation Service.⁴⁴⁴ There is, however, “a very close congruence” between the proportion of cases in which Drug Rehabilitation Requirements were recommended and in which “a judge has gone along with them”, Justin Russell told us—probably because treatment requirements can only be imposed if the consent of the offender has been sought by the Probation Service prior to the hearing (consent being required because they are medical treatments).⁴⁴⁵

Flawed IT systems

225. IT systems are central to the work of the Probation Service and its partners, and problems associated with these systems have an impact on efficiency

436 [Q 9](#) and [Q 8](#) (Justin Russell)

437 [Q 123](#) (Damian Hinds MP)

438 [Q 76](#) (Chris Jennings)

439 [Q 98](#) (Carrie Peters)

440 [Q 80](#) (DeQeon), see also [Q 79](#) (DeQeon).

441 *Ibid.*

442 [Q 80](#) (Ayesha)

443 [Q 4](#) (Justin Russell)

444 *Ibid.*

445 [Q 4](#) (Justin Russell) and Sentencing Act 2020, [schedule 9](#), para 20.

and staff morale. As Damian Hinds MP put it, “better and faster services save practitioners time, and ultimately help them make better decisions.”⁴⁴⁶

Box 8: The specialised IT systems used in Probation casework

HMPPS told us about the eight specialised IT systems used in Probation casework. Three of them are of particular interest to this inquiry and were mentioned by other witnesses:

- The National Delius (nDelius), which “records details including relevant sentences and personal information of persons of interest to the Probation Service and the interactions Probation has with them”, such as who is supervising them and information on appointments and their outcomes.
- The Offender Assessment System (OASys), which “provides evidence-based assessment of the risks posed by offenders and the needs associated with their offending behaviour” and includes a “Risk of Serious Recidivism tool” underpinned by machine learning.
- The Workload Measurement Tool, which “shows how much work is assigned to all Offender Management Staff (Probation Officers and Probation Service Officers) in the Probation Service.”⁴⁴⁷

Another IT system, not mentioned by HMPPS, was mentioned by other witnesses: Refer and Monitor, a platform used by the Probation Service to communicate about individual cases with its partners delivering commissioned services.⁴⁴⁸

226. We heard that “there are eight specialised IT systems used in Probation casework” (see Box 8).⁴⁴⁹ Senior leaders of the Service recognised longstanding criticisms of IT systems, with many problems identified in a 2016 report by the National Audit Office.⁴⁵⁰ Kim Thornden-Edwards explained that “there was lots of double keying and lots of systems that did not talk to each other”, meaning that “it was very frustrating for practitioners who actually want to spend time with their people on probation, doing face-to-face engagement and spending less time sat behind their computer.”⁴⁵¹ Chris Jennings acknowledged that “we are still definitely hamstrung by some of the legacy systems”.⁴⁵² He spoke of ongoing issues with OASys, the risk management tool:

“It is out of date, and probation practitioners regularly feed back that it takes too long and is not efficient. It does not enable them to spend their time supervising offenders, which is what they want to do, because they are stuck with that old system.”⁴⁵³

446 Letter from Rt. Hon Damian MP, Minister of State for Justice to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

447 Written evidence from HM Prison and Probation Service (JCS0045)

448 See, for instance, Q 99 (Carrie Peters) and letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

449 Written evidence from HM Prison and Probation Service (JCS0045)

450 Q 69 (Kim Thornden-Edwards) and NAO, *Transforming Rehabilitation* (Session 2015–2016, HC 951) (28 April 2016): <https://www.nao.org.uk/wp-content/uploads/2016/04/Transforming-rehabilitation.pdf> [accessed 18 September 2023]

451 Q 69 (Kim Thornden-Edwards)

452 Q 69 (Chris Jennings)

453 *Ibid.*

227. Chris Jennings nevertheless said there had been “vast improvements” in recent years.⁴⁵⁴ Kim Thornden-Edwards argued that “there has certainly been a significant improvement since 2016”. She said there was “better integration” across systems and that the Probation Service now had “full control” over the IT systems it uses, and mentioned that HMPPS “have certainly looked to create much more automation” to save time.⁴⁵⁵ Damian Hinds MP told us about a “new ‘Allocate a Person on Probation’ pilot” that had “shown promising results, significantly reducing the time to allocate a Probation Officer to a person on probation.”⁴⁵⁶ Chris Jennings also told us that there are innovative IT systems being piloted in Wales.⁴⁵⁷ HMPPS told us that they “participated in hackathons”, which are “used alongside a multidisciplinary and user-centric approach to test assumptions and prove value early, thereby reducing the risk of making improvements that do not meet the needs of users.”⁴⁵⁸
228. Looking forward, Damian Hinds MP told us that “OASys will be replaced as part of the Assess Risks, Needs and Strengths (ARNS) Programme”, which he described as a “quicker, dynamic assessment that will drive improved sentence and risk management planning” that would result in “a reduction in the time spent on current assessment tools that can be utilised for higher impact activities and interventions”. The new system, he said, “will reduce the dependency on OASys over the next three years and will eventually lead to it being decommissioned.” He also told us about improvements to the Refer and Monitor platform that would allow HMPPS “to switch off the part of nDelius that currently handles assigning interventions to people”, as well as other aspects of that tool (see Box 8).⁴⁵⁹

