



House of Commons  
Justice Committee

---

# Transforming Rehabilitation: Follow-up

---

**Nineteenth Report of Session 2017–19**

*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons  
to be printed 16 July 2019*

## 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)

[Robert Courts MP](#) (*Conservative, Witney*)

[Bambos Charalambous MP](#) (*Labour, Enfield, Southgate*)

[Andrew Griffiths MP](#) (*Conservative, Burton*)

[Mr David Hanson MP](#) (*Labour, Delyn*)

[John Howell MP](#) (*Conservative, Henley*)

[Gavin Newlands MP](#) (*Scottish National Party, Paisley and Renfrewshire North*)

[Victoria Prentis MP](#) (*Conservative, Banbury*)

[Ellie Reeves MP](#) (*Labour, Lewisham West and Penge*)

[Ms Marie Rimmer MP](#) (*Labour, St Helens South and Whiston*)

[Andy Slaughter MP](#) (*Labour, Hammersmith*)

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

[Mrs Kemi Badenoch MP](#) (*Conservative, Saffron Walden*)

[Ruth Cadbury MP](#) (*Labour, Brentford and Isleworth*)

[Alex Chalk MP](#) (*Conservative, Cheltenham*)

[Janet Daby MP](#) (*Labour, Lewisham East*)

### Powers

© Parliamentary Copyright House of Commons 2019. This publication may be reproduced under the terms of the Open Parliament Licence, which is published at [www.parliament.uk/copyright](http://www.parliament.uk/copyright).

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](http://www.parliament.uk).

Evidence relating to this report is published on the relevant [inquiry page](#) of the Committee's website.

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/justicecttee](http://www.parliament.uk/justicecttee) and in print by Order of the House.

### Committee staff

The current staff of the Committee are David Weir (Clerk), Fiona Hoban (Second Clerk), Nony Ardill (Legal Specialist), Ben Rodin (Committee Specialist), Holly

Tremain (Committee Specialist), Christine Randall (Senior Committee Assistant), Su Panchanathan (Committee Assistant), and Liz Parratt and Simon Horswell (Committee Media Officers).

### **Contacts**

All correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8196; the Committee's email address is [justicecom@parliament.uk](mailto:justicecom@parliament.uk).

You can follow the Committee on Twitter using [@CommonsJustice](https://twitter.com/CommonsJustice).



# Contents

---

<b>Summary</b>	<b>3</b>
<b>1 Background</b>	<b>4</b>
<b>2 Transforming Rehabilitation: Follow-up</b>	<b>6</b>
Probation staff	6
Voluntary sector	8
Through the Gate	9
Accommodation	10
Reducing Reoffending	11
Post-release supervision	11
Sentencing policy	12
Funding: transition to the new model	14
Funding: The cost of TR	15
Conclusion	17
<b>Conclusions and recommendations</b>	<b>18</b>
<b>Formal minutes</b>	<b>21</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>22</b>



## Summary

---

In May 2019, the Government announced changes to the model for delivering probation, including ending contracts with Community Rehabilitation Companies (CRCs) and moving all offender management to the National Probation Service.

We support these changes, which are well overdue. In June 2018, we found that Transforming Rehabilitation (TR) reforms to probation, including the establishment of CRCs, had created many serious problems. We were unconvinced that the TR model could ever deliver an effective or viable probation service.

Since last Summer, other reports—for example, from, the Chief Inspector of Probation, National Audit Office and the Public Accounts Committee—consistently supported our conclusions. The system was described as irredeemably flawed, underfunded, fragile, and lacking the confidence of the courts. Three CRCs went into administration. Yet the Government took nearly one year to address the fundamental problems that we and others reported.

What is important now is that there is a smooth transition from the current model to the next. Hard-working probation staff have suffered enough change—now we want them to be able to get on with their jobs.

This brief follow-up report makes recommendations related to staffing, the voluntary sector, Through the Gate (provision for resettling offenders on release from custody), post-release supervision and costs. We call for greater transparency of funding, so we can see where funding is going and what impact it is having. It is our view that if the Government addresses these recommendations, it is more likely that the new probation system will deliver better outcomes for offenders, victims, professionals and the public.

# 1 Background

---

1. In May 2019, the Government announced wholesale changes to the model for delivering probation. Community Rehabilitation Companies (CRCs) will no longer exist after 2019 in Wales and Spring 2021 in England. All offenders will be managed by the National Probation Service (NPS), which will contract out non-core rehabilitative work, such as courses and unpaid work, to the voluntary and private sector.

2. We support these changes, which are long overdue. Last year we published a report which found that the Transforming Rehabilitation (TR) reforms were a mess. We found many serious problems: for example, support from custody into the community was wholly inadequate; magistrates were losing confidence in supervision; CRC performance in reducing reoffending was disappointing; the voluntary sector was less involved than it had been before; and probation staff morale was at an all-time low. Failures in commissioning, especially the botched payment by results model, meant that services were underfunded and financial bail-outs were required to keep the system going. We were unconvinced that the Transforming Rehabilitation model could ever deliver an effective or viable probation service.<sup>1</sup>

3. We are disappointed that the Government did not act more quickly to correct what was increasingly obviously a mistaken reform. Our report on TR was published in June 2018. The MOJ launched a consultation about probation the next month,<sup>2</sup> but this was not the fundamental review—comparing TR with alternative models—for which we had called. Instead the Department took views on how the existing NPS/CRC model could be improved. We wrote to the Lord Chancellor and Secretary of State, Rt Hon David Gauke MP, to express our concern that this was a missed opportunity.<sup>3</sup>

4. In October 2018, we received an interim response to our report, stating that the Government continued to “believe that the underpinning principles of the Transforming Rehabilitation reforms were sound”.<sup>4</sup> This surprised us, given the evidence. We hoped that the Government would take seriously our concern that clear problems required swift resolution. However, it took 11 months before we received a full response to our report.

