House of Commons

Justice Committee

Justice Committee: unfinished business from the 2015 Parliament

Fifteenth Report of Session 2016–17

Report, together with formal minutes relating to the report

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Justice Committee

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

Current membership

Robert Neill MP *(Conservative, Bromley and Chislehurst) (Chair)*

Richard Arkless MP *(Scottish National Party, Dumfries and Galloway)*

Alex Chalk MP *(Conservative, Cheltenham)*

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John Howell MP *(Conservative, Henley)*

Victoria Prentis MP *(Conservative, Banbury)*

Jo Stevens MP (*Labour, Cardiff Central*)

Keith Vaz MP (*Labour, Leicester East*)

The following Members were also members of the Committee during the Parliament:

Richard Burgon MP (*Labour, Leeds East*), Sue Hayman MP (*Labour, Workington*), Dr Rupa Huq MP (*Labour, Ealing Central and Acton*), Andy McDonald MP (*Labour, Middlesbrough*), Christina Rees MP (*Labour, Neath*), Marie Rimmer MP (*Labour, St Helens South and Whiston*), and Nick Thomas-Symonds MP (*Labour, Torfaen*).

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

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

Committee staff

The current staff of the Committee are Nick Walker (Clerk), Gavin O'Leary (Second Clerk), Gemma Buckland (Senior Committee Specialist), Nony Ardill (Legal Specialist), Elise Uberoi (Committee Research Clerk), Christine Randall (Senior Committee Assistant), Anna Browning (Committee Assistant), and Liz Parratt (Committee Media Officer).

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1 Report

The purpose of this Report

1. The House of Commons agreed on 19 April 2017, by the requisite majority under section 2 of the Fixed-term Parliaments Act 2011, to a motion in the name of the Prime Minister that there shall be an early parliamentary general election. This will bring the 2015 Parliament to an abrupt conclusion, with dissolution taking place on 3 May to enable an election to take place on 8 June. Like other select committees, the Justice Committee is in the middle of a busy work programme, with a number of inquiries in progress at various stages. In addition there are other matters which we have been pursuing, and in some instances preparations were well under way for holding specific evidence sessions or making visits in connection with inquiries or other work. The purpose of this Report is to explain what we have done, or were planning to do, in relation to all this "unfinished business". We hope this Report is useful to all those who follow the Committee's work. We also hope it will be of assistance to the new Justice Committee which will be set up at the start of the 2017 Parliament, when it comes to consider the priorities of its work programme. We do not expect a formal response from the new Government to this Report.

2. We would like to take this opportunity to thank all those who have contributed to our work in the course of the brief Parliament just ending. Our gratitude extends to those who have provided us with formal written or oral evidence, as well as people who have met the Committee and its members informally, and engaged with us in our work by email, correspondence or through social media.

3. We annex to this Report tables containing our analysis of the recommendations which we have made in the Reports we have published during this Parliament, indicating whether they were accepted or not by the Government and, if accepted, whether they can be said to have been implemented. We hope this information will be of use to our successor Committee and to the next Government in their work.

Brexit

4. We recently conducted two short inquiries into the consequences of Brexit. Our Report *Implications of Brexit for the justice system* evaluated these, and options for future engagement with the EU, on matters of criminal justice, commercial and family law and the legal services sector.[1] Our other Report *Implications of Brexit for the Crown Dependencies* considered the ramifications of Brexit for Jersey, Guernsey and the Isle of Man (all of whose relationship with the UK is managed by the Ministry of Justice) and the mechanisms for representing their interests throughout the process.[2] We published both reports before the Prime Minister formally notified the President of the European Council of the UK's intention to leave the EU under Article 50 of the Treaty on European Union in late March.

5. We expect Government responses to both our Reports to be made early in the new Parliament. With Article 50 having been triggered, the Brexit process will have great

1 Justice Committee, Ninth Report of Session 2016–17, *Implications of Brexit for the justice system*, HC 750
2 Justice Committee, Tenth Report of Session 2016–17, *Implications of Brexit for the Crown Dependencies*, HC 752

significance in the coming years regardless of the complexion of the next Government: its implications for the justice system and the Crown Dependencies are worthy of continuing and active scrutiny by our successor Committee.

Prison reform

6. The Government announced a range of legislative and non-legislative reforms to prisons in the Queen's Speech of 18 May 2016, describing these as "the biggest shake-up of the prisons system since the Victorian era".[3] Governors would be given "unprecedented freedom", and "old and inefficient prisons" were to be closed and new ones built.[4] Elements of the reforms were first introduced in six 'reform prisons', established in July 2016; their governors were given extensive powers to run their own prisons.[5] The *Prison Safety and Reform* White Paper, published in November 2016, described the reform prisons as "trailblazers" and set out the Government's plans to give governors of private and public sector prisons in England and Wales more powers and to emphasise rehabilitation in prisons.[6] The Prisons and Courts Bill, introduced to the House of Commons on 23 February 2017, included provision to "reform and rehabilitate offenders" as part of a new statutory purpose for prisons.[7]

7. We announced a wide-ranging inquiry into prison reform in July 2016 to scrutinise and influence this reform programme as it was being developed and implemented. As part of this major inquiry, we aimed to scrutinise specific aspects of the reform programme through several focused 'sub-inquiries'. Our report on our first sub-inquiry into governor empowerment and prison performance was published on 7 April 2017.[8] We considered the first set of policies to take effect from April onwards, including proposals to give governors powers to design workforce strategies, manage budgets, and commission education services, and proposals to change how prison performance is measured and managed.[9] We supported the principle of governor empowerment in principle, but concluded that the Government had not provided enough information about the practical implications of the reforms, and we tried to identify potential risks that would need to be mitigated. In a letter we received after we agreed the report, the Parliamentary Under Secretary of State for Prisons and Probation, Sam Gyimah MP, provided some additional information, for example about the use of pay supplements for staff.[10] We would expect the Ministry of Justice to provide a formal response to this Report to the next Justice Committee early in the next Parliament.

8. Our second sub-inquiry, into estate modernisation, was launched on 30 March 2017. The White Paper included plans to close old prisons and build new ones, and the Secretary of State, Rt Hon Elizabeth Truss MP, announced on 22 March that planning applications had been made for four new prisons.[11] We asked for written evidence on questions around

3 Ministry of Justice and Prime Minister's Office, 'Biggest shake-up of prison system announced as part of Queen's Speech', 18 May 2016, accessed on 19 April 2017
4 HC Deb, 18 May 2016, col 3
5 Ministry of Justice (PRF0074) para 12
6 Ministry of Justice, *Prison Safety and Reform*, Cm9350, November 2016, para 104
7 Prisons and Courts Bill, [Bill 145 (2016–17)]
8 Justice Committee, Twelfth report of Session 2016–17, *Prison reform: governor empowerment and prison performance*, HC1123. Our Chair made a statement on the floor of the House on publication of the Report: HCDeb, 20 April 2017, cols 821–5
9 Ministry of Justice, *Prison Safety and Reform*, Cm 9350, November 2016
10 Sam Gyimah MP, Letter to Bob Neill MP regarding prison safety and reform, 28 March 2017
11 HC Deb, 22 March 2017, col 550WS

these proposals, including on how new prisons could be built to enable them to fulfil the statutory purpose proposed for them in the Prisons and Courts Bill; the appropriateness of the Government's plans to dispose of old prisons, particularly given the heritage status of many Victorian prisons; and the Government's engagement with stakeholders. The dissolution of Parliament has interrupted this sub-inquiry, for which we had set a deadline for written submissions of 7 May. We did not therefore get the chance to consider written evidence, or to arrange oral evidence sessions. We had aimed to publish a report on this subject before the summer recess of 2017. If the next Government continues with plans to modernise the prison estate, the next Justice Committee may wish to take up this line of work in order to subject this programme and the associated costs, which are likely to be significant, to an appropriate degree of scrutiny.

9. As a first for the Justice Committee, we have produced a Report on primary legislation before the House, giving our views on Part 1 of the Prisons and Courts Bill.[12] As the basis for this Report we considered evidence we received as part of the wider prison reform inquiry, as well as written and oral evidence taken before the Public Bill Committee. Our original intention was to produce a Report to inform the House in time for the Bill's report stage in the Commons. With proceedings on the Bill terminating at dissolution, that purpose can no longer be served, but if similar legislation is introduced in the new Parliament we hope our observations will prove of use. Whether or not similar legislation is introduced, we expect the next Government to publish a response to our Report in the normal way.

10. We have also continued to engage with the Ministry on prison safety, following up on the *Prison safety* report we published in May 2016.[13] We concluded then that there was a relationship between staff reductions and the current crisis in prisons, characterised by increasing levels of violence and self-harm. We recommended that the Government should produce an action plan to address prison safety and share with us timely and detailed information on a range of safety indicators. Our efforts did result in better quality data being available, but it has remained difficult for us to properly scrutinise the effect of the Government's efforts to improve the situation because we have not received all the information we repeatedly requested.[14] We would urge the next Justice Committee to continue close scrutiny of the Government on prison safety, as this is likely to remain one of the key issues facing the Ministry of Justice.

11. We were also intending to launch further prison reform sub-inquiries into some of the topics covered by the strategies the Government announced in the White Paper, as and when these were published.[15] The next Committee could take up these topics, assuming the next Government will continue to introduce reforms to the prison system.

12. During this Parliament we have visited a number of prisons to gain a greater understanding of the challenges and opportunities of prison reform, and we had further visits in the pipeline, to HMP Coldingley, HMP Parc and HMP Berwyn. We also planned

12 Justice Committee, Fourteenth Report of Session 2016–17, *Prison reform: Part 1 of the Prisons and Courts Bill*, HC 1150

13 Justice Committee, Sixth Report of Session 2015–16, Prison safety, HC 625

14 In a letter to Robert Neill MP dated 28 February, the Parliamentary Under Secretary of State for Prisons and Probation, Sam Gyimah MP, cited data quality considerations, resource, and the sound production of statistics as reasons for not routinely publishing these indicators.

15 Ministry of Justice, *Prison Safety and Reform*, Cm 9350, November 2016

to visit the Netherlands in June, to hear about the reasons behind the significant reduction in that country's prison population in recent years, and to see how Dutch prisons promote rehabilitation.

Disclosure of youth criminal records

13. On 13 October 2016, we launched an inquiry into the system governing the disclosure of criminal records in relation to offences committed by people when under 18 years old. Written submissions were invited on the following:

- the appropriateness and effectiveness of the statutory framework applying to the disclosure to employers and others of criminal records relating to offences committed by people when under 18 years old;
- whether that framework and the way in which it is operated in practice strike an appropriate balance between protection of employers and the public, on the one hand, and the rehabilitation of people committing offences when young, on the other hand; and
- the effects in respect of the disclosure of such records of changes made in 2013 to the filtering of offences from criminal records checks and in 2014 to rehabilitation periods.[16]

In the light of our previous inquiry into young adults in the criminal justice system,[17] we also welcomed views on whether the regime governing disclosure of such criminal records should be extended to apply to records of offences committed by older people, for example up to the ages of 21 or 25.