“A sense of crisis”⁴⁶⁰

229. Andrew Neilson told us that “Probation literally became part of the Prison Service and has suffered for that merger and lost its identity and a lot of its confidence”, referring to a process that started in 2004 with the merger of the Probation Service and of the Prison Service into HM Prison and Probation Service (HMPPS).⁴⁶¹ Then came “the disastrous ‘Transforming Rehabilitation’ reforms that saw the service part-privatised” (see Box 4).⁴⁶² A group of academics carried out interviews with frontline probation staff one year after the unification of the Probation Service in 2021 and told us that “there was an inescapable sense of crisis all participants identified as confronting all working in probation”. This was partly due to “prevailing uncertainty as new structures are being established”. They spoke of “organisational trauma”.⁴⁶³

454 *Ibid.*

455 Q 69 (Kim Thornden-Edwards)

456 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

457 Q 69 (Chris Jennings)

458 Written evidence from HM Prison and Probation Service (JCS0045)

459 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

460 Written evidence from Dr Matthew Millings *et al* (JCS0027)

461 Q 22 (Andrew Neilson)

462 Written evidence from the Howard League for Penal Reform (JCS0012)

463 Written evidence from Dr Matthew Millings *et al* (JCS0027)

230. The Probation Service is currently undergoing some further reorganisation. “We are looking to create a new structure to move into a new era of probation and prison delivery, and we term this ‘One HMPPS’”, Kim Thornden-Edwards told us. She explained that the reorganisation of the headquarters was “about making sure that we balance resources so that we have all the right resources and capacity at the front line”. It involves having “two directors-general” (the second-most senior grade of the civil service) who both “have a role across the whole agency” and can, therefore, ensure “greater alignment” between prisons and probation.⁴⁶⁴ HMPPS wrote that “this will drive improved relationships between these two delivery arms of our agency, leading to greater understanding, closer working and innovation that will ultimately benefit people in prison and on probation, protect the public and reduce reoffending”.⁴⁶⁵ Kim Thornden-Edwards cited further advantages to the new approach, including “being able to ensure the requisite join-up and linkages to maximise our ability to effectively supervise, exchange information and manage risks across our prison and release population.”⁴⁶⁶
231. Justin Russell criticised this new approach as he “raised concerns that there is no longer a specific Director-General for probation now” and identified “a danger, particularly at a time when there is a prison places crisis that is occupying a lot of headspace in the department, that you lose the necessary focus on probation improvement”.⁴⁶⁷
232. HMPPS responded that “encouraging collaboration and strategic cohesion within the same organisation does not equate to attempting to create a homogenous culture that ignores different histories and operational environments”.⁴⁶⁸ Chris Jennings, whose portfolio in Wales already cuts across prisons and probation, told us that the new approach “does not dilute my attention away from any particular cohort” and that “I care equally about anyone who is in our system”.⁴⁶⁹ Chief Probation Officer Kim Thornden-Edwards also responded to these concerns. She explained:
- “One of the concerns that has been raised about the structure ... relates to probation influence and probation voice, and whether the new structure actually dilutes that. As the Chief Probation Officer, I have a significant role, and I am built in structurally to ensure that my influence and my voice is at all the tables at the highest levels of decision-making in HMPPS ... We think that we have actually amplified the voice of probation in the new system because there are more senior leaders now who have responsibility for probation, and that that voice will be well and truly influential in the way we move forward.”⁴⁷⁰
233. Pavan Dhaliwal thought that the Probation Service needed time to “find its feet again” after various reorganisations.⁴⁷¹ Kim Thornden-Edwards told us that “we have had a lot of change in the Probation Service and I want us to have the time to embed, to consolidate and to move forward with real practice expertise and improvement”. She referred to the Probation Service as an

464 [Q 64](#) (Kim Thornden-Edwards)

465 Written evidence from HM Prison and Probation Service ([JCS0045](#))

466 [Q 64](#) (Kim Thornden-Edwards)

467 [Q 15](#) (Justin Russell)

468 Written evidence from HM Prison and Probation Service ([JCS0045](#))

469 [Q 64](#) (Chris Jennings) and written evidence from HM Prison and Probation Service ([JCS0045](#)).

470 [Q 64](#) (Kim Thornden-Edwards)

471 [Q 89](#) (Pavan Dhaliwal)

“organisation that still feels quite young and quite new” and cited “a high proportion of relatively inexperienced staff” as a reason for her preference for stability.⁴⁷² Dr Cracknell also said that the Probation Service would need “a period of stability as it adjusts to reformation.”⁴⁷³

234. **The Probation Service is going through an identity crisis. The role of a probation officer has changed in recent years—the increased focus on public protection distracts the attention of probation staff away from least-serious offenders. Moreover, the expectation that they refer offenders to services provided by others, and the quantity of administrative tasks they are expected to perform, often on flawed IT systems, transforms their mission into an unfulfilling job and means that they have reduced capacity to support low-level offenders on community sentences.**
235. **The Probation Service’s court teams are highly regarded by sentencers, but there are concerns about how their role is perceived by offenders. Due in part to the regularity with which sentencers accept the recommendations in the PSR, court teams themselves are sometimes seen by offenders as sentencing or even as prosecuting, which can undermine the trust of offenders in the Probation Service and lead to proceedings being perceived as unfair. Sentencers might consider being more explicit in the way they take ownership of their sentencing decisions when it aligns with a recommendation made by the Probation Service. Demonstrating that sentences are determined by the judiciary alone could reduce misconceptions.**
236. **Our impression throughout our inquiry was that Government and senior management seems to have lost sight of low-level offenders and to be preoccupied with the size of the prison population and post-release supervision, perhaps because of recent institutional reorganisations. Supervising low-level offenders on community sentences is central to the mission of the Probation Service.**
237. *The Probation Service should not undergo any further large-scale restructuring in the coming few years, to allow time for recent reorganisations to settle down, for more staff to be recruited, and for new recruits to gain experience, enabling them to supervise further recruits.*
238. *HMPPS should continue investing in its IT systems, such that Probation staff can dedicate more time to people on probation (see also section starting at paragraph 166 on “making the most out of partnerships” on the partners of the Probation Service being able to access IT systems).*