5. The evidence we received during this time was consistent in its view that the design of TR was, in the words of the HM Inspector of Probation, “irredeemably flawed”. Since September 2018, in inspections of 20 CRCs by the Inspectorate, 15 have been rated “requires improvement”, one “inadequate” and only four “good”.<sup>5</sup> The lowest scores, alarmingly, are for case supervision implementation and delivery, which includes public safety: here, 13 scored “inadequate” and five “requires improvement”.<sup>6</sup> We were particularly concerned about serious safeguarding failings found in the management and supervision of men

---

1 Justice Committee, [Transforming Rehabilitation, Ninth Report of Session 2017-19](#) (June 2018)

2 Ministry of Justice, [Strengthening Probation, Building Confidence](#) (27 July 2018)

3 Letter from the Chair to Rt Hon David Gauke MP, [Transforming Rehabilitation](#) (13 September 2018)

4 Letter to the Chair from Rt Hon David Gauke MP, [Interim response to the Committee's report on Transforming Rehabilitation](#) (October 2018)

5 Figures correct as at 11 July 2019. Includes Wales division of Kent, Surrey and Sussex CRC, which received a dedicated report and ratings

6 A further two were rated “good”

convicted of sexual offences, as set out in a joint HMI Prison and HMI Probation report in January 2019.<sup>7</sup> The Government should have moved more quickly to address the concerns that we and others were expressing.

6. In this brief follow-up report, we scrutinise the Government's actions since June 2018, and consider what approach they should take in the coming months and years of transition to another new system. We draw on oral evidence taken from Dame Glenys Stacey (then HM Inspector of Probation) on 14 May 2019, as well as the pre-appointment hearing for her successor (Justin Russell) on 5 March 2019. We also took oral evidence from the responsible Minister, Robert Buckland QC MP, along with three HMPPS officials<sup>8</sup>, on 12 June 2019.

---

7 HMI Prisons and HMI Probation, [Management and supervision of men convicted of sexual offences](#) (January 2019)

8 Jim Barton, Director and Senior Responsible Owner, Probation Reform Programme; Sonia Crozier, Chief Probation Officer; Amy Rees, Director General for Probation and HMPPS Wales

## 2 Transforming Rehabilitation: Follow-up

---

7. In May 2019, the Public Accounts Committee found “In its haste to rush through its reforms at breakneck speed the Ministry of Justice not only failed to deliver its ‘rehabilitation revolution’ but left probation services underfunded, fragile, and lacking the confidence of the courts.”<sup>9</sup> We concur with this assessment.

8. We therefore welcome the move to a new probation structure from 2020 in Wales and 2021 in England. When we met informally with prison governors in June 2019,<sup>10</sup> they told us that they, too, welcomed recently announced reforms to probation “as things could hardly get any worse”.

9. But the necessary reforms, especially coming so quickly after the previous restructure in 2014–15, will not be simple. The then Prisons and Probation Minister Rory Stewart MP told us in April 2018: “I emphasise that there would be considerable costs in trying to reinvent the system yet again, in terms of staff morale, certainty, offenders and the public.”<sup>11</sup> We agree: the transition between models is an inherently risky and costly exercise. Probation relies on secure ongoing relationships between service users and staff, and it is therefore vital to minimise disruption. Hard-working probation staff have suffered enough change and must be able to get on with their jobs.

10. This report makes recommendations about: staffing, the voluntary sector, Through the Gate provision and post-release supervision. We conclude by expressing serious concerns about the transparency of funding of the existing system, and we urge the Government to be clearer about costs in future.

### Probation staff

11. We pay tribute to the dedicated hard work of the probation profession over the past few years. As we said in June 2018, probation officers and other case managers perform an important public duty. We were concerned to find last year that staff had high caseloads and felt de-professionalised, while morale was at an “all-time low”.

12. This year, Dame Glenys Stacey, then HM Chief Inspector of Probation, told us that “Probation professionals have, in the main, made heroic efforts to do their level best over a very difficult period”.<sup>12</sup> She spoke of a “national shortage of probation professionals”,<sup>13</sup> while Sonia Crozier, Chief Probation Officer, HMPPS, said “one of the key lessons we learned from TR is the cost of breaking the probation pipeline in terms of qualified officers coming through”.<sup>14</sup>

---

9 Public Accounts Committee, [Transforming Rehabilitation: Progress Review](#), 94th Report of Session 2017–19, 3 May 2019 (HC 1747) P3

10 As part of our ongoing inquiry into prisons governance

11 [Q340](#)

12 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019), Q25

13 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q19

14 [Q417](#) [Sonia Crozier]

13. We recommended that the MOJ should produce a probation workforce strategy, which should set out the Ministry’s expectations with regard to professional standards, training, and maximum caseloads/workloads for probation staff. The Government told us in May 2019 that it did not accept our recommendation. This was particularly disappointing, as in the interim response a few months earlier we were told that the MOJ was “currently developing a workforce strategy”.<sup>15</sup> The Chief Inspector of Probation had also called for a national workforce strategy.<sup>16</sup> The Government has also rejected our recommendation that workforce data—including information on recruitment and retention—be published, telling us that CRCs own the information and that it is commercially sensitive.