14. The inquiry on disclosure of youth criminal records received over 40 items of written evidence, including submissions from statutory bodies, academics, NGOs and campaigns, as well as from individuals directly affected by the disclosure regime. On 13 December 2016, we held a private seminar on this issue, which heard accounts from eight individuals who explained how they had acquired criminal records when under 18, and the impact of these records on their employment prospects and other aspects of their adult lives including access to higher education. We annex the notes of this seminar to this Report.

15. In relation to this inquiry, we held a single oral evidence session which took place on 15 March 2017.[18] We took evidence from Christopher Stacey, Co-director of Unlock and Ali Wigzell, Chair, Standing Committee on Youth Justice; these witnesses were followed by Dr Phillip Lee, Parliamentary Under Secretary of State, Ministry of Justice; Sarah Newton MP, Parliamentary Under Secretary of State for Vulnerability, Safeguarding and Countering Extremism, Home Office; and Mr Christian Papaleontiou, Head of the Public Protection Unit, Home Office.

16. Should our successor Committee wish to pursue an inquiry on this topic, it would have the benefit of the evidence we have heard and received, including the notes of the private seminar held in December 2016. The anticipated judgment of the Court of Appeal

16 See inquiry page here.

17 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169

18 Oral evidence taken by the Justice Committee on 15 March 2017, HC 751

in the case of *R (P and A) v Secretary of State for Justice*, which was heard on 24 February 2017 and concerns the rule mandating disclosure of multiple offences on an enhanced check, would also be very relevant to any further work on this issue.

Personal injury/whiplash

17. In November 2016, the Ministry of Justice invited us to respond to its consultation proposals[19] for reforming the claims process for personal injury (PI), in particular for road traffic accident (RTA)-related soft tissue injuries, the majority of which involve neck pain, or 'whiplash'. On 7 February 2017, we held a one-off evidence session to inform our response, hearing from James Dalton, Director of General Insurance Policy at the Association of British Insurers and from Neil Sugarman, President of the Association of Personal Injury Lawyers (APIL).[20] Before the session, we received a written submission from APIL and both organisations provided us with further written information afterwards.[21]

18. On 23 February 2017, the Prisons and Courts Bill was introduced to Parliament; Part 5 of the Bill set out reforms to the procedure for RTA related whiplash injury claims, including the introduction of a tariff of fixed compensation for whiplash-related PSLA and a ban on the settlement of such claims without medical evidence. The Government also announced that the small claims limit would be increased via secondary legislation to £5,000 for RTA-related PI claims and to £2,000 for other PI claims.[22] On 17 March 2017, we launched a short inquiry into whiplash and the small claims limit with the aim of reporting during the passage of the Bill through Parliament; we invited submissions on the following issues:

- the definition of whiplash and the prevalence of RTA-related whiplash claims;
- whether or not fraudulent whiplash claims represent a significant problem and, if so, whether the proposed reforms would tackle this effectively;
- the provisions in Part 5 of the Bill introducing a tariff to regulate damages for RTA-related whiplash claims, with an uplift in exceptional circumstances; and banning the settlement of claims without medical evidence;
- the impact of raising the small claims limit to £5,000 for RTA-related whiplash claims, and of raising the small claims limit to £2,000 for personal injury claims more generally, taking account of the planned move towards online court procedures; and
- the role of claims management companies in respect of these matters.

19. We received nearly 80 written submissions to our inquiry, as well as having our attention drawn to a range of detailed responses to the Government's consultation that had been published elsewhere. We anticipate that this body of evidence would facilitate the task of our successor Committee should it decided to conduct an inquiry into this topic.

19 Ministry of Justice, *Reforming the Soft Tissue Injury ('whiplash') Claims Process: a consultation on arrangements concerning personal injury claims in England and Wales*, Cm 9299, November 2016

20 Oral evidence taken by the Justice Committee on 7 February 2017, HC 922

21 Accessible on our webpages here.

22 Ministry of Justice, *Part 1 of the Government Response to: Reforming the Soft Tissue Injury ('whiplash') Claims Process*, Cm 9422, February 2017

Transforming Rehabilitation

20. In 2014, the Ministry of Justice divided the probation system—responsible for supervising, rehabilitating and resettling those on community sentences and those who have been in prison—into two parts. High-risk offenders are managed by a new public body, the National Probation Service (NPS); 21 Community Rehabilitation Companies (CRCs) are responsible for low- and medium-risk offenders. In 2015, the Government extended statutory rehabilitation to those serving custodial sentences shorter than a year, and expected CRCs to provide 'Through the Gate' services which would begin the resettlement process towards the end of the custodial element of a prison sentence. The then Government claimed that the Transforming Rehabilitation programme would increase innovation (by paying providers for delivering reductions in reoffending), reduce reoffending for short-stay prisoners, and "continuous support from custody to community".[23]

21. The National Audit Office, Public Accounts Committee and HM Inspectorate of Probation identified a range of problems with the operation and funding of probation services as the reforms continued to bed in.[24] These included for example, ICT problems, the level of involvement of the voluntary and community sector in delivery chains, lower than anticipated caseloads for CRCs, the operation of the payment mechanism, capacity issues related to the scale of change, and poor quality of some service provision.

22. The Government commenced an internal review of the reforms, known as the Probation Service Review, in summer 2016. We were told by the Permanent Secretary, Richard Heaton, in October 2016 that "pretty much everything" was within scope of the Review, including commercial barriers to delivery related to the charging levels, the fee levels and the reward mechanisms within the contracts as well as the capacity of the National Probation Service to deal with a higher than anticipated caseload.[25] Mr Heaton also said that the Review could alter the way results in the payment by results element of CRCs' pay would be measured, moving from a narrow focus on reoffending to a wider view including innovation and partnership working with other public sector organisations such as housing associations. Under its prison reform plans the Government was also seeking better to align performance measures for prison governors with those of probation providers and to achieve more integrated offender management.

23. Sam Gyimah MP provided us with more detail on the activity stemming from the review in a letter of 7 March.[26] This included:

- renegotiating CRCs' contracts, to account for the lower than anticipated volumes of offenders and accordant revenues;
- reconsidering the service level targets for CRCs and the NPS, aiming to focus more on outcomes measures than on points of process—this includes redrawing the service level agreement with the NPS in addition to the CRC renegotiations above;

23 Ministry of Justice and Home Office, 'Policy paper: 2010 to 2015 government policy: reoffending and rehabilitation', May 2015, Appendix 4: Transforming rehabilitation

24 See Public Accounts Committee, 17th Report of Session 2016–17, *Transforming Rehabilitation*, HC 484, September 2016; National Audit Office, Transforming Rehabilitation, HC (2015–16) 951, April 2016; and HM Inspectorate of Probation, Transforming Rehabilitation: Early Implementation 5, May 2016

25 Oral evidence taken on 18 October 2016, HC 623

26 Sam Gyimah MP, Letter dated 7 March 2017 regarding the Transforming Rehabilitation review

- examining 'Through the Gate' services for those leaving prison, with a particular focus on accommodation and employment provision; and
- working with the Department for Health for more timely mental health treatment where it is ordered as part of a community sentence.

24. When it became clear to us that the outcome of the Review, and any resulting changes to the Transforming Rehabilitation system, were expected to be announced after April 2017, we decided to undertake some preliminary work to inform a possible decision to announce an inquiry once the Ministry's position became clear.[27] We took the approach of holding two preparatory evidence sessions in March 2017 building on discussions we had had with key stakeholders at a private informal seminar in November 2016. We heard from seven short panels of select and diverse witnesses each of whom were given broad lines of questioning examining the challenges facing the implementation of the reforms and potential solutions.[28]

25. Concerns about the operation of the probation system following the Transforming Rehabilitation restructuring are widespread and serious, and we consider that a close examination of the system should be a high priority for our successor Committee.

Other matters

26. Apart from our mainstream inquiry work, we had begun arrangements for a number of one-off evidence sessions to be held in the next six months. Our successor Committee may wish to resurrect any or all of these plans, which included:

- a one-off oral evidence session on the work of Cafcass, the Children and Family Court Advisory and Support Service;
- a one-off oral evidence session with the new Chief Coroner on his work;
- a one-off oral evidence session on the work of the Parole Board, making use of the National Audit Office's recent report *Investigation into the Parole Board*;[29] at this session we also intended to consider the specific and controversial issue of the number of prisoners serving indeterminate sentences for public protection (IPP prisoners) who are over their tariff; we have had some correspondence with the Ministry on this subject during this Parliament, which is on our webpages;[30]
- an oral evidence session with the Prisons and Probation Minister to follow up action which the Government has taken in response to our Report on the treatment of young adults in the justice system;[31]
- an oral evidence session with the Secretary of State to consider developments across the full range of her responsibilities, and to follow up steps taken to implement recommendations we have made during the Parliament accepted by the Government; and

27 HC Deb, 6 December 2016, col 110
28 Oral evidence taken by the Justice Committee on 21 March 2017 and 28 March 2017, HC 1018
29 National Audit Office, Investigation into the Parole Board, HC 1013, February 2017
30 See our publications here.
31 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017

- a valedictory oral evidence session with the Lord Chief Justice, Rt Hon Lord Thomas of Cwmgiedd, before his retirement this autumn.

27. We had requested information from the Government on delays in immigration and asylum tribunals and on their plans to produce post-legislative assessment memoranda in the period up to the end of 2018. These are also matters to which our successor Committee may wish to return.

Annex 1: Government responses to our recommendations in the 2015 Parliament

Of the 21 reports we have published in this Parliament, 8 have received Government responses (with the remaining 13 either of a type that does not typically receive a formal Government response, such as those on public appointments or Sentencing Council guidelines, or having been published more recently than two months ago). These eight reports contain 65 specific recommendations to the Government, which are arranged in tables below as 'implemented', 'accepted but not yet implemented', or 'not accepted'. We hope that making this analysis available will assist our successors, and the wider public, in understanding where the Government stands in relation to what we have asked of it.

Box 1: Government responses to our recommendations in the 2015 Parliament: methodology

1. 'Recommendations' are passages in select committee reports seeking specific action by the Government: they are typically printed in bold italics.

2. This annex includes only recommendations from reports to which the Government has responded (and therefore excludes those from reports to which the Government does not generally respond, such as those on Sentencing Council guidelines, or to which a response is awaited but has not yet been made).

3. Recommendations are here categorised as 'implemented', 'accepted but not yet implemented', or 'not accepted':

- A recommendation is interpreted as 'implemented' if the Government has taken the action specified, or at least most of it.
- A recommendation is interpreted as 'accepted but not yet implemented' if the Government has made explicit its acceptance of it, or committed to take the action specified (or at least most of it), either in its response to the report or in other correspondence with the Committee, but is yet to take that action.
- A recommendation is interpreted as 'not accepted' if the Government has not made explicit its acceptance of it, or committed to take the action specified (or at least most of it), either in its response to the report or in other correspondence with the Committee.