Pre-Sentence Reports

239. A Pre-Sentence Report (PSR) is a report requested by the Judiciary (at their discretion) and produced by the Probation Service, typically after a guilty plea or guilty verdict but prior to a sentence being served. Its purpose is to assist the court “by providing an expert assessment of the nature and causes of the offender’s behaviour, the risk they pose and to whom, as well

472 [Q 78](#) (Kim Thornden-Edwards)

473 Written evidence from Dr Matthew Cracknell ([JCS0014](#))

as an independent recommendation of the option(s) available to the court when making a sentencing determination for the offender”. For some requirements, “the court can only impose them based on an assessment of suitability by those responsible for supervising compliance and/or delivery of those requirements.”⁴⁷⁴ PSRs are necessary for offenders with multiple or complex requirements. They are prepared using “a digital tool called the Effective Proposal Framework”, which “draws on regularly updated information provided by regions and HMPPS headquarter teams to shortlist every requirement, licence condition or intervention that is available in the area and which the person on probation meets the eligibility criteria for, based on the nature of the offending and the individual’s risk and need profile”.⁴⁷⁵

240. There are two types of Pre-Sentence Report. “Standard PSRs” usually require Courts to adjourn for three weeks, giving the Probation Service time to engage with the individual offender and seek advice from health providers, social services, and the police.⁴⁷⁶ NAPO told us that standard PSRs are “much more detailed” and “provide sentencers with all the information they may need to pass sentence and highlight any discrimination or other underlying factors to offending behaviour in a way that short format reports simply cannot”.⁴⁷⁷ The second type enables sentencers to request a “fast delivery PSR”, produced on the day of a hearing, either orally or in writing.
241. Dr Cracknell argued that PSRs “can play an important role in promoting the use of community sentences”.⁴⁷⁸ One Small Thing and the Prison Reform Trust both mentioned that “the Centre for Justice Innovation has found that courts are over 10 times more likely to impose a community sentence if a pre-sentence report (PSR) is conducted”.⁴⁷⁹ The Centre itself notes that the relationship between PSRs and the decline in the use of community sentences, while clearly significant, is not necessarily a causal relationship.⁴⁸⁰
242. The PSR stage also provides an opportunity for the offender to consent to treatment. Community Sentence Treatment Requirements (CSTRs, see section starting at paragraph 71 on “scaling up the use of treatment requirements”) “can only be imposed by the court if it is satisfied that the offender has consented to the treatment” and “a treatment requirement should only be recommended to a court if the offender has consented”.⁴⁸¹ While courts may impose a Mental Health Treatment Requirement (MHTR) or an Alcohol Treatment Requirement (ATR) “by seeking the consent of the offender directly”, Drug Rehabilitation Requirements (DRRs) are also subject to “a statutory suitability condition which can only be met by probation making a recommendation to the court” in a Pre-Sentence Report.⁴⁸² This

474 Written evidence from the Ministry of Justice (JCS0013) and Sentencing Act 2020, [sections 30–33](#)

475 Letter from Rt. Hon. Damian Hinds MP, Minister of State for Justice, to Baroness Hamwee, Chair of the Justice and Home Affairs Committee (17 October 2023): <https://committees.parliament.uk/publications/41868/documents/207632/default>

476 See for instance, written evidence from HM Prison and Probation Service (JCS0045) and [Q 5](#) (Justin Russell)

477 Written evidence from NAPO (JCS0021)

478 Written evidence from Dr Matthew Cracknell (JCS0014)

479 Written evidence from the Prison Reform Trust (JCS0019) and One Small Thing (JCS0029)

480 Centre for Justice Innovation, *The changing use of Pre-Sentence Reports* (July 2018): <https://justiceinnovation.org/sites/default/files/media/documents/2019-04/cji-changing-use-psr-briefing-wip-1.pdf> [accessed 10 December 2023].

481 Written evidence from HM Prison and Probation Service (JCS0045) and Sentencing Act 2020, [Schedule 9](#), paras 17, 20 and 24

482 Written evidence from HM Prison and Probation Service (JCS0045)

led Tom Franklin to tell us that “the more probation recommendations there are for treatment requirements, the more frequent their use is likely to be.”⁴⁸³

243. One Small Thing told us that “for women, PSRs are especially vital”.⁴⁸⁴ The charity Women in Prison would like full written PSRs in respect of female offenders to include “caring responsibilities, cultural background, learning and physical disabilities, and health needs, including mental ill health and anxiety”, as well as “information on protective factors in women’s lives, such as positive relationships and employment to ensure any requirements attached to community sentences avoid conflicting and disrupting these areas”.⁴⁸⁵ Revolving Doors cited the example of a case in which “a person spoke to a probation practitioner as part of their PSR, which was the first opportunity where the person felt comfortable disclosing their experience of domestic violence to a professional”, paving the way for a sentence tailored to the person’s situation.⁴⁸⁶
244. Witnesses were concerned that the number of PSRs (both standard and fast-delivery) produced by the Probation Service has declined dramatically in recent years (see Box 9 and Figure 3).

Box 9: Statistics on Pre-Sentence Reports (PSRs)

The number of standard PSRs produced by the Probation Service fell by 92.7% between the second quarter of 2012 and the first quarter of 2023. They represented 5% of pre-sentence reports in the first quarter of 2023.