14. The responsible Minister, Robert Buckland QC MP, sought to reassure us, telling us about an active recruitment campaign to recruit more probation officers, with a more mixed caseload. He offered to write to the Committee to explain this.<sup>17</sup>

15. ***We welcome the Minister’s offer to write to explain his plans to recruit and retain more probation officers, including current, planned and achieved numbers. This should include information about grade, development, training and caseload allocation.***

16. In May 2019, the MOJ announced that it plans to introduce “an independent statutory register for probation professionals” in order to support “ongoing continuous professional development and recognition”.<sup>18</sup> The announcement is welcome but contained little detail—for example, which body will own it, how it will work and when it will come into force. The Minister appeared to acknowledge that the plan is not yet fully worked out, telling us that “we will develop the detail of the plans when we come to the legislative stage”.<sup>19</sup> When the Department may be in a position to propose legislation is also not clear.

17. Dame Glenys Stacey told us that she supported an independent professional body to regulate the profession, to bring it into line with most other professions such as doctors, social workers and teachers:

A profession should, in my view, have three key tenets. First of all, there should be a requirement for registration; who is and is not in the profession is important. Secondly, there should be a requirement for continuing professional development... Thirdly, a professional body generally self-regulates. It has fitness to practise panels and its own way of identifying its bad eggs, and dealing fairly and proportionately with them, with the interests of the public at heart. Those things are missing from this profession and the profession is the poorer for it.<sup>20</sup>

15 Letter to the Chair from Rt Hon David Gauke MP, [Interim response to the Committee’s report on Transforming Rehabilitation](#) (October 2018)

16 HMI Probation, [Report of the Chief Inspector of Probation](#) (March 2019) p15

17 [Q417](#)

18 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p8

19 [Q420](#)

20 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) q22

18. Napo (the trade union, professional association and campaigning organisation for probation and Family Court staff), also support a national professional register, stating last year: “Napo passed the motion to call on the MOJ for such a register some 4 years ago and it is frustrating that more progress has not been made. A register would protect the MOJ and providers by enabling them to employ the right people for the right job.”<sup>21</sup>

**19. We support the principle of an independent statutory register for probation professionals, since it is important to raise the status of the probation profession. It is important to consult widely on this, including with the unions, and we look forward to scrutinising the detailed proposals. We recommend that the necessary legislation to introduce a statutory register for probation professionals be introduced as soon as possible, and certainly within the next Queen’s Speech at the very latest.**

## Voluntary sector

20. In June 2018, we were concerned that the voluntary sector had been hit by the reforms. We found that “the decreased involvement of the voluntary sector, especially that of smaller local organisations, is deeply regrettable and reduces the quality and array of services available to individuals on probation.”<sup>22</sup>

21. Earlier this year, the NAO reinforced our concerns, reporting that, “at October 2018, just 11% (159) of VSOs [voluntary sector organisations] working in the criminal justice sector were providing services directly to CRCs”. The NAO concluded that CRCs had “not developed supply chains as intended, primarily due to financial pressures.”<sup>23</sup>

22. Dame Glenys Stacey also expressed concern about the dwindling role of voluntary sector organisations in probation, especially the smaller local organisations who are “disproportionately affected by the nature of the contractual provisions that they would have to enter.”<sup>24</sup> She agreed that she was particularly concerned about bodies specialising in offenders with protected characteristics (such as Black, Asian and Minority Ethnic individuals, women). Witnesses to our Prison Population 2022 inquiry told us about the impact of TR on the voluntary sector: for example, one said that the TR reforms were “absolutely devastating” for the funding of voluntary sector women’s services.<sup>25</sup>

23. It has been difficult to understand the precise funding implications of the TR reforms on the voluntary sector, as details of CRC supply chains are not published, despite our recommendation that the MOJ should do so. The Government told us that this was because of commercial confidentiality.

24. Robert Buckland QC MP did acknowledge, in evidence to us in June 2019, that the involvement of the voluntary sector “was lost in the mix when it came to previous provision”.<sup>26</sup> Jim Barton, Senior Responsible Owner for the Probation Reform Programme,

21 Napo, [Response to MOJ Consultation Strengthening Probation, Building Confidence](#) (2018) q10

22 Justice Committee, [Transforming Rehabilitation, Ninth Report of Session 2017–19](#) (June 2018) para 100

23 National Audit Office, [Transforming Rehabilitation: Progress Review](#) (February 2019), p7

24 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q53

25 Justice Committee, [Oral evidence: Prison Population 2022: Planning for the future](#), HC 483 (30 October 2018) Q367 [Jessica Southgate, Agenda]

26 [Q413](#)

HMPPS, said that research by Clinks, the body which supports the voluntary sector in the criminal justice system, “gave some evidence that we are on a declining trajectory. It is getting worse and harder for the [voluntary] sector as a whole, and we acknowledge that.”<sup>27</sup>

25. Clinks told the MOJ last year:

The underfunding of probation services was leading to a lack of investment in rehabilitation and resettlement services with half the voluntary led services funded by CRCs telling us that they are unsustainable, and one third subsidised by charitable reserves or other funding sources. Given this, there is real concern amongst the sector that the ambition to better engage with and involve the voluntary sector in the delivery of probation services cannot be achieved within current financial constraints.<sup>28</sup>

26. The Government has sought to assure us the new model will address the way in which the voluntary sector has been pushed out. The Minister told us that the new model will have “room for smaller localised organisations, whether it is the third sector or other types of organisation, to provide localised tailored support.” HMPPS added that they were “consciously designed the shape of the new market in a way that reduces barriers to entry for the voluntary sector.”<sup>29</sup>

**27. It is vital that the new system should be organised and funded in such a way that the involvement of the voluntary sector is protected and encouraged. We should be able to measure this. *The Government should develop a detailed evaluation strategy to ensure that it measures the impact of its new probation policy on the voluntary sector from 2020 in Wales and 2021 in England. This should include establishing the current baseline, to order to measure change. From the start of 2022, the Government should publish transparent figures setting out how much probation funding flows to the voluntary and private sector (including through sub-contracting), and to whom.***

## Through the Gate

28. One of the key components of the TR reforms was that all offenders would, on leaving prison, receive an element of continuous support from custody into the community. But we found that this Through the Gate (TTG) provision was wholly inadequate, frequently merely signposting offenders to other organisations.