Table 1: Recommendations implemented

Report	Recommendation	Notes
Criminal courts charge	We would not mourn the early abolition of the criminal courts charge and we recommend that legislation to effect that repeal should be brought forward. Pending any such repeal a similar effect could be achieved by the Lord Chancellor replacing the Prosecution of Offences Act 1985 (Criminal Courts Charge) Regulations 2015 with new regulations setting out radically reduced levels of charge applicable to each type of case. If the Government decides to abolish the charge, we consider it should report to the House on the implications of abolition for the public finances.[1]	The Government abolished the charge.[2]
	Should the Government be unwilling to present the House with proposals to abolish or radically reduce the levels of the criminal courts charge, we recommend, as an irreducible minimum, that a double discretion should be accorded to sentencers, first, to decide whether to impose a criminal courts charge and then, secondly, to decide upon the amount of the charge in accordance with the circumstances of individual cases. Such a change would resolve all the problems which have arisen with the operation of the charge, with the exception of making a dent in the revenues expected to accrue from the charge, assuming of course that those expectations are met, which appears on the evidence we have received to be extremely unlikely. Given the statutory entrenchment of the charge already referred to, it seems to us that the introduction of double discretion for sentencers will also require primary legislation to amend the provisions governing the charge in Part 2A of the Prosecution of Offences Act 1985. In the event that the Government is unwilling to contemplate abolition of the charge, we recommend that legislation to enable sentencers to exercise a double discretion in relation to the charge be brought forward urgently.[3]	
Appointment of HM Chief Inspector of Prisons and HM Chief Inspector of Probation	We recommend that within three months of taking up post Ms Stacey bring forward a strategy for the Inspectorate during the period of her tenure as Chief Inspector, and we would wish to hold an evidence session with her following production of that strategy to discuss its implementation.[4]	Dame Glenys Stacey discussed her strategy in oral evidence to us on 5 July 2016,[5] and the *HM Inspectorate of Probation Corporate Plan 2016–19* was published in August 2016.[6]
Criminal justice inspectorates	We recommend that the Ministry undertake wider consultation of stakeholders on a draft protocol.[7]	The Government accepted this in its Response; [8] this consultation has taken place.[9]

Report	Recommendation	Notes
	However we emphasise the need for a protocol to be in place well before the end of the first year of Mr Clarke's term of office. In that context we see no strong case for the development of a protocol to be delayed to await the outcome of the Cabinet Office review of arm's length bodies. We recommend that the protocol eventually put in place for HM Inspectorate of Prisons should be used as the blueprint for equivalent protocols for HM Inspectorate of Probation and the Prisons and Probation Ombudsman, which should be developed in parallel. We also recommend that the Attorney General consider the introduction of a similar protocol for HM Crown Prosecution Service Inspectorate.[10]	The protocol between HM Inspectorate of Prisons and the Ministry of Justice has been agreed (albeit later than the Committee recommended).[11] The Government's response included commitments to creating the other three protocols, using that for HM Inspectorate of Prisons as a 'guide and check point',[12] but these have not yet been established.
Prison safety	We recommend that the Ministry and NOMS together produce an action plan for improving prison safety, addressing the factors underlying the rises in violence, self-harm and suicide. The plan should include both preventative measures and punitive ones, and should provide objectives, accompanied by indices to assess the impact these are having. It should encompass action NOMS is taking with regard to recruitment and retention of prison staff, the implications of the Secretary of State's review of benchmarking, and should also address the apparent lack of observance of professional standards by some officers through the Corruption Prevention Strategy, the development of which we welcome.[13]	The Government has published a white paper, *Prison Safety and Reform*.[14]
	To assist us in examining the impact of this action plan we wish to receive quarterly reports over the remainder of this Parliament with timely data from the Ministry and NOMS, shortly after the publication of the quarterly Safety in Custody statistics, reporting on progress against the plan and including other key indicators of prison disorder not currently included in those statistics. In addition, NOMS' annual production of prison performance ratings, the next of which are not due until July 2016, do not enable us to scrutinise the performance of prisons in a timely manner. We wish to be apprised of these quarterly as part of the aforementioned report. Similarly, NOMS' workforce statistics are not presented sufficiently clearly to enable us quickly to grasp the staffing situation. Accordingly, we would like regularly to receive, in addition to the Safety in Custody statistics: Indicators of disorder: Incidents involving the National Tactical Response Group, deployment of Tornado and the opening of Gold Command Incidents per month, including the reason for the action taken in each case; Staffing: the net gain in operational staff; the number of staff vacancies against benchmark levels; the average length of service and level of training of serving and leaving prison officers; fuller indicators of turnover and retention, including reasons for dismissal or resignation; the number of prisons operating restricted regimes; and the number of staff on detached duty per month; NOMS' performance ratings: quarterly ratings of performance of individual prisons; Activity: data on the average number of hours each day prisoners spend locked in their cells at each prison.[15]	The Government has agreed to provide most of this data biannually.[16] It has done so, excepting indicators of disorder, in letters of February[17] and March[18] 2017.

Report	Recommendation	Notes
Restorative justice	We recommend that the Ministry continue to provide long-term funding for restorative justice to Police and Crime Commissioners, but this money should remain part of a wider pot of funding for victims' services to provide PCCs with the flexibility to meet local needs.[19]	The Government accepted this recommendation.[20]
	The Ministry should consider if there are tensions between the aims of the Action Plan and wider criminal justice policy, particularly in relation to any tension between provision of pre-sentence restorative justice and the requirements of Better Case Management.[21]	The Government said it "will work … to identify and address any tensions".[22]
	We recommend that it be reaffirmed that "Level One" restorative justice is not appropriate for cases of domestic abuse and the Ministry of Justice work with police forces to ensure officers have proper guidance to avoid using restorative justice in inappropriate circumstances.[23]	The Government "agrees that police use of level one restorative justice is inappropriate for offences involving intimate partner domestic abuse".[24]
The role of the magistracy	We recommend that full access to physical courts, including alternative venues, be maintained for the time being until facilities such as video links are fully operational. We also recommend that provision be made for upgrading inadequate video links and internet connections for courts with insufficient bandwidth.[25]	Though the Government has not explicitly committed to maintaining full access, it has not proposed to abrogate it. It is upgrading some communications equipment.[26]
The treatment of young adults in the criminal justice system	The current conditions in the custodial estate meant that opportunities are being missed to seek to repair the harm that young adults are likely to have experienced in their lives with the risk of hard-wiring challenging behaviours as full brain development is achieved. Imprisonment within unsafe conditions and without purpose is likely to compound their involvement in the system and at worst contribute to violence and further self-inflicted deaths. It is well-evidenced in Lord Harris's review that policies and practices to safeguard young adult prisoners are under-resourced and hence inoperable. The MoJ and NOMS should either act urgently to recruit and retain more prison officers or the Government should seek to adjust the current sentencing framework to reduce the population to manageable levels by shifting to alternative community-based means effectively to promote public safety.[27]	The Government's White Paper, *Prison Safety and Reform*, announced plans to increase the number of prison officers by 2,500 by the end of 2018,[28] and for new strategies to be designed to retain staff.[29] This fulfils the Committee's recommendation of action, though the results are pending.

Table 2: Recommendations accepted, but not yet implemented

Report	Recommendation	Notes
Courts and tribunals fees	We recommend that the Government review the impact of the April 2015 increase in fees for money claims on the international competitiveness of London as a litigation centre when sufficient time has elapsed, possibly 2 or 3 years, to enable that impact to be assessed. The Government should not resurrect its proposal to double the £10,000 cap, or remove it altogether, unless such a review has been undertaken.[30]	The Government has agreed not to increase the £10,000 cap without further assessment of the impact of fee increases,[31] which it has not yet had time to complete.

Report	Recommendation	Notes
Restorative justice	We recommend that publicly-funded bodies should be required to demonstrate compliance with standards comparable to those Restorative Services Quality Mark (RSQM). We also recommend that NOMS review its service specifications against the RSQM.[32]	The Government has agreed to consider the Committee's recommendation in respect of NOMS' (now HMPPS') service standards,[33] but has not yet announced any plans here or for other publicly-funded bodies.
	We recommend the Ministry of Justice, with the Restorative Justice Council, publish and promote clear guidance for commissioners of restorative justice services of what constitutes a successful restorative justice scheme, including measurements relating to offenders and victims such as victim satisfaction.[34]	The Government "accepts that more needs to be done in this area"[35] but has not yet published plans for appropriate action it will take.
The role of the magistracy	We note that Lord Justice Fulford is considering the possibility of additional guidance for justices' clerks on the allocation of cases in magistrates' courts, a development that we would welcome. We recommend that this take the form of an amended version of the protocol to support judicial deployment in the magistrates' court. We further recommend that consideration be given to allowing magistrates to sit without legal advisers when sitting with a District Judge.[36]	The Government has agreed to consider allowing magistrates to sit without legal advisers when sitting with a District Judge,[37] and Lord Justice Fulford is considering reviewing the Judicial Deployment Protocol in the magistrates' courts,[38] but no amended version has yet been produced.
	We recognise the efficiency gains of the Single Justice Procedure, but we note concerns have been expressed about any potential extension of the procedure to additional cases. We welcome Lord Justice Fulford's intention to issue a protocol setting out guidance for magistrates on when they should sit in open court, and recommend that these concerns be taken into account in the preparation of that protocol.[39]	Lord Justice Fulford "will seek feedback from magistrates on their experiences of the Single Justice Procedure"[40] but the protocol has not yet been published.
	We recommend that the Judicial College, in consultation with others, undertake a comprehensive review of magistrates' training needs with a view to developing a training programme that supports a modern magistracy, taking proper account of the investment of time required from those who organise and deliver training. The review should also consider the particular training needs of magistrates who put themselves forward for specialist roles in the Youth and Family Courts, as bench Chairs and to sit as panel chairs.[41]	The Judicial College "will review the induction course for magistrates"[42] but has not yet done so.
	We recommend that the Ministry of Justice and the senior judiciary create a kitemark scheme that recognises and rewards employers who support the magistracy, thus encouraging other employers to do the same. We also recommend that the Ministry of Justice review the current Financial Loss Allowances for employed and self-employed magistrates, including consideration of whether rates might be increased in line with inflation.[43]	The Government has agreed to "consider carefully the case for the creation of a kitemark scheme"[44] but has not yet moved to create it. It agreed to "undertake a full review of judicial expenses policy during 2017";[45] this has not yet been completed.