The number of written fast-delivery PSRs produced by the Probation Service fell by 8.3% between the second quarter of 2012 and the first quarter of 2023. They represented 71.4% of pre-sentence reports in the first quarter of 2023.

The number of oral fast-delivery PSRs produced by the Probation Service fell by 23.5% between the second quarter of 2012 and the first quarter of 2023. They represented 23.6% of pre-sentence reports in the first quarter of 2023.

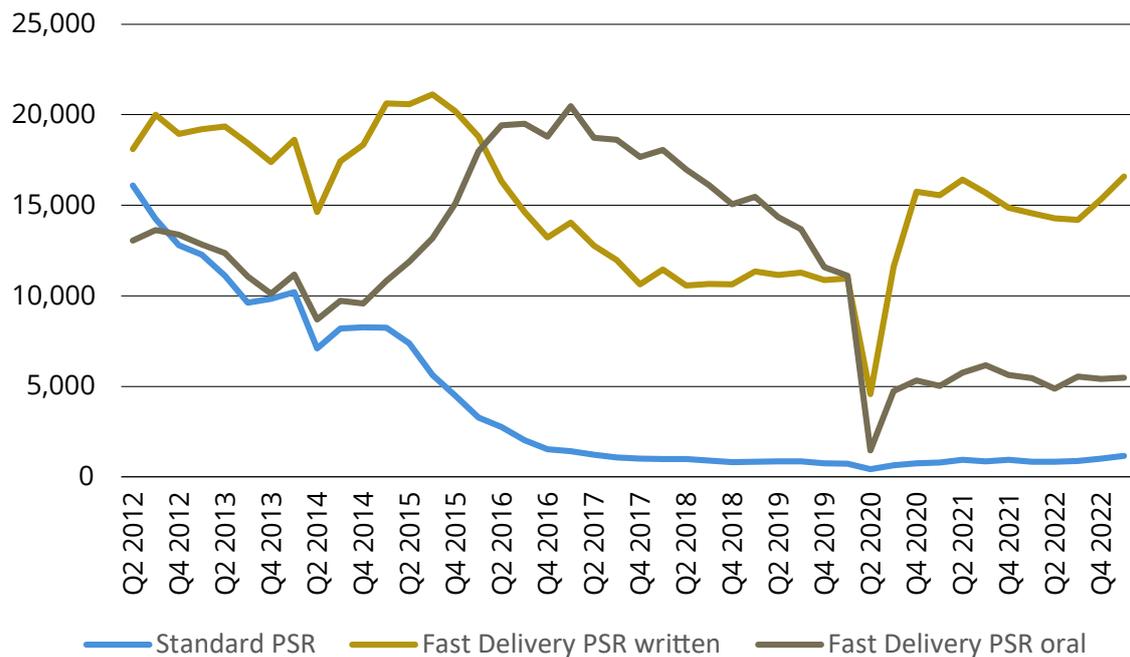
Source: Ministry of Justice, Probation tables, ‘Offender management statistics quarterly—Table 4.12 (2012–2018), Table 4.10 (2019–2022) and Table 6.10 (2023): <https://www.gov.uk/government/collections/offender-management-statistics-quarterly> [accessed 19 September 2023].

483 Written evidence from Tom Franklin (JCS0007)

484 Written evidence from One Small Thing (JCS0029)

485 Written evidence from Women in Prison (JCS0030), Prison Reform Trust (JCS0019) and One Small Thing (JCS0029)

486 Written evidence from Revolving Doors (JCS0016)

Figure 3: Pre-sentence reports

Source: Ministry of Justice, Probation tables, ‘Offender management statistics quarterly—Table 4.12 (2012–2018), Table 4.10 (2019–2022) and Table 6.10 (2023)’: <https://www.gov.uk/government/collections/offender-management-statistics-quarterly> [accessed 19 September 2023].

245. We heard that the decline in the use of pre-sentence reports may have been motivated by the need to save court time to tackle backlogs. Phil Bowen explained that HM Courts and Tribunals Service (HMCTS) “wanted to speed cases through the system, and Probation’s response to that was that it would not do as many three-week adjournments” to produce standard PSRs, because “adjournments were persona non grata”.⁴⁸⁷ Chris Jennings argued that “there will always be a bit of tension between a Bench or a judge being prepared to wait for in-depth reports when we might think it would be a good idea if they waited for them, and their eagerness to get on and progress the case to give speedy justice to victims and witnesses”.⁴⁸⁸
246. Witnesses also raised concerns about the quality of reports produced. NAPO explained that the “target of delivering the majority of court reports as same day or short format also significantly limits the amount of information given to the court regarding the case and individual.”⁴⁸⁹ Women in Prison told us that “a significant obstacle to individual circumstances being considered during sentencing is the quality of pre-sentence reports”.⁴⁹⁰ Justin Russell said that 52% of the 400 PSRs HMIP inspected since unification had been rated “insufficient”, often because inspectors “did not feel that [PSRs] were properly assessing the risks of harm presented by the person who was being sentenced”.⁴⁹¹ Tom Franklin also told us that that “there is a great deal of inconsistency” in the quality of PSRs “across the country as a whole”.⁴⁹² This may go some way to explaining why sentencers may lack, or may have lacked,

487 Q 28 (Phil Bowen)

488 Q 73 (Chris Jennings)

489 Written evidence from NAPO (JCS0021)

490 Written evidence from Women in Prison (JCS0030)

491 Q 4 (Justin Russell)

492 Q 32 (Tom Franklin)

confidence in the Probation Service (see section starting at paragraph 57 on “a matter of confidence”).