29. We have continued to receive worrying evidence on the state of resettlement services. Dame Glenys Stacey reported that her inspections found “a wide variation of Through the Gate services, but they are mainly on the poor side”.<sup>30</sup> Prison Governors told us informally in June 2019 that Through the Gate was “a mess”, although they acknowledged that new funding had come on board and it was “early days”.

27 [Q414](#)

28 Clinks, [Response to MOJ Consultation ‘Strengthening Probation, Building confidence’](#) (October 2018), quoting from Clinks, NCVO, TSRC, [Under represented, under pressure, under resourced: the voluntary sector in Transforming Rehabilitation](#) (April 2018)

29 [Q413](#)

30 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q16

30. The Minister told us that he had agreed an additional £43 million with CRCs to deliver an enhanced Through the Gate specification to the end of 2020.<sup>31</sup> HMPPS explained “that service is now live in all bar four resettlement prisons, with 500 additional staff in post delivering improved support for offenders pre-release.”<sup>32</sup>

31. **We acknowledge that it is still, in the words of the Minister, “fairly early days”, but we will want to see that this additional TTG funding makes a real difference. The MOJ should provide us with an evaluation of TTG by the end of 2020, setting out how the funding has delivered improved support and better outcomes for offenders leaving custody and returning to the community.**

## Accommodation

32. Dame Glensy Stacey told us that one in five people leaving custody do not have somewhere to sleep on the night they leave prison, rising to one in three in her most recent inspection of short sentence release.<sup>33</sup> This is a shocking figure. We have previously noted the close relationship between homelessness and reoffending.

33. We asked the Minister directly what he was doing about the critical problems with accommodation. The Minister described a pilot led by the Ministry of Housing, Communities and Local Government (MHCLG) of £4.6 million to target the rough sleeping in certain pilot areas.<sup>34</sup> Chief Probation Officer Sonia Crozier told us “We have set up a national working group around the Homelessness Act. We are actively engaged with [MHCLG] to track the new referrals system, whereby we have a duty to make referrals to local authorities of individuals who are homeless and under our supervision... It is early days, but we have the systems in place to monitor it.”<sup>35</sup>

34. In our report on Prison Population 2022, we recommended that “for genuine cross-departmental progress to be made in ensuring access to housing for those leaving prison, a basic requirement to generating stable and crime-free lives, Government must urgently publish an accommodation strategy and action plan.”<sup>36</sup> The Government rejected this recommendation, instead telling us that it is “concentrating resources into a more strategic, cross-Whitehall approach... we are now actively feeding in to the MHCLG-owned Rough Sleeping Strategy and Delivery plan”.<sup>37</sup>

35. **We are disappointed that the Government rejected our recommendation to publish an accommodation strategy and action plan for prisoners on release, given the serious problems we have identified. Ex-prisoners are a distinct group, and it is vital that their specific needs are not lost in the MHCLG-owned Rough Sleeping Strategy and Delivery plan. In addition, ex-prisoner accommodation needs go much wider than rough sleeping alone: there is a diverse range of needs in the ex-prisoner cohort, including people with mental health and social care needs, as well as offenders convicted of sexual offences. The MOJ should update us by December 2019 on their work**

31 [Q392](#)

32 [Q396](#) [Jim Barton]

33 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q27

34 [Q432](#)

35 [Qq442-443](#)

36 Justice Committee, [Prison population 2022: planning for the future. Sixteenth Report of Session 2017-19](#) (April 2019) HC 483 para 234

37 Justice Committee, [Prison population 2022: planning for the future. Government Response to the Committee's Sixteenth Report of Session 2017-19, Seventh Special Report of Session 2017-19](#) (June 2019) HC 2308 P30

*to address the accommodation needs of prisoners on release, including the national working group around the Homelessness Act. This update should set out both actions taken and outcomes.*

36. **The new HM Inspector of Probation plans to start a thematic review relating to accommodation in 2019–20. We welcome this and look forward to its publication.**

## Reducing Reoffending

37. In March 2019, the NAO found that TR had failed to meet the MOJ’s targets to reduce reoffending, with a 22% increase in the number of reoffences per reoffender.<sup>38</sup> We wrote to the Government about reoffending in July 2018, and received a response from the Minister for the Cabinet Office, the Rt Hon David Lidington MP. He described the Reducing Reoffending Board which he chairs:

The Board will meet quarterly, and has been convened to support cross government work to tackle some of the main causes of reoffending including employment, health and accommodation... I’m committed to ensuring that the Board develops deliverable and measurable proposals that will result in public announcements ... . My officials are responsible for tracking the actions agreed, and for collating and analysing the data to hold departments to account for tackling this problem and to measure progress.<sup>39</sup>

38. **We welcome the establishment of the cross-cutting Reducing Reoffending Board, but we have not seen the promised public announcements of its work. *The Minister for the Cabinet Office should update us in September 2019 on progress made by the Reducing Reoffending Board since his July 2018 letter. This update should set out how many times the Board has met since July 2018, the deliverable and measurable proposals agreed by the Board, how actions are being tracked and data collected to measure progress, and what specific and measurable outcomes have been achieved to date.***

## Post-release supervision

39. TR reforms introduced legislative provision for 12 months of compulsory post-sentence supervision for offenders who had served short custodial sentences, adding around 40,000 more offenders to be supervised by probation services.