Report	Recommendation	Notes
	We recommend the introduction of a more robust appraisal scheme for magistrates, which can identify inadequate performance and impose remedial measures to address it, including reviewing of the future of magistrates who have become insufficiently committed to their role. The appraisal scheme should be linked to a mandatory scheme for Continuing Professional Development, developed as part of a comprehensive review of magistrates' training.[46]	The Government has accepted that the current appraisal scheme "needs to be more robust"[47] but is yet to amend it.
	We further recommend that, in the context of the comprehensive review of magistrates' training that we have proposed, consideration be given to additional training needs created by increasing reliance on new technology, including particular communication skills required when dealing with defendants, victims and witnesses by video link.[48]	The Government responses states that the Judicial College "is alert to the demands of technology" and will "continue to take this into account" with regard to training.[49] As above, the requested review is yet to take place.
	We accept that there is support among some sections of the magistracy for a more extensive judicial role within civil and tribunal jurisdictions, but we consider that it would be advisable at present to focus career development and training resources on maintaining and developing magistrates' core skills within the criminal and family courts. However, we recommend that the feasibility of suitably trained and experienced magistrates undertaking prison adjudications by video link, with the support of a legal adviser, be examined.[50]	The Government has committed itself to such an examination but is yet to complete it.[51]
	We recommend that, as a matter of priority, the Ministry of Justice, together with the senior judiciary, consult widely on, then adopt, an over-arching strategy for the magistracy, to include workforce planning, consideration of the impact of court closures, wider promotion of the role—in particular to employers—and the shared role of the Ministry and the judiciary in ensuring the future of magistrates' training. The strategy should also consider the potential for the role of magistrates to be expanded, in particular within any future proposals to develop problem-solving courts.[52]	The Ministry is "currently working on an over-arching judicial strategy" of which the role of the magistracy is a "key component".[53] This has not yet been published.
The treatment of young adults in the criminal justice system	There is sufficient flexibility within the community sentencing framework to enable developmentally appropriate practices to be adopted by probation services, underpinned by better assessment and incentives to develop and expand existing initiatives.[54]	The Government is "actively looking at how [it] can improve"[55] community sentences and is currently "conducting a comprehensive review of the probation system",[56] though the response did not specifically address incentives.
	The potential of young adult courts are worth testing, particularly if they can be developed cost-neutrally using the expertise of youth sentencers. If the results of the pilots and welcome evaluation are positive in terms of young adults' experiences and outcomes, the Secretary of State for Justice, Lord Chief Justice, and HMCTS should facilitate such initiatives being adopted more widely.[57]	The Government has agreed to "look at the results of the feasibility study funded by T2A" and may consider next steps.[58]

Table 3: Recommendations not accepted

Report	Recommendation	Notes
Courts and tribunals fees	We recommend that the Government publish forthwith the factual information which they have collated as part of their post-implementation review of employment tribunal fees. We further recommend that: the overall quantum of fees charged for bringing cases to employment tribunals should be substantially reduced; the binary Type A/type B distinction should be replaced: acceptable alternatives could be by a single fee; by a three-tier fee structure, as suggested by the Senior President of Tribunals; or by a level of fee set as a proportion of the amount claimed, with the fee waived if the amount claimed is below a determined level; disposable capital and monthly income thresholds for fee remission should be increased, and no more than one fee remission application should be required, covering both the issue fee and the prospective hearing fee and with the threshold for exemption calculated on the assumption that both fees will be paid; further special consideration should be given to the position of women alleging maternity or pregnancy discrimination, for whom, at the least, the time limit of three months for bringing a claim should be reviewed.[59]	In its initial Response the Government gave a holding reply.[60] It gave a fuller response when it published the result of its review as part of a consultation on proposals for reform of employment tribunal fees, in February 2017. In that consultation it accepted that the monthly income threshold for fee remission should be increased,[61] but did not accept the other parts of the Committee's recommendation.
	We recommend that the increase in the divorce petition fee to £550 be rescinded.[62]	The Government rejected this recommendation.[63]
	We can see distinct attractions in a system in which there is a graduated or sequential schedule of fee payments whenever there are substantial fees payable in total in respect of a case in the civil or family courts or tribunals, allied with a requirement for the respondent to pay a fee, but we do not feel that we have sufficient evidence to recommend adoption of such a system. We do however recommend that a pilot scheme take place to enable an evaluation to take place of such a system.[64]	The Government rejected the recommendation of a pilot scheme.[65]
	The Law Society called for the Ministry to introduce a system for regular rerating of remission thresholds to take account of inflation, and to conduct a further review of the affordability of civil court fees and the remission system, considering means of simplification, for example through automatic remission for all basic rate taxpayers. We recommend that the Ministry adopt the Law Society's suggestion as a matter of urgency.[66]	The Government rejected this recommendation.[67]
Restorative justice	We recommend the Ministry works with Police and Crime Commissioners to publish information on how money is being spent to provide restorative justice on a yearly basis. The first such publication should be in the Ministry's Action Plan progress report.[68]	Though the Government has agreed to consider this, the Committee's recommendation was that it be implemented,[69] on which the Government has made no commitment.

Report	Recommendation	Notes
	In order to help promote the use of safe restorative justice in such cases, we recommend the Ministry of Justice work with the Restorative Justice Council to create and fund training and promote guidelines of best practice for facilitators in such cases.[70]	The Government has made no commitment to fund such training.
	We recommend that the Government continue to embed restorative justice in the youth justice system and in particular consider following the model of youth conferencing used in Northern Ireland.[71]	The Government made no commitment to further consider the model of youth conferencing used in Northern Ireland.[72]
	We agree with the recommendations of Why me? and the Restorative Justice Council that the Ministry of Justice should produce and promote within the criminal justice system an information sharing template to speed up the agreement of data sharing protocols. We do not recommend legislation at this juncture to require data sharing, but this is an option which should not be excluded if non-legislative measures do not prove effective. The issue of data sharing is one which the Ministry should make specific reference to in its Action Plan progress report.[73]	The Government's most recent Action Plan progress report makes specific reference to data sharing.[74] However, it has not agreed to produce and promote an information sharing template.
	We recommend the Ministry, rather than engage in broad national awareness raising campaigns, should instead focus its resources on ensuring restorative justice is well understood by bodies within the criminal justice system who can then convey this information to victims. The Ministry should also provide support and funding to providers to enable local awareness campaigns.[75]	The Government has rejected direct funding for providers,[76] and has not made any commitment to change its awareness raising strategy.
	We recommend a rigorous system be introduced to improve compliance with the police's requirement to inform victims about restorative justice. For example, forms for victim impact statements could have a box which reads "I have had restorative justice and how I can take part explained to me by the officer." Other criminal justice bodies also have a role to play in improving victim awareness of restorative justice.[77]	The Government has not offered systemic change and has rejected the suggestion of a box on victim impact statements.[78]
	We recommend that the Ministry strengthen the entitlements of victims of adult offenders under the Victims' Code so they are equal to that of victims of youth offenders.[79]	The Ministry has not strengthened these entitlements in response to the Committee's report.
	The Ministry should consult Police and Crime Commissioners and other stakeholders to assess capacity within the system and whether it is feasible to provide an entitlement under the Code for victims to access restorative justice services, with a corresponding duty on PCCs to provide those services. Depending on the results of that assessment, it might be prudent to exclude certain categories of offences from that entitlement, with an intention to include them in due course.[80]	The Ministry has not pledged to conduct such a consultation.

Report	Recommendation	Notes
	The Ministry should, in its consultation on the Victims' Law, seek views on a legislative right to restorative justice and how such a right would be enforced. Our view is that the Victims' Law should include a provision for victims to have a legislative right to access restorative justice services but this should not come into force immediately. Instead it should be a Commencement Order, which should be brought by a Minister only once he or she has demonstrated to Parliament that the system has sufficient capacity to provide restorative justice services to all victims.[81]	The Government has not committed to this, and no consultation on the Victims' Law is yet published.
	We recommend that the Ministry of Justice, when publishing its Action Plan progress report, provide an explanation of how they envisage restorative justice taking place across the criminal justice system. This should include what the roles of different organisations are, how they interact with one another and what support the Ministry of Justice will provide them. Clarity is particularly important in relation to probation services.[82]	These explanations were not provided in the most recent Action Plan progress report.
The role of the magistracy	We recommend that magistrates be consulted as appropriate on any further changes to the criminal justice system on which their views are likely to assist policy development and/or which are likely to have an impact on their role—in particular changes to administrative support to the courts, whether in their own locality or more widely across the court system.[83]	The Government, while restating the Lord Chancellor and Lord Chief Justice's statutory duty to inform magistrates and ascertain their views on matters affecting them, did not provide this specific commitment.[84]
	We recommend that the Ministry of Justice commission qualitative research into relations between District Judges, magistrates and justices' clerks in a sample of Local Justice Areas, with a view to understanding the source of potential tensions and identifying good practice.[85]	The Government has not agreed to commission such research.
	However, recognising that the Transforming Summary Justice initiative depends in part on effective case management of every contested case, we recommend that all magistrates who sit as panel chairs should be offered training to assist them in fulfilling this role as effectively as possible.[86]	The Government has not agreed to offer this training to all panel chairs.
	We urge the Ministry of Justice, in consultation with the senior judiciary, to undertake a workforce planning exercise for the magistracy at the earliest possible opportunity, taking into account the high proportion of serving magistrates who are expected to retire over the next five to ten years. We also recommend that recruitment be undertaken on a continuous basis, so that approved applicants are available to fill vacancies in their area, or in adjacent areas, as soon as they occur.[87]	The Government has not agreed to undertake this workforce planning exercise.

Report	Recommendation	Notes
	We recommend that the Ministry of Justice and the senior judiciary devise a strategy containing the following steps as a matter of priority to increase the diversity of applicants and recruits for the magistracy: Adopting a wider and more proactive advertising strategy for potential applicants, seeking in particular to attract magistrates from less conventional backgrounds; Streamlining the recruitment process, so that applications are processed within six months; Introducing a scheme similar to the 'two ticks' model to encourage disabled applicants, and working with the HMCTS to ensure that reasonable adjustments can be made where required; Providing additional funding for Magistrates in the Community, together with active promotion of the scheme to potential corporate sponsors; Considering the introduction of the 'equal merit' provisions for recruitment to the magistracy for the protected characteristics of race, disability and age.[88]	The Government has not agreed to devise such a strategy.
	We further recommend that the HMCTS encourage court managers, when resources permit, to consider the potential for increasing out-of-hours court sittings in order to maximise sitting opportunities for magistrates who are employed.[89]	The Government "believe that there could be merit in organising sittings outside of normal court operating hours" and "will conduct further analysis" of this,[90] but did not agree or take action to encourage court managers to consider doing so.
	We recommend that the Judicial College be provided with more funding to support magistrates' training and that a more realistic view be taken of the ability of HMCTS staff, in particular legal advisers, to assist with training given the current pressures on their time.[91]	The Government has not agreed to provide this funding.
	As part of the comprehensive review of magistrates' training needs, we recommend that a balance be maintained between different ways of learning, recognising that online training, in spite of its convenience and cost-effectiveness, cannot provide the quality of engagement and interaction provided in face-to-face settings. We further recommend that a reasonable proportion of face-to-face training be offered at times that are convenient to employed magistrates and those with other weekday commitments.[92]	The Government did not make this commitment.
	In determining the location of alternative venues, we recommend that the Ministry ensure that at least 90% of magistrates' court users can reach the nearest venue by public transport within one hour.[93]	The Government did not accept this recommendation.
	Use of alternative venues has assumed a key role in the Ministry's court estate strategy, so it is regrettable that inadequate forethought has been given to the security implications of holding court sessions in buildings that are not equipped with a secure dock. We recommend that this matter be given urgent consideration, in consultation with magistrates, District Judges and court staff, to identify low-cost practical solutions to potential security risks.[94]	The Government did not agree to give this matter urgent consideration.