247. Our three witnesses with lived experience of the criminal justice system reported that they had “felt alienated” from the PSR process, casting doubts on the concept of PSRs being tailored to individual circumstances.⁴⁹³ Ayesha felt that her views were “not taken into account” in the preparation of her PSR: “I remember signing it and reading through it, but what was required on the pre-sentence report did not include any of my input.”⁴⁹⁴ Caroline remembered having undergone an assessment with probation and receiving the pre-sentence report, but having “no idea” of what was going to be proposed to her.⁴⁹⁵ She was “quite surprised” that no alcohol treatment requirement was recommended for her, even though “every time [she] was in trouble it was alcohol-related”.⁴⁹⁶ Had her input been sought, she “would have asked to attend regular recovery meetings and relapse prevention groups”.⁴⁹⁷ While DeQeon found that “the pre-sentence report went really well because I am a person who can ... articulate myself”, he thought that others might struggle to be heard during the PSR process.⁴⁹⁸
248. Revolving Doors argued that these experiences are representative of the wider cohort of offenders the charity is working with: “The majority of people on probation supervision that we spoke to did not understand what a PSR entailed, and did not recall having an in-depth conversation with a probation practitioner to inform a PSR.” They added that “only a couple of people we spoke to recalled having a positive experience with a PSR, and many recalled inadequate and rushed PSRs.”⁴⁹⁹ Pavan Dhaliwal elaborated further:
- “A lack of quality in pre-sentence reports is one of the biggest issues to come out of our forums when speaking to lived experience members ... We have members [of Revolving Doors] who have pre-sentence reports based upon what was happening in their lives eight or nine months prior, and not taking into account all of the steps that they will have taken in that time. The consensus view among our members is that, if the reports are done at all, they are just a tick-box exercise as opposed to being done in a meaningful, person-centred way.”⁵⁰⁰
249. We asked our three witnesses with direct experience of the PSR process whether their consent was sought before the Probation Service recommended that they were subjected to a treatment requirement (we were aware that two of our witnesses had been sentenced to a treatment requirement, and that the consent of the offender is required for treatment requirements to be available to sentencers).⁵⁰¹ Ayesha, who was subjected to a Drug Rehabilitation Requirement, told us that “there was no personal input from

493 [Q 80](#) (Ayesha)

494 *Ibid.*

495 [Q 80](#) (Caroline)

496 [Q 86](#) (Caroline)

497 [Q 88](#) (Caroline)

498 [Q 80](#) (DeQeon)

499 Written evidence from Revolving Doors ([JCS0016](#))

500 [Q 80](#) (Pavan Dhaliwal)

501 Sentencing Act 2020, [Schedule 9](#), paras 17, 20 and 24

me for any requirement.”⁵⁰² Caroline also told us that she “did not have any input” despite being sentenced to a Mental Health Treatment Requirement.⁵⁰³

250. The Probation Service is said to be aware that the decline in the use of pre-sentence reports is causing problems. Justin Russell explained that “the Probation Service itself recognises that the pendulum has swung too far against longer-form standard reports, particularly for people who have serious and complex mental health needs or something else, when you need time to go away and work out whether there is a potential option for treating someone.”⁵⁰⁴ Phil Bowen also said that “the Probation Service reduced the number of written pre-sentence reports to a really low level, and I think it has realised that is a mistake and is trying to ramp that up.”⁵⁰⁵ When they appeared before us, Kim Thornden-Edwards and Chris Jennings did not dispute the assessment that the decline in the use of pre-sentence reports is causing problems.⁵⁰⁶
251. Having acknowledged these issues, “the Probation Service is working to increase both the volume and quality of PSRs and to target their use for cohorts where they can be of most benefit to sentencers”.⁵⁰⁷ HMPPS mentioned a pilot, run from March 2021 until March 2023, which aimed “to improve the quality of PSRs and judicial confidence in them”. HMPPS assessed that the pilot had “demonstrated that changes to ways of working can help to increase the quality and quantity of PSRs, but it also highlighted that there could be further improvements to be gained from more significant changes to probation’s approach”.⁵⁰⁸
252. Therefore, “the Probation Service is developing a ‘Pathfinder to Improved Pre-Sentence Advice’ (PIPA) project which will look to design and test new ways of working to produce quality PSRs for the Judiciary in a dedicated timeframe”.⁵⁰⁹ HMPPS explained that the pilot would launch “in Autumn 2023” in the South Central Probation Service region. Admitting that “there is confusion in the system” with “fast delivery reports, on-the-day reports, short format reports and standard reports”, Kim Thornden-Edwards told us that the aim is “to cut through all of that and create something that is clean, simple and gives the best possible advice”.⁵¹⁰ HMPPS told us that the pilot would notably involve:
- An “improved PSR assessment template” replacing the current templates for short and standard reports, and being agreed in conjunction with the Sentencing Council.⁵¹¹ These new PSRs are meant to be prepared by probation officers and “in advance of first hearing where possible”, to avoid the matter being adjourned.⁵¹² Chris Jennings was supportive of spending “a bit more time up front” assessing individual situations

502 [Q 79](#) (Ayesha)

503 [Q 79](#) (Caroline)

504 [Q 5](#) (Justin Russell)

505 [Q 22](#) (Phil Bowen)

506 [QQ 73–74](#) (Kim Thornden-Edwards and Chris Jennings)

507 Written evidence from HM Prison and Probation Service ([JCS0045](#))

508 *Ibid.*

509 *Ibid.*

510 [Q 74](#) (Kim Thornden-Edwards)

511 Written evidence from HM Prison and Probation Service ([JCS0045](#)) and [Q 45](#) (Lord Justice William Davis)

512 Written evidence from HM Prison and Probation Service ([JCS0045](#)). It seems the Probation Service would need to be satisfied that the defendant will be pleading guilty to avoid preparing Pre-Sentence Reports that would not be used.