40. Last year, we found that available supervision was not sufficiently flexible to meet the diverse needs of this group, and we recommended that the Government consider repealing Section 2 of the Offender Rehabilitation Act 2014. The Government rejected our recommendation.

41. This is regrettable. Since we published our report, the evidence has become even clearer that post-release supervision for that cohort is not working. The NAO found that the extension had led to significant increases in the number of people being recalled to prison during their license period: “Between January 2015 and September 2018, the number of offenders recalled to prison for breaching their license conditions increased

38 National Audit Office, [Transforming rehabilitation: progress review](#), 1 March 2019, p6. Refers to the period between 2011 and March 2017.

39 Letter from David Lidington MP to the Chair, [regarding Reducing Reoffending Board](#), dated 29 August 2018

from 4,240 to 6,240 (47%). Over the same period, the percentage of offenders recalled to prison who had received short sentences of less than 12 months increased from 3% to 36%.”<sup>40</sup> Women are disproportionately affected, as they are much more likely than men to be serving short custodial sentences.

42. In May 2019, the then HM Inspector of Probation reported that changes to the probation system have led to “no tangible reduction to reoffending”: rather individuals were “locked in an expensive merry-go-round of criminal justice processes” and the public left “at undue risk”. She found, as we found in our June 2018 report, that the “one size fits all” approach is unhelpful:

Many individuals who receive short sentences need intensive support; conversely, just under a quarter of inspected cases were lower-risk so supervision periods could have potentially been shortened or suspended. In my opinion, we need a more tailored approach to probation supervision for short-term prisoners and to direct resources to where they are most needed.<sup>41</sup>

43. The Minister said, while he did not agree with the Committee that he should consider whether Section 2 should be abolished, “we can do better”.<sup>42</sup> The Government response stated that MOJ is “continuing to consider ways of improving post-sentence supervision, in order to clarify expectations for its delivery and ensure a focus on rehabilitation.”<sup>43</sup>

44. It is also essential that this work is adequately funded: we received evidence from the incoming Chief Inspector of Probation (formerly Director General for Justice Analysis and Offender Management, MOJ) that “As everyone knows, [TR] has brought 40,000 more people into the case load, people on short prison sentences who then require follow-up support, but without the additional money to deliver that.”<sup>44</sup>

45. ***The MOJ should write to us by October 2019 to tell us how it is improving post-sentence supervision in order to meet our concerns, and those of the previous HM Inspector of Probation, that it is insufficiently flexible to meet the individual needs of offenders.***

## Sentencing policy

46. In the medium-to-longer term, we welcome Government’s stated intention to move away from short custodial sentences. This was a key recommendation in our report on Transforming Rehabilitation, as well as our report on Prison Population 2022. We believe that short periods in custody have worse outcomes in terms of reoffending, compared to community sentences, and so should be a last resort.

40 National Audit Office, [Transforming rehabilitation: progress review](#), 1 March 2019, P20

41 HMI Probation press release, [Extended probation for short-term prisoners fails to cut reoffending rates](#) (20 May 2019)

42 [Q446](#)

43 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p9

44 Justice Committee, [Oral evidence: Pre-appointment hearing for HM Chief Inspector of Probation](#), HC 2015 (5 March 2019), q22

47. The MOJ has told us that “There is a strong case to abolish sentences of six months or less, with some exceptions”.<sup>45</sup> The Minister said that he was unable to give a precise date, but that he would like to put proposals out to consultation by the Summer recess.<sup>46</sup>

48. These proposals will require a strong and confident probation service to oversee alternatives to custody. In the words of the Minister, “the most effective answer to the problem of the ineffectiveness of short custodial sentences is to get community sentences right.”<sup>47</sup>

49. But the evidence does not suggest that TR has helped to “get community sentences right”: rather, it points in the opposite direction. In June 2018, we expressed our concern that sentencer confidence in community alternatives to short custodial sentences had waned to such an extent that sentencers appeared to be reluctant in some cases to order community sentences rather than short periods in custody.

50. In the last year, our follow-up inquiry into the role of the magistracy found further evidence to support these concerns. For example, in November 2018, Jo King JP, Co-Chair of the Magistrates’ Engagement Group, observed that there had been a drop-off in confidence in community sentences under the TR regime, not helped by the “one-step removal of the Community Rehabilitation Companies from magistrates [as the CRCs do not attend court and do not provide pre-sentence reports, which are the responsibility of the NPS]”.<sup>48</sup>

51. She added: “We need to ... make sure that magistrates are confident when they impose a community sentence that it is a robust sentence, which meets the objectives that they identified for that particular sentence, and that we get adequate feedback from the CRCs and the National Probation Service on how an individual is performing on that order so that we can use them appropriately.”<sup>49</sup>

52. The Magistrates Association also told us that “it will be important to tackle a lack of sentencer confidence in community sentences”. One suggested way to do this is “ensuring that good quality community provision that can meet the needs of offenders is available in every area of the country and that magistrates have a full understanding of what is available in their area. This should include ensuring the consistent availability of treatment options.” The Association also called for “bespoke community options for specific cohorts, such as women and repeat offenders”.<sup>50</sup>

53. Dame Glenys Stacey had also observed that magistrates’ “confidence in community sentences has reduced over the period that TR has been running. It is not satisfactory”.<sup>51</sup> She warned that many people who were given short custodial sentences were prolific offenders, often with a chaotic lifestyle and mental health/ substance misuse problems:

---

45 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p9

46 [Q424](#)

47 [Q424](#)