Report	Recommendation	Notes
	We support increasing magistrates' sentencing powers to 12 months' custody, by commencing section 154 of the Criminal Justice Act 2003, and we recommend that the Ministry of Justice provide a timetable for implementation. We recommend that the Sentencing Council's new Allocation Guideline be given time to bed down and the Council be given an opportunity to review its impact on the allocation of cases to the magistrates' courts. We further recommend that the Ministry of Justice publish any modelling of the potential impact on the prison population of extending magistrates' sentencing powers.[95]	The Government has not increased magistrates' sentencing powers or provided a timetable for doing so, but is keeping the case for doing so "under review";[96] it has agreed to publish "any modelling as appropriate" should it do so.[97] It agrees that the Allocation Guideline should be given time to bed down.[98]
	The evidence we have received suggests that many magistrates are eager to adopt problem-solving approaches when dealing with offenders sentenced to community penalties. We are sympathetic to this idea. Regardless of the Government's future policy direction on dedicated problem-solving courts, we recommend that legal restrictions be lifted so that suitably trained and experienced magistrates can supervise community orders in all courts, provided that consistent sitting can be arranged.[99]	The Government did not agree to lift these legal restrictions.
	We do not yet know if the Government will decide to develop a strategy for piloting problem-solving courts. If they do so, we conclude that magistrates will play a central role in ensuring the strategy is successful. In these circumstances, we recommend that magistrates be fully consulted on the approach that is taken.[100]	While welcoming the interest of the magistracy in problem solving courts,[101] the Government has not specifically addressed this recommendation.
	We also recommend that the role of magistrates serving on Out of Court Disposal scrutiny panels be made more consistent across the country by means of additional guidance.[102]	The Government is considering this recommendation but has not committed to adopting it.
The treatment of young adults in the criminal justice system[103]	Both age and maturity should be taken into significantly greater account within the criminal justice system. The rationale of the system for young adults should presume that up to the age of 25 young adults are typically still maturing. A developmental approach should be taken that recognises that how they perceive, process and respond to situations is a function of their developmental stage and other factors affecting their maturity, and secondarily their culture and life experience. Navigating the system is particularly challenging for those with neuro-disabilities, neuro-developmental disorders, mental disorders and learning and communication needs, many of which co-exist and compound each other, and which are exacerbated by the trauma that many young adults have recently experienced. There must be a step change in policy and practice to recognise that, while most young adults involved in crime want to change, their distinct developmental status and neurological impairments impact on their experience of the system and their capacity to desist from crime. Guidance alone will not provide this.[104]	The Government rejected the Committee's central recommendation of a specific strategy for young adults in the criminal justice system:[105] this limits the extent to which this recommendation, or those that flow from it, can be considered as accepted. The Government did not commit to taking both age and maturity into significantly greater account within the criminal justice system.

Report	Recommendation	Notes
	The strategic approach to young adults should be founded on the clear philosophy that the system should seek to acknowledge explicitly their developmental status, focus on young adults' strengths, build their resilience and recognise unapologetically the degree of overlap between their status as victims and offenders. A common understanding of maturity should be devised by the Government which recognises typical and atypical maturation amongst young adults and is applied across the criminal justice system. Understanding of brain development, neuro-disabilities and trauma-informed approaches should be mandatory within basic prison and probation officer training. Both these elements would create cultural change in the treatment of this cohort by fostering a stronger understanding amongst all criminal justice professionals of the factors that bring young adults into the system and those which influence their ability to change their behaviour, which is not just about punishment and managing risk.[106]	As above, the Government has rejected the recommendation of a strategy. It pledged to make a new maturity screening tool and resource pack available in 2017,[107] but this does not entail that it is devising a common understanding of maturation. The Government has not agreed to make the recommended changes to basic prison and probation officer training.
	The strategy must also address the current unacceptable situation that the prevalence amongst prisoners and those supervised by the probation service of a range of disabilities, disorders, cognitive difficulties, and forms of emotional trauma are both unknown and largely unaddressed, affecting their behaviour and prospects of rehabilitation. Most young adults in the criminal justice system will have had their needs assessed in the youth justice system. For those that have not, or for whom there are gaps, there should be a policy of universal screening by prisons and probation services for mental health needs, neuro-developmental disorders, maturity and neuro-psychological impairment, using specified tools developed by NOMS with the support of the Ministry of Justice. This will enable suspected need to be identified consistently and facilitate expert testing and/or responsive individualised support as well as providing evidence of collective levels of need to support commissioning and co-commissioning of specialist health, education, training and other services for young adult offenders.[108]	As above, the Government has rejected the recommendation of a strategy. It has not agreed to universal screening by prisons and probation services for mental health needs, neuro-developmental disorders, maturity, or neuro-psychological impairment.
	A specialised approach should be taken to staffing prison and probation services work with young adults, underpinned by more in-depth training. This would enable stronger expertise to be developed effectively to address the behaviours typical of lack of emotional maturity, which includes impulsive, ill-considered actions and non-consequential decision making. Such an approach is likely to be less costly and more effective than widespread in-depth training that would be required for the necessary cultural change to occur amongst all criminal justice professionals who come into contact with young adults. The need to foster desistance must be addressed in the Ministry's forthcoming prison safety and reform plan which should include as part of a strategy for the management of young adults a commitment to ensuring that prison and probation caseloads for this group are sufficiently small to allow meaningful trusting relationships to be developed to facilitate safeguarding and rehabilitation.[109]	As above, the Government has rejected the recommendation of a strategy. Though this report was referred to in the Government's White Paper, *Prison safety and Reform*,[110] that document did not include a commitment regarding prison and probation caseloads for young adults. Furthermore, the Government has not agreed to take a specialised approach to staffing as recommended.

Report	Recommendation	Notes
	We are encouraged by the Secretary of State's emphasis on MoJ policy and practices taking an evidence-based approach. We do not accept the Government's argument that the proportion of young adults in prison and probation caseloads precludes them from developing a distinct approach and believe that the evidence provides a compelling case for change. Adopting a distinct approach towards young adults is likely to result in improvements in the ways in which they are managed and supported in the criminal justice system which would improve outcomes and reduce costs. The MoJ must act swiftly to minimise the risk that in the context of shrinking budgets young adults will become less of a priority, particularly as there are not currently incentives for criminal justice services to invest in practices which may result in savings to other departments' and agencies' budgets rather than their own.[111]	The Government has not agreed to act swiftly regarding investment incentives for criminal justice services.
	Reforms to governor autonomy and the delivery of probation services should not release the MoJ and NOMS from responsibility for stimulating centrally developments in potentially effective practice, expanding the availability of promising programmes, and of robustly evaluating them. A strategic approach should be adopted to collating and analysing existing data, developing the evidence base, identifying gaps in knowledge about how best to treat young adults, providing incentives to governors and probation services for devising and testing new approaches, and disseminating good practice. The MoJ should examine whether a case can be made for investment to facilitate this through the £1.3bn estate modernisation budget, including through the creation of an equivalent of a pupil premium, both for prisons and for CRCs, in recognition of the behavioural challenges young adults pose, the opportunity to repair neurological impairments while their brains are still developing, and their need for more intensive support.[112]	The Government response provides an account of its current approach to building and using evidence,[113] but does not agree to adopt the strategic approach outlined. It did not respond to the recommendation regarding investment from the estate modernisation budget.
	Cross-government recognition must be given to the need to promote desistance among those involved in the criminal justice system by offering the possibility of extending statutory support provided by a range of agencies to under 18s to up to 25 year olds, including through legislative change if necessary. Young adults are treated distinctly by a range of other Government departments, including some which preside over dedicated policies which can hinder the chances of young adults who do not have support networks from desisting from crime. If young adults are to be given the best opportunities to become law-abiding there is a need for a coherent cross-departmental approach that recognises this and seeks to remove structural barriers to gaining sustainable employment, affordable accommodation and developmentally appropriate mental health services, for example, the lower minimum wage and housing and employment benefit entitlements.[114]	The Government has not responded specifically to this recommendation.

Report	Recommendation	Notes
	Legislative provision to recognise the developmental status of young adults may be necessary both to demonstrate political courage in prioritising a better and more consistent approach to the treatment of young adults who offend and to provide a statutory underpinning to facilitate the shift required within the range of cross-government agencies that support young adults. Nevertheless, we acknowledge the resource implications and re-structuring services might be costly to the public purse at least in the short-term, although we believe the cost-benefits are likely to make this worthwhile.[115]	The Government has rejected this recommendation.[116]
	Enabling young adults to form non-criminal identities following their involvement in the criminal justice system will require a change in the treatment of their criminal records. We support the Government initiative on banning the box—removing the requirement to disclose criminal convictions in application forms—and hope that it remains an imperative under the new Prime Minister, but reforms may need to go further, including legislative change for young adults to expunge records, incentives for employers to employ ex-offenders, and deferred prosecutions. We will consider this fully in our inquiry on criminal records.[117]	The Government noted our uncompleted inquiry, *Disclosure of youth criminal records*,[118] to which it has given evidence.[119] It has not yet agreed to a change in the treatment of youth criminal records.
	We note that the inclusion of maturity as part of a mitigating factor may have lessened the likelihood of age being taken into account in the sentencing of young adults. The Sentencing Council should conduct further research on the impact of this factor in sentencing decisions for 18 to 25 year olds. We would encourage the Director of Public Prosecutions to evaluate the impact of the inclusion of age and maturity in the Code for Crown Prosecutors to satisfy herself that its use reflects properly the maturity of young adult suspects, which may be hidden.[120]	As the Government observed, it cannot commit the Sentencing Council to action,[121] and we have had no indication from the Council that it intends to carry out this research. The Crown Prosecution Service has agreed to "consider whether specific investigation can be made in relation to prosecutors' consideration of age and maturity when charging and reviewing cases",[122] but not yet to carry out such investigation.