because “everything that follows thereafter might be better and we have a better chance of reducing reoffending if we can get the right order”.⁵¹³

- An “Effective Proposal Framework (EPF) digital tool, which supports probation staff to identify appropriate requirements and interventions”. The tool “will shortlist treatment requirements including Drug Rehabilitation Requirements and Alcohol Treatment Requirements when eligible”, leaving it to the probation officer authoring the report to assess suitability.⁵¹⁴
- A “concise ‘Verification’ report (VR), prepared by a Probation Support Officer, providing factual information on-the-day” designed “to support swift sentencing for offenders with low rehabilitative needs who would be suitable for a purely punitive sentence.”⁵¹⁵
- And “the introduction of a two-week optimal delivery period for the completion of adjourned PSRs” to “align delivery times with HMCTS timelines and demonstrate that shorter and set delivery periods for PSRs will facilitate more effective case progression.”⁵¹⁶

253. Speaking on behalf of the Magistrates’ Association, Tom Franklin told us that “across the board, we think there needs to be a greater consistency in the quality of the reports.”⁵¹⁷ Chris Jennings responded that the Probation Service has “already provided a lot of guidance and advice to Probation Officers on what a good-quality pre-sentence report looks like” and that “to a certain extent, it is quite hard to imagine that there will not be some inconsistencies, on the basis that they are individual reports about individual people.” Referring to recent recruitment campaigns (see section starting at paragraph 199 on “staffing issues”), he also argued that “the increased resource will absolutely help” with ensuring greater consistency in the production of PSRs.⁵¹⁸

254. Witnesses shared various thoughts about what could be done to improve PSRs. Tom Franklin asked for evidence-based PSRs as he explained that “if everything in the court report could be backed up by data and information about the effectiveness of these approaches, that would give magistrates the confidence to know that, for this type of offender, this is the sort of success rate that happens with this sort of intervention.”⁵¹⁹ Chris Jennings also offered to consider whether the question “would you recommend a treatment pathway?” could be built into PSR templates.⁵²⁰

255. Pre-Sentence Reports (PSRs) are an essential part of the sentencing process. They allow courts to tailor sentences to individual circumstances and give sentencers confidence that specific requirements are suitable and available in their area (see paragraph 67).

513 [Q 73](#) (Chris Jennings)

514 Written evidence from HM Prison and Probation Service ([JCS0045](#))

515 *Ibid.*

516 *Ibid.*

517 [Q 33](#) (Tom Franklin)

518 [Q 73](#) (Chris Jennings)

519 [Q 37](#) (Tom Franklin)

520 [Q 70](#) (Chris Jennings)

256. **The number of PSRs prepared by the Probation Service, and the quality of these PSRs, have been declining dramatically in recent years. This is the outcome of an effort to save court time but comes at the expense of the quality of sentencing. It also means that offenders are unable to give consent in an informed and systematic way to treatment requirements for which consent is necessary.**
257. *We support ongoing efforts that should result in more PSRs being prepared, of a higher standard, avoiding wasting court time. New PSR templates should include a prompt for probation officers to consider whether a treatment requirement would be appropriate, to encourage increased use of such requirements.*
258. *The Probation Service, offenders, and their representatives should be given more opportunity to request Pre-Sentence Reports. Pre-Sentence Reports should be conducted in a way that makes offenders feel that they are being heard.*
259. *The imposition of rehabilitative requirements should be guided by the individual circumstances of the case so as to ensure maximum efficiency of sentences. PSRs should provide the opportunity for rehabilitative needs to be assessed and for consent to be sought, in an informed and systematic way.*

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Beith
 Lord Blunkett
 Baroness Chakrabarti
 Lord Filkin
 Baroness Hamwee
 Baroness Henig
 Baroness Meacher
 Lord McInnes of Kilwinning
 Baroness Prashar
 Baroness Sanderson of Welton
 Lord Sandhurst
 Baroness Shackleton of Belgravia

Declarations of Interest

Lord Beith
No relevant interests to declare

Lord Blunkett
No relevant interests to declare

Baroness Chakrabarti
Council Member of both Justice and the Howard League for Penal Reform.

Lord Filkin
Former Ministry of Justice minister and step-daughter works in offender management in the Department.

Baroness Hamwee
Supporter of Howard League for Penal Reform

Baroness Henig
No relevant interests to declare

Baroness Meacher
No relevant interests to declare

Lord McInnes of Kilwinning
No relevant interests to declare

Baroness Prashar
Member of Penal Reform APPG
Former Chair of Parole Board (1997–2000)
Patron Peer Power

Baroness Sanderson of Welton
Conducted an independent review of public libraries for DCMS (completed July 2023) which recommended the DCMS library team explored the possibility of including libraries on the unpaid work list (with HMP Probation Services and the Ministry of Justice)

Lord Sandhurst
Former Recorder of the Crown Court and a supporter of the Howard League for Penal Reform.

Baroness Shackleton of Belgravia
Practising solicitor

Specialist Adviser

Dr Gemma Birkett

*Senior Lecturer in Criminology, Department of Sociology and Criminology,
at City, University of London.*

*Chair of the Women, Crime and Criminal Justice Network of the British
Society of Criminology.*

Sits on the Executive Board of the British Society of Criminology.

Member of the Howard League for Penal Reform.