48 Justice Committee, [Oral Evidence, The Role of the Magistracy: Follow-up](#), HC 1654 (27 November 2018) Q46

49 Justice Committee, [Oral Evidence, The Role of the Magistracy: Follow-up](#), HC 1654 (27 November 2018) Q47

50 Magistrates Association, [Written evidence to the Justice Committee inquiry into the Magistracy: follow-up](#) (published 26 February 2019) MAG0001

51 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q41

For judges and magistrates to have confidence that prison is not the right option, you need an effective alternative, and it is difficult to see that standard supervision could do it, given the nature of a good number of those people.<sup>52</sup>

54. We asked HMPPS whether the probation service will be sufficiently strong to oversee the alternatives to custodial sentences and received reassurances that the planned new model for probation “is absolutely the right platform for us to move forward”.<sup>53</sup>

**55. We very much welcome Government’s stated intention to move away from short custodial sentences and look forward to scrutinising their proposals when these are brought forward. Proposals on short custodial sentences should set out the intensive rehabilitative approaches which will be put in place as an alternative to deal with prolific offenders, as well as how sentencer confidence will be increased.**

### Funding: transition to the new model

56. In June 2018, we recommended “If [CRC] contracts are to be terminated the Ministry of Justice needs to ensure that transition plans are put in place which make sure that offenders receive the support they require to be rehabilitated and their risk of reoffending does not increase.”<sup>54</sup>

57. The Department told us in response that it was “developing a transition strategy to ensure a smooth handover”.<sup>55</sup> We look forward to scrutinising that strategy, especially given the ambitious timescales involved. We also support the MOJ’s intention to learn lessons from the integration of offender management delivery in Wales, which it plans to deliver by the end of this year.

58. There are pressing concerns about the next few months. The NAO reported in March 2019 that: “The Ministry expects CRCs to take ‘drastic’ steps to limit their losses to contract termination. CRCs have begun to submit disinvestment plans to the Ministry, indicating where they propose to withdraw services to limit their losses. The Ministry is still to decide the extent to which it will step in to fund the continuity of some services. The possibility of multiple provider failures is a live risk.”<sup>56</sup> The NAO came to this conclusion when the MOJ was maintaining the line that CRC contracts would run to 2020 and then be re-tendered.

59. The MOJ accepted our recommendation to monitor closely the financial position of all CRCs to ensure that no CRC is suddenly unable to deliver probation services. They told us “while the Department expects all CRCs to continue delivering services throughout the remaining life of the contracts, we have extensive contingency plans in place should any provider be unable to deliver their contractual requirements.”<sup>57</sup>

52 Justice Committee, [Oral evidence: HM Chief Inspector of Probation](#), HC 2171 (14 May 2019) Q17

53 [Q425](#) [Amy Rees]

54 Justice Committee, [Transforming Rehabilitation, Ninth Report of Session 2017–19](#) (June 2018), para 46

55 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p2

56 National Audit Office, [Transforming Rehabilitation: Progress Review](#) (February 2019), p29

57 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p2

60. We asked whether there is a risk of any further bail-outs for CRCs for the rest of the contract terms. Amy Rees, Director General for Probation, HMPPS, told us: “we believe, from the best knowledge that we have, that [the injection of an additional £467m] will be enough to stabilise as we go forward.”<sup>58</sup> She added: “There are lots of changing numbers, and multiple parts and frequencies, which mean that it is difficult to say, when you take all of that, that there is no risk at all, but we believe we have taken steps to eliminate the risk as far as we can.”<sup>59</sup>

61. We also queried how the MOJ would incentivise the CRC companies to keep up the work as their now non-renewable contracts wind down. HMPPS referred us to the contractual terms, which “are very clear about what they [CRCs] are obliged to do.” HMPPS also noted stabilisation measures, such as adjustments to contracts, and referred to close working with CRCs and trade unions on transition.<sup>60</sup>

**62. The risk of provider disinvestment will inevitably increase with the news that there will not be new CRC tenders in the pipeline. We note the priority which the MOJ is placing on close contract management of the remaining term of the CRC contracts, and we will be deeply concerned about the value for money for the taxpayer of any future bail-out of such contracts. HMPPS must pay close attention to what the new HMI Probation reports about the health of probation provision during the transition to the replacement system.**

63. Under the new model, substantial funds will be reserved to the private or charitable sector. The National Probation Service will be expressly required to buy all interventions from the market, spending up to an estimated £280m a year.

**64. We agree with the NAO’s assessment that the commissioning of TR commissioning was rushed and over-optimistic. The MOJ, HMPPS and NPS must learn from the experience of the failed and hurried introduction of the CRC/NPS split of services, if future commissioning is to prove more effective.**

## Funding: The cost of TR

65. In March 2019, the NAO found that the “payment by results model was inappropriate”, and that as a result of a shortfall in funding “CRCs have underinvested in probation services, which have suffered as a result.”<sup>61</sup>

66. In the same month, the incoming HM Inspector of Probation, Justin Russell, told us that the probation system “is in a bad way and there are some very serious flaws with the way TR was set up”. He identified in particular a “big hole in the funding... it will be a critical issue for spending [decisions].”<sup>62</sup>

58 [Q402](#)

59 [Q403](#)

60 [Q407](#)

61 National Audit Office, [Transforming rehabilitation: progress review](#), 1 March 2019

62 Justice Committee, [Oral evidence: Pre-appointment hearing for HM Chief Inspector of Probation](#), HC 2015 (5 March 2019), q19

67. We asked the Minister about the spend on TR. He told us that

the projected overall spend on the [CRC] contracts was going to be £3.7 billion. By ending them, we spend only £2.3 billion. You then add on the £470 million I have talked about [adjustments to contracts] ... There are other rounding figures that mean an overall £800 million underspend.