Report	Recommendation	Notes
	Developing appropriate responses to young adults in the custodial estate is complicated by the existing legislative position for detention in a young offender institution for 18 to 20 year olds. The simplest resolution to this is to extend in the forthcoming reform bill the sentence up to the age of 25 and maintain dual categorisation in those institutions that have already been designated as such. The YOI element of the sentence must be given real meaning through the adoption of a strategic approach to the placement of young adults in appropriate accommodation according to their needs, the options for which are currently unduly narrow, and the development of new initiatives which are more appropriate to their needs. Before this can happen it is imperative that the inexcusable gaps in the research evidence regarding the best strategies for holding young adults in prisons are urgently addressed. This will necessitate the Ministry of Justice, NOMS and prison governors finding means of testing empirically various models of holding young adults, including an examination of the costs and benefits. This should include small dedicated units within prisons holding older adults; a small number of dedicated institutions; piloting of specialist dedicated officers with smaller caseloads, and enhanced provision of therapeutic support. Where young adults are held in mixed institutions there should be a recognised cap on numbers and benchmarking levels should reflect the need for better ratios of staffing.[123]	The Government has rejected the 'simplest resolution' of extending the statutory upper age limit to 25.[124] It has not specifically responded to recommendations on dedicated units, institutions and officers, or on a cap on young adult numbers mixed institutions. The Government "will be gathering information from a number of sources regarding the effectiveness of the DYOI sentence, and holding younger and older adults in mixed institutions",[125] but has not committed to testing empirically various models as recommended.
	Whole prison approaches should be developed to reduce victimisation and bullying in prisons, within wider strategies on managing violence, to focus on minimising harmful behaviour and addressing its underlying causes through the widespread use of restorative justice and trauma-informed approaches. The IEP scheme should be replaced with a more sophisticated and flexible system of reward and incentives to encourage positive behaviour. Mechanisms should be found to expand within prisons existing promising programmes and focus violence reduction efforts on assessing needs, dealing with trauma and building life skills and resilience, with the provision of specialist support being made available for prisoners with unresolved and/or recent experiences of trauma, loss, abuse and bereavement. We welcome the NICE guidelines specifically for management of neuro-disabilities including brain injury in criminal justice system. The MoJ and NOMS should work with health services to incentivise an expansion of provision to address neuro-disabilities, mental ill health, and learning and communication needs based on a systematic assessment of need.[126]	The Government has not responded specifically regarding whole prison approaches, replacing the IEP scheme, or work with health services. Regarding programmes, it notes, for example, that it is "currently collating data for a future evaluation of the [previously piloted] 'Identity Matters' programme for young adults".[127]

Table references

1 Justice Committee, Second Report of Session 2015–16, *Criminal courts charge*, HC 586, para 38

2 Justice Committee, Second Special Report of Session 2015–16, *Criminal courts charge: Government Response to the Committee's Second Report of Session 2015–16*, HC 667

3 Justice Committee, Second Report of Session 2015–16, *Criminal courts charge*, HC 586, para 39

4 Justice Committee, Third Report of Session 2015–16, *Appointment of HM Chief Inspector of Prisons and HM Chief Inspector of Probation*, HC 624, para 32

5 Oral evidence taken by the Justice Committee on 5 July 2016, HC 415, Q69

6 HM Inspectorate of Probation, HM Inspectorate of Probation Corporate Plan 2016–19, August 2016

7 Justice Committee, Fourth Report of Session 2015–16, *Criminal justice inspectorates*, HC 724, para 19

8 Justice Committee, Third Special Report of Session 2015–16, *Criminal justice inspectorates: Government Response to the Committee's Fourth Report of Session 2015–16*, HC 1000, Appendix 1: Letter from Rt Hon Michael Gove MP

9 Richard Heaton CB, Letter dated 16 November 2016 regarding the Ministry of Justice's Annual Report and Accounts 2015–16, p1

10 Justice Committee, Fourth Report of Session 2015–16, *Criminal justice inspectorates*, HC 724, para 19

11 Richard Heaton CB, Letter dated 16 November 2016 regarding the Ministry of Justice's Annual Report and Accounts 2015–16, p1

12 Justice Committee, Third Special Report of Session 2015–16, *Criminal justice inspectorates: Government Response to the Committee's Fourth Report of Session 2015–16*, HC 1000, Appendix 1: Letter from Rt Hon Michael Gove MP and Appendix 2: Letter from Rt Hon Jeremy Wright QC MP

13 Justice Committee, Sixth Report of Session 2015–16, *Prison safety*, HC 625, para 42

14 Ministry of Justice, *Prison Safety and Reform*, Cm 9350, November 2016

15 Justice Committee, Sixth Report of Session 2015–16, *Prison safety*, HC 625, para 43

16 Justice Committee, First Special Report of Session 2016–17, *Government Response to the Justice Committee's Sixth Report of Session 2015–16: Prison safety*, HC 647, Appendix: Government Response, p4

17 Sam Gyimah MP, Letter dated 28 February 2017 regarding prison safety and reform

18 Sam Gyimah MP, Letter dated 28 March 2017 regarding prison safety and reform

19 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 26

20 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p2

21 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 28

22 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p3

23 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 34

24 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p3

25 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 98

26 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 68

27 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 153

28 Ministry of Justice, *Prison Safety and Reform*, Cm 9350, November 2016, para 48

29 ibid, para 104

30 Justice Committee, Second Report of Session 2016–17, *Courts and tribunals fees*, HC 167, para 85

31 Ministry of Justice, *Government Response to the Justice Committee's Second Report of Session 2016–17: Courts and tribunals fees*, Cm 9300, November 2016, p6

32 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 54

33 Ministry of Justice, Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice, Cm 9343, November 2016, p6

34 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 56

35 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p6

36 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 20

37 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 13

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39 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 26

40 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 14

41 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 74

42 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 48

43 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 57

44 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 36

45 ibid, para 38

46 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 62

47 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, para 57

48 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 99

49 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–17: The Role of the Magistracy*, Cm 9368, December 2016, para 53

50 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 121

51 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, para 81

52 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 127

53 Rt Hon Elizabeth Truss MP, Correspondence dated 17 February 2017 regarding the role of the magistracy, p3

54 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 151

55 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 60

56 ibid, para 61

57 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 152

58 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 66

59 Justice Committee, Second Report of Session 2016–17, *Courts and tribunals fees*, HC 167, para 79

60 Ministry of Justice, *Government Response to the Justice Committee's Second Report of Session 2016–17: Courts and tribunals fees*, Cm 9300, November 2016, p5

61 Ministry of Justice and Department for Business, Energy and Industrial Strategy, *Reforming the Employment Tribunal System: Government response*, February 2017, para 9

62 Justice Committee, Second Report of Session 2016–17, *Courts and tribunals fees*, HC 167, para 89

63 Ministry of Justice, *Government Response to the Justice Committee's Second Report of Session 2016–17: Courts and tribunals fees*, Cm 9300, November 2016, p7

64 Justice Committee, Second Report of Session 2016–17, *Courts and tribunals fees*, HC 167, para 95

65 ibid, p10

66 ibid, para 97

67 Ministry of Justice, *Government Response to the Justice Committee's Second Report of Session 2016–17: Courts and tribunals fees*, Cm 9300, November 2016, p11

68 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 24

69 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p2

70 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 36

71 ibid, para 40

72 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p7

73 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 44

74 Ministry of Justice, Restorative Justice Action Plan for the Criminal Justice System for the period to March 2018, February 2017, p3

75 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 50

76 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p5

77 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 51

78 Ministry of Justice, *Government response to the Justice Committee's Fourth Report of Session 2016–17: Restorative Justice*, Cm 9343, November 2016, p6

79 Justice Committee, Fourth Report of Session 2016–17, *Restorative justice*, HC 164, para 68

80 ibid, para 72

81 ibid, para 73

82 ibid, para 66

83 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 11

84 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, para 7

85 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 19

86 ibid, para 31

87 ibid, para 39

88 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 50

89 ibid, para 58

90 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, paras 39–40

91 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 69

92 ibid, para 74

93 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 93

94 ibid, para 94

95 ibid, para 105

96 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, para 72

97 ibid, para 75

98 ibid, para 74

99 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 113

100 ibid, para 114

101 Ministry of Justice, *Government Response to the Justice Committee's Sixth Report of Session 2016–7: The Role of the Magistracy*, Cm 9368, December 2016, para 80

102 Justice Committee, Sixth Report of Session 2016–17, *The role of the magistracy*, HC 165, para 122

103 It should be noted that the Government Response to this report outlines Government policy without systematically addressing the Committee's specific recommendations; as such, it is unclear in places whether the Government has responded to those recommendations, and if so, how.

104 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 141

105 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 10

106 ibid, para 142

107 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 41

108 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 143

109 ibid, para 144

110 Ministry of Justice, *Prison Safety and Reform*, Cm 9350, November 2016

111 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 145

112 ibid, para 146

113 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, paras 25–31

114 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 147

115 ibid, para 148

116 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 16

117 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 149

118 ibid, para 73

119 Oral evidence taken by the Justice Committee on 15 March 2017, HC 751; Ministry of Justice and Home Office (DYC0021), HC 751

120 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 150

121 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 72

122 ibid, para 69

123 Justice Committee, Seventh Report of Session 2016–17, *The treatment of young adults in the criminal justice system*, HC 169, para 154

124 ibid, para 17

125 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 24

126 ibid, para 155

127 Ministry of Justice, *Government Response to the Justice Committee's Seventh Report of Session 2016–17: The treatment of young adults in the criminal justice system*, Cm 9388, January 2017, para 30

Annex 2: Informal note of seminar on disclosure of youth criminal records, 13 December 2016

Committee members present: Robert Neill, Richard Arkless, Alex Chalk, Philip Davies, Kate Green, Mr David Hanson, and Victoria Prentis.

Others present: Christopher Stacey, Co-director, Unlock, Bob Ashford, Founder, Wipetheslateclean, and Anna Boehm, Programmes Manager, Standing Committee on Youth Justice.

Jason, Natasha, Sam, Ben, Anita, Paulette, Kamla and Lynda (names changed: participants sharing personal experiences).

Nick Walker, Nony Ardill, Gemma Buckland, Elise Uberoi, Gavin O'Leary, Christine Randall, Anna Browning (Committee staff).

Plenary session

After introductions and welcome from the Chair, Robert Neill MP, the seminar started with presentations from Christopher Stacey, Co-director of Unlock, Bob Ashford, founder of Wipetheslateclean, and Anna Boehm, Programmes Manager, Standing Committee for Youth Justice.

Christopher Stacey expressed gratitude to the Committee for launching its inquiry into this topic and for holding the informal session. Unlock is a charity for people with convictions, aiming to help them overcome the barriers and stigma caused by the disclosure of criminal records. Unlock does this first through its helpline and website which provide guidance and advice; and second by campaigning, through which it tries to influence the Government and employers to adopt fairer and more inclusive policies. Unlock has a wide focus on all individuals with criminal records, including youth records. It supported SCYJ's research into childhood criminal records and has made recommendations based on this.

In Mr Stacey's view, there is now real momentum for change. The Taylor review recommendations, the recent Home Office review of filtering, and the legal challenges to the filtering rules present an opportunity for the Government to be proactive, although its response to the Taylor review suggests that nothing will happen until the legal cases have been resolved. Unlock hoped to hear today about practical measures to take forward—not just for those who acquired criminal records as children, but also as young adults, because having a criminal record and being forced to disclose it affects people for the rest of their lives. While some records may need to be disclosed, the challenge is to establish how and where to draw the line.

It was noted that a 2015 court case on the non-filtering of minor offences (the case of P and A) found that the current regime was in breach of Article 8 of the European Convention on Human Rights. The Court of Appeal will consider the Government's appeal in February 2017.

Bob Ashford explained that fifty years ago, as a 13 year old boy, he was playing with a group of other young boys caught trespassing on a railway track. One of the boys had an airgun, although he did not touch it. He pleaded guilty to trespass on a railway and possession of a dangerous weapon, and was fined. After training as a social worker, he had to disclose these offences when he applied for jobs, and found he was not getting interviews. Eventually he obtained work within the justice system, progressing over time to be the head of a Youth Offending Team.