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/7425/community-sentences/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the committee is listed below in chronological order of oral evidence session, and then in alphabetical order. Those witnesses marked with ** gave both oral evidence and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

**	Justin Russell, Chief Inspector of Probation, HM Inspectorate of Probation	QQ 1–16
*	Phil Bowen, Director, Centre for Justice Innovation	QQ 17–30
*	Gavin Dingwall, Senior Research Fellow, The Sentencing Academy	QQ 17–30
*	Andrew Neilson, Campaigns Director, Howard League for Penal Reform	QQ 17–30
**	Tom Franklin, Chief Executive, The Magistrates' Association	QQ 31–41
**	Lord Justice William Davis, Chair, The Sentencing Council	QQ 42–51
**	Courtney Bryan, Executive Director, Center for Justice Innovation	QQ 52–62
**	Dr Hannah Graham, Senior Lecturer in Criminology, University of Stirling	QQ 52–62
**	Dr Eoin Guilfoyle, Lecturer in Criminal Law and Criminal Justice, Brunel University London	QQ 52–62
*	Chris Jennings, Executive Director Wales, HM Prison and Probation Service	QQ 63–78
*	Kim Thornden-Edwards, Chief Probation Officer for England and Wales, HM Prison and Probation Service	QQ 63–78
*	Pavan Dhaliwal, CEO, Revolving Doors	QQ 79–89
*	Ayesha, Representative, Revolving Doors	QQ 79–89
*	Caroline, Representative, Revolving Doors	QQ 79–89
*	DeQeon, Representative, Revolving Doors	QQ 79–89
*	Carrie Peters, Director of Justice Services, Ingeus	QQ 90–103
*	Rebecca Robson, Senior Officer, Women's Community Matters	QQ 90–103
*	Niki Scordi, CEO, Advance Charity	QQ 90–103

- ** Dr Juste Abramovaite, Research Fellow, Institute for Global Innovation, Birmingham University [QQ 104–116](#)
- ** Jenny George, Director Justice Value for Money Studies, National Audit Office. [QQ 104–116](#)
- ** Rt. Hon. Damian Hinds MP (Minister of State for Prisons, Parole and Probation at Ministry of Justice) [QQ 117–131](#)

Alphabetical list of witnesses

- ** Dr Juste Abramovaite, Research Fellow, Institute for Global Innovation, Birmingham University [JCS0046](#)
([QQ 104–106](#))
- Dr Harry Annison, Associate Professor, University of Southampton [JCS0027](#)
- Association of Police and Crime Commissioners [JCS0020](#)
- * Ayesha, Representative, Revolving Doors ([QQ 79–89](#))
- Miss Joanna Binley, Research Assistant, The University of Northampton [JCS0010](#)
- Birth Companions [JCS0008](#)
- * Phil Bowen, Director, Centre for Justice Innovation ([QQ 17–30](#))
- Professor Charlie Brooker, Department of Law and Criminology, Royal Holloway University of London [JCS0001](#)
- ** Courtney Bryan, Executive Director, Center for Justice Innovation ([QQ 52–62](#)) [JCS0003](#)
- UKABIF ABI Justice Network, Formerly Criminal Justice Acquired Brain Injury Interest Group [JCS0036](#)
- Professor Lawrence Burke, Professor of Criminal Justice, Liverpool John Moores University [JCS0027](#)
- Mrs Nichola Cadet, Senior Lecturer in Criminology, Sheffield Hallam University [JCS0025](#)
- Mrs Kathryn Cahalin, Researcher, The University of Northampton [JCS0010](#)
- Professor Matthew Callender, Director of the Institute for Public Safety, Crime and Justice, The University of Northampton [JCS0010](#)
- * Caroline, Representative, Revolving Doors ([QQ 79–89](#))
- Professor Nicola Carr, Professor of Criminology, University of Nottingham [JCS0027](#)
- Dr Matthew Cracknell, Senior lecturer, Middlesex University [JCS0014](#)
- Criminal Justice Alliance [JCS0022](#)

**	Lord Justice William Davis, Chair, the Sentencing Council (QQ 42–51)	JCS0011
*	DeQeon, Representative, Revolving Doors (QQ 79–89)	
*	Pavan Dhaliwal, CEO Revolving Doors (QQ 79–89)	
*	Gavin Dingwall, Senior Research Fellow, The Sentencing Academy (QQ 17–30)	
	Paul Doran, Retired, Private Individual	JCS0035
	Mr Andrew Fowler, Senior Lecturer in Criminal Justice, Sheffield Hallam University	JCS0025
**	Tom Franklin, Chief Executive, Magistrates' Association (QQ 31–41)	JCS0007
**	Jenny George, Director Justice Value for Money Studies, National Audit Office (QQ 104–106)	JCS0042
	Dr Jay Gormley, ECR Fellow in Criminal Law and Evidence, University of Glasgow	JCS0028
**	Dr Hannah Graham, Senior Lecturer in Criminology, University of Stirling (QQ 52–62)	JCS0006
	Greater Manchester Combined Authority	JCS0044
**	Dr Eoin Guilfoyle, Lecturer in Criminal Law and Criminal Justice, Brunel University London (QQ 52–62)	JCS0004
	Professor Melissa Hamilton, Professor of Law & Criminal Justice, University of Surrey	JCS0028
	Hertfordshire Constabulary	JCS0031
**	Rt. Hon. Damian Hinds MP (Minister of State for Prisons, Parole and Probation at Ministry of Justice) (QQ 117–131)	
	HM Inspectorate of Prisons	JCS0018
	HM Prison and Probation Service	JCS0045
		JCS0047
	Independent Advisory Panel on Deaths in Custody	JCS0040
	Integrated Offender Management Team	JCS0041
*	Chris Jennings, Executive Director Wales, HM Prison and Probation Service (QQ 63–78)	
	Dr Louise Kennefick, Senior Lecturer in Criminal Law, University of Glasgow	JCS0028
	Dr Kyriakos N. Kotsoglou, Associate Professor, Northumbria University	JCS0005
	Dr Carly Lightowlers, Senior Lecturer Criminology, University of Liverpool	JCS0017