68. This tells us nothing about what the Government will have purchased for that £2.9 billion, the value for money of the programme or whether it has been a good deal. It does not reassure us to hear that the MOJ has spent less than planned: rather, it points to an underfunded service. This was summed up by Justin Russell who told us that CRCs “are really struggling... the funding is not adequate to provide a quality service.”<sup>63</sup> He explained:

In the original business case that the Treasury approved when TR was first implemented, the assumption was that this year we would be spending over £500 million per year on CRC contracts. We [MOJ] are actually spending less than £400 million per year. That is a £100 million gap. It is not, therefore, surprising that the quality of services has declined.<sup>64</sup>

69. In our report in June 2018, we complained that there was ambiguity about the nature of the changes made to the contracts with CRCs and what the Ministry got from the CRCs in return for the increased funding. We were concerned that, as a result, it was difficult to scrutinise public spending decisions. We remain concerned.

70. The MOJ’s answer to us that it “complies with applicable transparency requirements, such as publishing Modification Notices in the Official Journal of the European Union” is not enough. The Department has rejected our recommendation to publish CRC and NPS supply chain information, including the monetary value of the sub-contracts, citing commercial sensitivity.<sup>65</sup> The Permanent Secretary also told us that he could not, at this time, release the MOJ’s initial assessment of exit costs for current CRC contracts, since releasing these figures may compromise negotiations with providers. He did however, provide a breakdown of costs for 2018–19 associated with each CRC, as we requested.<sup>66</sup>

71. There is an unacceptable lack of transparency about the reasons for individual spending decisions. For example, when he appeared in front of us, the Minister was not able to explain the Ministerial Direction, made four weeks before, to make payments to CRC subcontractors, against the advice of the MOJ Permanent Secretary in his role as departmental Accounting Officer.<sup>67</sup> Ministerial Directions are rare—it was nine years since the Secretary of State for Justice last issued one.

**72. *When the period with the current CRCs has been finalised and completed, the MOJ should publish a cost analysis, setting out the spend on CRCs and the changes for the***

63 Justice Committee, [Oral evidence: Pre-appointment hearing for HM Chief Inspector of Probation](#), HC 2015 (5 March 2019), q9

64 Justice Committee, [Oral evidence: Pre-appointment hearing for HM Chief Inspector of Probation](#), HC 2015 (5 March 2019), q20

65 Justice Committee, [Eight Special Report of Session 2017–19, Government Response to the Justice Committee’s Ninth Report of Session 2017–19: Transforming Rehabilitation](#) (June 2019), p6

66 Letter from Richard Heaton to the Chair, [MOJ Main Estimate 2019–20](#), 2 July 2019

67 [Q400](#)

*lifetime of the CRC contracts. We also note that HMPPS publishes a cost per prisoner per year; the MOJ should consider publishing per-head costs of offender probation support, broken down by CRCs and the NPS.*

## Conclusion

73. The Lord Chancellor and Secretary of State told us that: “Clearly, it [Transforming Rehabilitation] has not delivered in the way we wanted.”<sup>68</sup> We agree. The Government has done the right thing, finally, by making changes to the probation system. This report has set out areas which the Government must address if it is to get probation back on track.

---

68 Justice Committee, [Oral evidence on Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (3 April 2019) HC 2094 Q33

## Conclusions and recommendations

---

### Probation staff

1. *We welcome the Minister's offer to write to explain his plans to recruit and retain more probation officers, including current, planned and achieved numbers. This should include information about grade, development, training and caseload allocation. (Paragraph 15)*
2. *We support the principle of an independent statutory register for probation professionals, since it is important to raise the status of the probation profession. It is important to consult widely on this, including with the unions, and we look forward to scrutinising the detailed proposals. (Paragraph 19)*
3. *We recommend that the necessary legislation to introduce a statutory register for probation professionals be introduced as soon as possible, and certainly within the next Queen's Speech at the very latest. (Paragraph 19)*

### Voluntary Sector

4. *It is vital that the new system should be organised and funded in such a way that the involvement of the voluntary sector is protected and encouraged. We should be able to measure this. The Government should develop a detailed evaluation strategy to ensure that it measures the impact of its new probation policy on the voluntary sector from 2020 in Wales and 2021 in England. This should include establishing the current baseline, to order to measure change. From the start of 2022, the Government should publish transparent figures setting out how much probation funding flows to the voluntary and private sector (including through sub-contracting), and to whom. (Paragraph 27)*

### Through the Gate

5. *We acknowledge that it is still, in the words of the Minister, "fairly early days", but we will want to see that this additional TTG funding makes a real difference. The MOJ should provide us with an evaluation of TTG by the end of 2020, setting out how the funding has delivered improved support and better outcomes for offenders leaving custody and returning to the community. (Paragraph 31)*

### Accommodation

6. *We are disappointed that the Government rejected our recommendation to publish an accommodation strategy and action plan for prisoners on release, given the serious problems we have identified. Ex-prisoners are a distinct group, and it is vital that their specific needs are not lost in the MHCLG-owned Rough Sleeping Strategy and Delivery plan. In addition, ex-prisoner accommodation needs go much wider than rough sleeping alone: there is a diverse range of needs in the ex-prisoner cohort, including people with mental health and social care needs, as well as offenders convicted of sexual offences. The MOJ should update us by December 2019*

*on their work to address the accommodation needs of prisoners on release, including the national working group around the Homelessness Act. This update should set out both actions taken and outcomes.* (Paragraph 35)