Mr Ashford's criminal record became less important over the course of his career and he advanced to a very senior level in the Youth Justice Board. However, his offences still had to be disclosed for visa and insurance applications. When he was selected to stand for election as the Police and Crime Commissioner (PCC) for Avon and Somerset—a role that would use his skills and background—he discovered that he would be barred from holding office because of his offences, in spite of his career and lack of reoffending, and decided to stand down as a candidate. Falklands veteran Simon Weston had a similar experience. To draw attention to this issue on behalf of others as well as himself, he sought extensive media coverage, much of which was supportive. As a result people started contacting him with their stories. He began to understand the huge impact that criminal record disclosures can have on individuals' lives, especially when they had to disclose historic offences of which family and friends were unaware. Following this, Mr Ashford set up his campaign, Wipetheslateclean, which aims to change the legislation for PCC elections and the disclosure rules more generally. He is particularly concerned about the lack of information for young people on the requirement to disclose multiple out of court disposals for the rest of their lives; the lack of information on the implications of different sentences prevents them from making informed choices about what is being offered by the police.

It was noted that someone with a criminal record can become a local authority councillor or Mayor, a Member of Parliament or a police chief constable, but not a PCC because this is barred by statute.

Anna Boehm spoke about the work of the Standing Committee on Youth Justice (SCYJ), which campaigns for improvements in the youth justice system. Over the past two years SCYJ has focused on youth criminal records, commissioning comparative research on disclosure regimes in many other countries; this found that the system in England and Wales is much more punitive than in other countries where a rehabilitative approach is taken.

In England and Wales, the SCYJ has identified the following problems:

- The current system disproportionately anchors children to their past and prevents them from moving on.
- In contrast to many other jurisdictions, cautions and arrests follow a child for life and there is a wide requirement for disclosure—for example, for visas for the USA.
- The current system undermines the aim of reducing reoffending, as disclosure inhibits access to education, housing and other factors that are known to influence offending.

- There is no distinct system for child criminal records, in contrast to many other jurisdictions where adult records are maintained separately.
- The disclosure of police intelligence (for example, on crimes such as sexting) leads to increasing numbers of people being affected by youth criminal records.

SCYJ believes that most children grow out of crime, and is calling for childhood criminal records to be wiped after a period of time—say, ten years—and for a presumption that police intelligence is not disclosed at all. It is also calling for substantial changes to the filtering system and to rehabilitation periods. Anna noted that the Taylor report recommended reforms to the system for childhood criminal records, including limits on disclosure of intelligence, and that similar recommendations had been made by other reports over the last few years, such as the report of the Carlile inquiry. SCYJ welcomed the current inquiry of the Justice Committee and would be happy to provide further assistance to it.

Asked about an appropriate threshold of seriousness for disclosure, Christopher Stacey responded that the Rehabilitation of Offenders Act takes into account the length of sentences. The filtering system operates with blunt categories—for example, DBS cannot filter specific offences or any sentence of imprisonment. There should be scope for discretion. Sentence length would be a better determination. Bob Ashford observed that children make stupid mistakes but mature as they grow up. On principle, they shouldn't be pulled down by what they did when they were young. On the other hand, the public has to be protected—it is a matter of finding a balance. Wipetheslateclean has made some quite detailed proposals on this. Anna Boehm agreed with the view that 'disposal' (i.e. the level and type of sentence) is better for determining seriousness than the type of offence. She accepted that, for particular jobs, some offences are relevant—but it was important to consider when an offence ceases to be a reliable predictor of reoffending. SCYC maintains that all offences should be eligible for 'wiping' after ten years, provided the person has not reoffended; at that point, the chances of reoffending become similar to those of someone who has never offended.

Asked why employers could not be trusted to make reasonable decisions, Bob Ashford accepted that many can be trusted, but in his experience others do use criminal records as a criterion for rejecting candidates when sifting through high numbers of applications. Certain online application processes block candidates from going further once they have ticked the box for 'criminal record'. Christopher Stacey said that, because of this problem, many people with criminal records were put off from applying from jobs in the first place. In this area, excellent work is being done by the 'Ban the box' campaign (which is calling on employers to ask about criminal convictions later on in the recruitment process). Anna Boehm agreed with both points, adding that employers often lacked information on the detail and context of offences.

The three panel speakers agreed that there was scope for radical proposals for changing the system, although these had to be achievable, taking into account public safety and acknowledging the impact of public perceptions.

The seminar then broke into two smaller groups.

Table 1 discussion

The names of participants have been changed to protect their identities.

Jason described himself as having been a 'difficult teenager'. He had been convicted of resisting arrest and ABH when he was sixteen, because of an incident when out drinking with a group of friends on the last day of school. He was sentenced to six days at an attendance centre. Because of this, he was rejected for a job with the local council. He got a place at university; his criminal record did not have to be disclosed to make this application, as no placements were involved on the course. After qualifying, he tried to get work in the social care field, but at interviews he would always undergo extensive questions about his criminal record. He was also turned down for three volunteering roles. Overall, he has been rejected for around fifty per cent of the positions he applied for. With online applications, he would sometimes not disclose his criminal record but after getting through the application process, the employer would apply for a DBS check and then tell him that he didn't satisfy the job criteria after all. The jobs that Jason was most interested in were the ones working with children, which were rated as high risk. It took him eight months to find a job, making between thirty-five and forty-five applications. He now works on substance abuse issues with young people in schools. The schools often ask to see his DBS checks; in some cases this had let to them insisting that a teacher sits in with him; however, he has had a lot of support from his supervisor who has raised this issue with the schools concerned.

Natasha, now aged 32, explained that she had been convicted of three offences, two of which are now 'filtered'—one public order offence, and another for theft (for which she got a caution). At the age of twenty, she was given a caution for ABH because of an incident where she tried to defend a friend of hers who was being assaulted by 'glassing'. She was arrested, along with the perpetrator of the assault. Her statement did not match the statements of the other group involved in the fight, although it matched the statement of her friend. Without a solicitor present, she accepted a caution for what the police said was common assault. She later found out that the caution had been for ABH when this came up on a disclosure. She has had more than a dozen rejections because of her criminal record. Fortunately she managed to get work in the health and social care sector, where she has been for ten years, and currently works for a charity. But in spite of having good references, she was recently refused a place on a nursing master's course. Her DBS check simply states that she has had a caution for ABH, but gives no further details, and "for an employer to see ABH, that conjures up lots of things". Natasha felt discouraged from applying for work in this sector as she was tired of disclosing her criminal record, but did not think that her offence warranted this treatment. She questioned why there was no discretion about disclosure on an enhanced certificate; she has three children and has worked with different types of vulnerable people, which she would not be able to do if she presented a risk.

Asked whether she would want this information if she herself was an employer, Natasha accepted that she would want to know if someone had recently offended. But she thought that offences over ten years old should be filtered, unless there had been further offending. If a disclosure had to be made, then there should at least be more information about the context in which the offence happened.

Questioned on whether parents should warn children that the consequences of doing something wrong would stay with them for the rest of their lives, rather than giving them a message that the slate would be wiped clean, Natasha responded that good parenting meant that children should be told there would always be consequences, irrespective of the legislation. Christopher Stacey pointed out that people did not necessarily commit crime rationally, in a way that allowed them first to step back from the situation to consider their options.

Sam said that he had dropped out of school at sixteen; he was drinking a lot and hanging around with the wrong type of people. Without qualifications, he couldn't get a job. At seventeen, he was convicted for shoplifting and motoring offences (speeding and driving without insurance), then convicted again at eighteen. After that, he struggled to find work apart from occasional agency jobs and was put on youth training programmes. At the age of 24, he was convicted for 'bouncing' cheques. He was put on probation but violated the conditions, then got convicted again. As a result of this, he has three convictions for multiple offences. He is now in his forties, and has had 'hundreds' of rejections over the years. He learned to apply for jobs that did not require a DBS check and was fortunate in finding employers who wanted to give him an opportunity. He now has to disclose his record but, since the Rehabilitation of Offenders Act and the filtering system, he has found that employers are not so judgmental. He now works in a probation hostel with high risk offenders, serves in the army reserves, and is in his final year at university, doing a criminal justice degree. He commented that some of the big security companies will not hire people with a criminal record, even if the offending happened a long time ago. In his case, they would sometimes let him progress to the interview stage, only to tell him that it was their policy not to employ people with criminal records. Travelling to the USA also presents a problem; he is due to go there as part of the army reserve.

Ben explained that he had become involved in drugs before going to university, and while at university his involvement became 'criminal'. During his second year the police raided his house and he was convicted of possession of cannabis and ketamine (although he could have faced more serious charges). He was fined for these offences. After graduating, he applied for over 200 jobs over the course of a year and received no responses. He attributed this to having ticked the box confirming that he had a criminal record. This propelled him further into crime, although he managed to avoid getting any further convictions. A year after leaving university, he decided to sort out his life; he also came to realise that not disclosing his criminal record was the only way to get a job. For the last five years, this approach has worked, although he has been at risk of losing jobs if his employers found out about his convictions—as has happened to some of his friends. His record was now spent, so it would only show up on enhanced DBS checks. Ben would really like to work with drug addicts, but would not be able to get a job in this field at present. He is currently doing a master's degree in public policy, for which he did not need to disclose his record. In his view, certain types of non-violent and non-fraudulent crime should not have to be disclosed; convictions should only be disclosed if they will affect someone's ability to do the work. The current system is very unhelpful for young people as it prevents them from moving away from crime. He knows people who were in the same situation as himself who are now in prison.

No participants had run into difficulties getting insurance or housing, other than Jason, who had been required to disclose his criminal record when he applied for emergency

housing. Natasha said that one of her clients at the charity where she works had an arson conviction, which was difficult to overlook in relation to housing. Sam commented that employers are able to search Google and Facebook to find out whether job applicants have a criminal record, even if there was no obligation to disclose it when making the application. There was always a risk that an employer would find out in this way—although if the conviction had become spent, employers tend to respect this. In an ideal world, people would disclose everything, but in reality, employers make judgements. People can ask to get themselves removed from Google searches but their requests are not always accepted (and information remains in newspaper archives in any event). Asked what they thought employers should know, participants considered this would depend on the offence, on how long since the person had offended, and what they had done since. Ben noted that employers used criminal records as a system for sifting applications because they got so many applications, especially from young people. He had been in situations where he was sure that the employer wanted to hire him but could not do so because of company policy. Asked what the solution was to this problem, Ben said that the Bristol drugs awareness courses were the best thing he know of for preventing criminal records. These course are non-punitive and attendance would not be recorded.