	Dr Matthew Millings, Reader in Criminal Justice, Liverpool John Moores University	JCS0027
	Ministry of Justice	JCS0013
	Napo: Trade Union and Professional Association for Probation and Family Court Staff	JCS0021
	National Audit Office	JCS0039
*	Andrew Neilson, Campaigns Director, Howard League for Penal Reform (QQ 17–30)	JCS0012
	NHS England’s Mental Health Treatment Requirement (MHTR) Service	JCS0037
	One Small Thing	JCS0029
	Dr Marion Oswald, Associate Professor, Northumbria University	JCS0005
*	Carrie Peters, Director of Justice Services, Ingeus (QQ 90–103)	
	Dr Jake Phillips, Reader in Criminology, Sheffield Hallam University	JCS0025
	Prison Reform Trust	JCS0019
	Probation Board for Northern Ireland	JCS0043
	Probation Institute	JCS0015
	Revolving Doors	JCS0016
	Ms Laura Riley, Senior Lecturer in Criminal Justice, Sheffield Hallam University	JCS0025
	Professor Gwen Robinson, Professor of Criminal Justice, University of Sheffield	JCS0027
*	Rebecca Robson, Senior Officer, Women’s Community Matters (QQ 90–103)	
**	Justin Russell, Chief Inspector of Probation, HM Inspectorate of Probation (QQ 1–16)	JCS0034
	Miss Greta Sanna, Research Assistant, The University of Northampton	JCS0010
*	Niki Scordi, CEO, Advance Charity (QQ 90–103)	
	Scottish Sentencing Council	JCS0009
	Dr Coral Sirdifield, Senior Research Associate, University of Lincoln	JCS0001
	Elly Surrridge, Research Assistant, Liverpool John Moores University	JCS0027
*	Kim Thornden-Edwards, Chief Probation Officer for England and Wales, HM Prison and Probation Service (QQ 63–78)	
	Together Women	JCS0033

Transform Justice	<u>JCS0002</u>
Transition to Adulthood Alliance	<u>JCS0032</u>
User Voice	<u>JCS0038</u>
Women in Prison	<u>JCS0030</u>

APPENDIX 3: CALL FOR EVIDENCE

The Justice and Home Affairs Committee is conducting an inquiry into community sentences. When Courts issue a “community order”, they set out one or more requirements imposed on an adult offender, who will serve their sentence in the community. The requirements are activities selected from a statutory list of 16 options. Most community sentences must entail a punitive and a rehabilitative component.

The Committee is considering practical aspects related to the use and delivery of community sentences. It is interested to assess trends in their use (downwards or otherwise) and to identify both barriers to their use and best practices in their delivery. It seeks to understand the range of activities available across England and Wales and to assess the extent and impact of local disparities in the availability of such activities.

The Committee is intending to focus on community orders specifically. While it acknowledges that considerations related to restorative justice and to other sentences spent in the community—such as suspended custodial sentences or being released on parole—may occasionally be of relevance, the Committee would like to concentrate on community orders.

The Committee is interested to hear about the experiences and opinions of the various actors of the criminal justice system encountering community sentences. This includes, among others, offenders, ex-offenders, victims, sentencers, probation officers, and private or third-sector organisations involved in the delivery of community sentences.

You should be careful not to comment on individual cases currently before a court of law or matters in respect of which court proceedings are imminent. We cannot publish submissions that mention ongoing legal cases due to Parliament’s sub judice rule—contact us before making a submission if you are not sure what this means for you.

Questions

The Committee welcomes views on the following questions. Respondents are invited to answer the question(s) of their choice. Respondents are equally welcome to flag the importance of other issues relevant to the inquiry that are not covered in these questions.

These questions predominantly relate to England and Wales. The Committee, however, is interested in comparisons with Scotland and Northern Ireland, as well as in international comparisons, and welcomes evidence on community sentences (or equivalents thereto) in those jurisdictions that could inform the Committee’s consideration of policies for England and Wales.

Historical trends

1. How have the numbers of community orders handed down to offenders evolved over time? Why, and with what consequences?
2. How has the volume of offenders supervised by the Probation Service in relation to a community order evolved over time? How does this relate to the evolution of the number of community orders handed down to offenders? How has this impacted on the supervision of sentences?

3. What are the attitudes of sentencers towards community sentences? How have these attitudes evolved over time and what shapes them?

Delivery of community sentences

4. What are the main obstacles to the effective delivery of community sentences? What are the best practices for the delivery of community sentences?
5. How effective is cooperation between the Probation Service, on one hand, and the NHS and private or third-sector organisations, on the other? How successful are they at meeting the demand for all 16 requirements?
6. What practical activities are available as community sentences? Are there any disparities in the availability of activities across England and Wales and, if so, why? We welcome local insights and reviews of activities on offer in various areas.
7. Taking into account their respective impact on reoffending behaviour, which of community sentences and short-term custodial sentences is more cost-effective? Please explain.

Impact on the community

8. How effective are community sentences at reducing recidivism? Which of the 16 requirements, if any, are effective? Why?
9. Community sentences entail a punitive and a rehabilitative component. How do offenders experience these two components? Do different cohorts of offenders, such as female offenders, experience them differently?
10. What are the attitudes of the public, in general, and victims, in particular, towards community sentences?