7. The new HM Inspector of Probation plans to start a thematic review relating to accommodation in 2019–20. We welcome this and look forward to its publication. (Paragraph 36)

### Reducing Reoffending

8. We welcome the establishment of the cross-cutting Reducing Reoffending Board, but we have not seen the promised public announcements of its work. *The Minister for the Cabinet Office should update us in September 2019 on progress made by the Reducing Reoffending Board since his July 2018 letter. This update should set out how many times the Board has met since July 2018, the deliverable and measurable proposals agreed by the Board, how actions are being tracked and data collected to measure progress, and what specific and measurable outcomes have been achieved to date.* (Paragraph 38)

### Post-release supervision

9. *The MOJ should write to us by October 2019 to tell us how it is improving post-sentence supervision in order to meet our concerns, and those of the previous HM Inspector of Probation, that it is insufficiently flexible to meet the individual needs of offenders.* (Paragraph 45)

### Sentencing policy

10. We very much welcome Government's stated intention to move away from short custodial sentences and look forward to scrutinising their proposals when these are brought forward. (Paragraph 55)
11. *Proposals on short custodial sentences should set out the intensive rehabilitative approaches which will be put in place as an alternative to deal with prolific offenders, as well as how sentencer confidence will be increased.* (Paragraph 55)

### Funding: transition to the new model

12. The risk of provider disinvestment will inevitably increase with the news that there will not be new CRC tenders in the pipeline. *We note the priority which the MOJ is placing on close contract management of the remaining term of the CRC contracts, and we will be deeply concerned about the value for money for the taxpayer of any future bail-out of such contracts. HMPPS must pay close attention to what the new HMI Probation reports about the health of probation provision during the transition to the replacement system.* (Paragraph 62)

13. We agree with the NAO's assessment that the commissioning of TR commissioning was rushed and over-optimistic. *The MOJ, HMPPS and NPS must learn from the experience of the failed and hurried introduction of the CRC/NPS split of services, if future commissioning is to prove more effective.* (Paragraph 64)

#### Funding: the cost of TR

14. *When the period with the current CRCs has been finalised and completed, the MOJ should publish a cost analysis, setting out the spend on CRCs and the changes for the lifetime of the CRC contracts. We also note that HMPPS publishes a cost per prisoner per year; the MOJ should consider publishing per-head costs of offender probation support, broken down by CRCs and the NPS.* (Paragraph 72)

# Formal minutes

---

**Tuesday 16 July 2019**

Members present:

Robert Neill, in the Chair

Bambos Charalambous	Victoria Prentis
Andrew Griffiths	Ellie Reeves
David Hanson	Marie Rimmer
John Howell	Andy Slaughter

Draft Report (*Transforming Rehabilitation: follow-up*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 73 read and agreed to.

Summary agreed to.

*Resolved*, that the Report be the Nineteenth Report of the Committee to the House.

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

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till Tuesday 23 July 2019 at 9.30 am

## 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 2017–19

First Report	Disclosure of youth criminal records	HC 416 (Cm 9559)
Second Report	Draft Sentencing Council guidelines on intimidatory offences and domestic abuse	HC 417
Third Report	Pre-legislative scrutiny: draft personal injury discount rate clause	HC 374 (Cm 9567)
Fourth Report	Draft Sentencing Council guidelines on manslaughter	HC 658
Fifth Report	HM Inspectorate of Prisons report on HMP Liverpool	HC 751 (HC 967)
Sixth Report	Draft Sentencing guideline on terrorism	HC 746
Seventh Report	Small claims limit for personal injury	HC 659 (Cm 9649)
Eighth Report	Young adults in the criminal justice system	HC 419 (HC 1530)
Ninth Report	Transforming Rehabilitation	HC 482 (HC 2309)
Tenth Report	Draft Sentencing Council guideline on child cruelty offences	HC 892
Eleventh Report	Disclosure of evidence in criminal cases	HC 859 (Cm 9744)
Twelfth Report	Criminal Legal Aid	HC 1069 (HC 1858)
Thirteenth Report	Draft Sentencing Council guidelines on arson and criminal damage and public order offences	HC 1579
Fourteenth Report	Draft Sentencing Council General Guideline for sentencing offences for which there is no specific guideline	HC 2015
Fifteenth Report	Appointment of HM Chief Inspector of Probation	HC 2015
Sixteenth report	Prison population 2022: planning for the future	HC 483 (HC 2308)
Seventeenth Report	Bailiffs: Enforcement of debt	HC 1836
Eighteenth Report	The role of the magistracy: follow-up	HC 1654

First Special Report	The implications of Brexit for the Crown Dependencies: Government Response to the Committee's Tenth Report of Session 2016–17	HC 423
Second Special Report	Government Responses to the Committee's Reports of Session 2016–17 on (a) Prison reform: governor empowerment and prison performance (b) Prison reform: Part 1 of the Prisons and Courts Bill	HC 491
Third Special Report	The implications of Brexit for the justice system: Government Response to the Committee's Ninth Report of Session 2016–17	HC 651
Fourth Special Report	HM Inspectorate of Prisons report on HMP Liverpool: Government Response to the Committee's Fifth Report	HC 967
Fifth Special Report	Young adults in the criminal justice system: Government Response to the Committee's Eighth Report of Session 2017–19	HC 1530
Sixth Special Report	Criminal Legal Aid: Government Response to the Justice Committee's Twelfth Report of Session 2017–19	HC 1858
Seventh Special Report	Prison Population 2022: Planning for the future: Government Response to the Committee's Sixteenth Report of 2017–19	HC 2308
Eighth Special Report	Transforming Rehabilitation: Government Response to the Committee's Ninth Report of Session 2017–19	HC 2309