On the distinction between children, young adults and adults, participants agreed that maturity did not necessarily come with adulthood and one participant was aware of studies indicating that many young people were not mature until the age of 24. Jason commented that young people often did not think about the long term consequences of their actions. It was noted that many other countries handle criminal records differently–for example, in some states of the USA, offenders can petition the court after five years to ask to have their records expunged. Sam pointed out that certain people who have never been arrested may be as likely to commit crime as those who had been convicted, and that individuals who have committed crimes without being caught don't face the same barriers as those with convictions. Natasha said that she had been shortlisted for some jobs because the HR department did not disclose the relevant section of her application to the panel, but then at the interview her criminal record would come up "and the whole conversation suddenly turns sour". She also said that she had wanted to apply for a property assistant role that did not require a DBS check, but the organisation's website said that some roles did require a DBS check, which put her off applying.

Christopher Stacey thought there was sufficient evidence of the detrimental effect of the current system of disclosure to support a more proportionate approach. The public did not realise that people get punished for the rest of their lives. Employers should have a clear policy on dealing with criminal records; sometimes they receive irrelevant information but think that they cannot ignore it and so they reject the person.

Table 2 discussion

The names of participants have been changed to protect their identities.

Anita, who is 27, said she had received two reprimands as a child. She had been given the first one at the age of 11 for arson, after causing £100-worth of smoke damage in a school toilet by setting fire to toilet roll when playing with a lighter with friends. The second reprimand had been given at the age of 14 for ABH, when she hit another pupil in the playground in self-defence. She explained that her mother had not realised the severe

consequences of accepting the reprimands on her daughter's behalf. The police had told her mother just to sign the form and although she could not recall having been told about the implications of doing so, she had thought that it would "make it go away". The form, a copy of which she showed Members, stated that the record would expire when she was 18 years old.

Anita is now a qualified teacher. When studying for her teaching qualification she had almost been kicked out of the university following an enhanced disclosure required for her placements. She hadn't anticipated her criminal record would be a problem when she had applied for the course. She was now working as a college lecturer with adults as she was unable to get a job in a school. Until recently she had been working abroad (for six years), but since returning to the UK had been hit by "constant barriers" in finding supply work, despite her experience and passion for teaching. Although her convictions are spent, teaching is an exempted profession under the Rehabilitation of Offenders Act so she always has to 'tick the box'. She noted that there was no box allowing her to indicate that the offences took place when she was under 18. She has also found it hard to get insurance.

Paulette, now aged 33, is also a teacher. She explained that she had been involved with social services from the age of 13 (after her father stabbed her mother to death) and at 16 she was convicted for importation of cannabis from Jamaica having been groomed by an older man with whom she had a sexual relationship. Soon afterwards she was convicted of a joint enterprise offence relating to a street robbery after a girl was robbed on a bus by a member of a group she was part of. She served a two-year youth custodial sentence. Since then, she had committed no offences. She could not recall whether she had been informed of the implications of her criminal record, but had had legal representation at the time. She applied to university as she wanted to become a social worker but, having discussed her offences with a panel, was told she could not do the course. She then did a series of 'dead-end jobs' in call centres and retail. Paulette applied again for university, told them her story and they agreed to adopt a risk assessment approach. She had to see another panel before her placement. Working through a charity, she now teaches young people involved in the criminal justice system and care leavers. She cannot, in her charity work, disclose her criminal record or related elements of her life story (despite the potential benefits of these anecdotes to her students). She had not applied to teach in mainstream education but expressed doubt about whether she could do so, because of the attitude of mainstream schools.

Kamla is a qualified pharmacist who had received a distinction in her studies. Now aged 39, at the age of 19 she received a criminal conviction for theft (stealing goods from her employer over a period of two weeks, when she had not been paid). Despite being open during the internal investigation and returning all stolen items, Kamla was still prosecuted, even though her employer was aware of her career choice. She was sentenced to six months' probation for two counts of the same offence and was not represented by a solicitor until the point of sentencing. Initially the conviction did not hold her back. She qualified in 2000 and until 2014 she had held various positions at a hospital but had to resign because of bullying from her manager, related to her criminal convictions. She made contact with Unlock and put in an Employment Tribunal claim but did not continue with it owing to a bereavement. Following a career break, she was offered another hospital job, but this was retracted and she felt that her previous manager had jeopardised her chances. She now saw her offence as "stupid" (although she commented that other employees were doing the

same thing) and felt that it had hindered her earning capacity, career options and personal relationships but had taught her to be compassionate. She was now self-employed and seeking to do a graduate diploma in law.

Lynda, now aged 43, described her upbringing within a family she described as "toxic". Her mother was an alcoholic who had been to prison twice. The family lived in a poor area and people were "in and out of the house all the time". All her siblings had criminal records and her brother was in prison for having killed someone. Most of her siblings had been taken into care and she and her younger sister had sporadic visits when the neighbours or schools contacted social services but overall they were ignored by the various agencies. From the age of seven, she began shoplifting biscuits as she was not fed by her mother. Aged 11, she broke into a school to be able to play with toys and draw. She was sent to the police station but her warning was not put on record, although she described herself as "spiralling down that road". Her first conviction was at 14 for shoplifting. She felt that this had been like a cry for help: she was running away constantly and did not consider that the social workers or teachers were doing their job. She had wanted to be a prison officer but, at the age of 22, was working in retail. Her family decided she should "sort out the Christmas meal": she was convicted for employee theft of the goods in a trolley they had filled. Subsequently, she had a conviction for drink driving when she was found to be over the limit from the previous night.

Lynda said she felt like she had been fighting against the grain, having become homeless to get out of her family environment and wanting to "prove everyone wrong". She had done clerking for a solicitors' firm (as the solicitor who represented her had given her a job) and had also worked with young people for two London local authorities. She had most recently applied for an administrative role, despite being over-qualified, as low-paid jobs do not require a DBS check. She felt that people did not look beyond the criminal record, "whether or not you are fantastic". She stated "it's like you are marked until death".

Participants were asked how being asked about their criminal records made them feel about themselves. Anita found it mortifying and embarrassing to have to discuss offences from her childhood and have professional people "judging you" on it. She remarked that because of that piece of paper she was not treated like an employee or a human being. Kamla felt that the stigma had affected her self-esteem and caused unnecessary worry, affecting her quality of life. All participants agreed that they had not done as well as they could have done in their careers and their ambitions had been suppressed. They felt that they should not continue to be punished and stigmatised for their past. Knockbacks can have a significant impact and can lead to a loss of hope in trying to seek work, so forcing people onto benefits or even encouraging a return to criminal behaviour. They were frustrated that supportive statements, for example statements made to DBS panels, may have little effect. Two participants were motivated to help other people in similar situations. One said she "shouldn't be reduced to a conviction—there is more to me than this".

Participants were also asked whether they all felt there ought to be a clean slate. There was some discussion about the circumstances of the offence; for example, being in a controlling relationship at a young age, negative influence of family and environment which can continue into adulthood, and cultural and religious issues affecting social maturity. Kamla was asked whether, if she was an employer, she would feel comfortable being in the dark about someone's offence against a former employer; at what stage, if at

all, should a line be drawn under past offending? She responded by saying that everyone makes mistakes and she believed employers should be brave in considering these matters. For a regulated profession, she did not consider it should be an issue provided there were no restrictions on the licence to practice and the employee could get references. In her view, a line should be drawn after ten years.

Participants were then asked whether they had experienced any other problems relating to disclosure of criminal records—for example, with insurance, housing, or visas. Two participants had applied successfully for visas for the US and one for Australia, but they felt that the process they went through to get them was inconvenient, embarrassing and unnecessary. None had experienced housing issues relating to their criminal records.

Participants were asked whether they had ever thought of lying to potential employers about their criminal history. One had felt it necessary to take a chance, but also picked companies which were unlikely to ask for a DBS check. She also had experience of having been asked to disclose her record at an interview and then never hearing from the employers again. Some employers ask for details of convictions whether they are spent or not, which they shouldn't do.

Finally, participants were asked why they had wanted to come and talk to the Committee. Anita wanted to see change and felt there should be a lot more education of young people and parents about the impact of criminal records. Asked whether any record should be wiped, Lynda said she believed this should happen if the offence did not lead to imprisonment, or was not serious, and the offender was a juvenile at the time. If the offender was over 18, each case should be considered on an individual basis. Even some sexual offences could be considered minor. The possibility of having an opportunity to go to a tribunal or review, or the chance to pay a fee to have the criminal record removed, were also discussed; Paulette said she would pay a fee but felt that those worst affected may be least able to pay. The list of excepted professions was also discussed, with some agreement that it was too long. There was a view that the list does not match up with public concern and public safety. Participants also commented on the absence of legal advice when accepting a caution, together with the lack of police understanding about its severity and the legal profession's lack of understanding of the disclosure system as a whole. The tendency of some schools and carers to call the police rather than deal with matters privately was also an issue.

Conclusion

After the conclusion of the two small group discussions, Robert Neill MP thanked all the participants for giving up their time to come to Westminster, and for sharing with Members their experiences and their views on this issue.

Formal Minutes

Tuesday 25 April 2017

Members present:

Robert Neill, in the Chair

Alex Chalk	Mr David Hanson
Alberto Costa	Victoria Prentis
Kate Green	Keith Vaz

Draft Report (*Justice Committee: unfinished business from the 2015 Parliament*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 27 read and agreed to.

Annex 1 read and agreed to.

Annex 2 read and agreed to.

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

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

[The Committee adjourned.

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

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

Session 2015–16

First Report	Draft Allocation Guideline	HC 404
Second Report	Criminal courts charge	HC 586 (HC 667)
Third Report	Appointment of HM Chief Inspector of Prisons and HM Chief Inspector of Probation	HC 624
Fourth Report	Criminal Justice inspectorates	HC 724 (HC 1000)
Fifth Report	Draft sentencing guideline on community and custodial sentences	HC 876
Sixth Report	Prison Safety	HC 625 (HC 647)
First Special Report	Women offenders: follow-up: Government response to the Committee's Thirteenth Report of Session 2014–15	HC 374

Session 2016–17

First Report	Reduction in sentence for a guilty plea guideline	HC 168
Second Report	Courts and tribunals fees	HC 167 (Cm 9300)
Third Report	Pre-appointment scrutiny of the Chair of the Judicial Appointments Commission	HC 416
Fourth Report	Restorative Justice	HC 164 (Cm 9343)
Fifth Report	Sentencing Council draft guidelines on sentencing of youths and magistrates' court sentencing	HC 646
Sixth Report	The role of the magistracy	HC 165 (Cm 9368)
Seventh Report	The treatment of young adults in the criminal justice	HC 169 (Cm 9388)
Eighth Report	Draft Sentencing Guidelines on bladed articles and offensive weapons	HC 1028
Ninth Report	Implications of Brexit for the justice system	HC 750
Tenth Report	The implications of Brexit for the Crown Dependencies	HC 752

Eleventh Report	Appointment of the Chair of the Office for Legal Complaints	HC 752
Twelfth Report	Prison reform: governor empowerment and prison performance	HC 1123
Thirteenth Report	Draft sentencing guideline on breach offences	HC 1105
Fourteenth Report	Prison reform: Part 1 of the Prisons and Courts Bill	HC 1150
First Special Report	Prison safety: Government Response to the Committee's Sixth Report of Session 2015–16	HC 647