

UK Justice Policy Review

Volume 9

25 July 2018 to

12 December 2019

by Richard Garside, Roger Grimshaw,
Matt Ford, Neala Hickey and Helen Mills

THE HADLEY TRUST

CENTRE FOR CRIME
AND JUSTICE STUDIES

UK Justice Policy Review

Volume 9

25 July 2018 to 12 December 2019

by Richard Garside, Roger Grimshaw,
Matt Ford, Neala Hickey and Helen Mills

About the authors

Richard Garside is Director, Roger Grimshaw is Research Director, Matt Ford is Research Associate, Neala Hickey is Projects and Communications Assistant and Helen Mills is Head of Programmes, all at the Centre for Crime and Justice Studies.

Acknowledgements

Without the generous support of The Hadley Trust this publication would not have been possible. We thank them for their support for this series. Thank you to Tammy McGloughlin for her production work and to Steve Swingler our designer.

Registered charity No. 251588

A company limited by guarantee
Registered in England No. 496821

Centre for Crime and Justice Studies
2 Langley Lane
Vauxhall
London
SW8 1GB
info@crimeandjustice.org.uk
www.crimeandjustice.org.uk

©Centre for Crime and Justice Studies
June 2020
ISBN: 978-1-906003-76-0

Contents

Summary	4
Introduction	6
Speeches	8
Legislation	12
Police	14
Data dashboard	20
Courts	22
Prisons	26
Probation	32
Coming up	36
Technical appendix	38

Summary

Introduction

Tackling various crises with serious violence, prison conditions, police resources and, in England and Wales, the probation service were key challenges during this period.

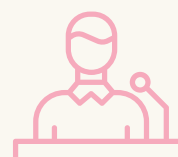
- More role changes in top positions
- Planning for prison growth
- Arguments over police funding and police structures.
- The Conservative party's repositioning over the police.



Speeches

Justice Minister, David Gauke, set out his vision for a smarter justice system, focusing on sentencing reform whilst successive Home Secretaries gave reassurances to the police over resources and recruitment. In Scotland, the reform agenda focused on victim support.

- Short sentencing reform in England and Wales
- Expansion of electronic monitoring and treatments attached to community orders
- Repairing the relationship between the Home Office and police
- Victims' rights in sharper focus in Scotland



Legislation

Whilst two pieces of legislation were passed in Scotland to support vulnerable witnesses, violence against women and sentencing reform were on the UK legislative agenda with varying success.

- Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill
- Domestic abuse, stalking protection, voyeurism
- Sentencing reform on the table
- Summary of all the key legislation



Police

Resources, funding and force structure continued to occupy the government's agenda as the Home Affairs Committee pressed for fundamental changes to policing. Marie Anderson was appointed Police Ombudsman in Northern Ireland and a preliminary report on police complaints was released in Scotland.

- Challenges to police leadership abilities
- Close scrutiny of Scottish police's complaints system
- Increases in recorded hate crime
- Tackling serious violence a priority
- Vulnerability in focus



Data dashboard

An at-a-glance overview of the key UK criminal justice data and trends of the past five years.



Courts

Access to justice hampered in a continued drive to save, through court closures in England and Wales. Regulatory system changes in Scottish legal services and review of Northern Ireland's mental health support in criminal justice.

- Continued conflict over legal aid cuts
- Bereaved families and inquests
- Wide ranging reviews of criminal justice
- Systemic failures in disclosure practices
- Court reforms run into difficulties



Prisons

Concerns raised over the state of Scotland's prisons whilst the prisons crisis in England and Wales continued. While the prison population in England and Wales, and Scotland remained stable, in Northern Ireland the population fell.

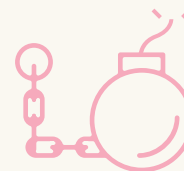
- Chief Inspector, Peter Clarke on the spiralling prisons crisis
- Scotland's mixed message on prison population reduction
- 10,000 new prison spaces for England and Wales
- Dramatic population change in Northern Ireland's prison population
- Funding constraints, lofty ambitions and sustainability in question



Probation

Old probation arrangements replaced by new ways of working, after findings of failure and waste in England and Wales.

- 'Transforming Justice' programme deemed 'irredeemably flawed'
- Dame Glenys Stacey's four probation design principles
- Calls for full legislative devolution of criminal justice to Wales



Coming up

Spending commitments in criminal justice became key political currency during the December 2019 General Election. The new Johnson government, committed to 'getting Brexit done', announced its intention to seek a close and cooperative relationship with the EU on criminal justice issues.

- More changes at the top with a Johnson government
- Cross-party support for strengthening National Crime Agency
- Pledge of 20,000 more police by 2020
- Plans for 10,000 new prison places by mid-2020s



Introduction

This edition of UK Justice Policy Review (UKJPR) picks up developments from Boris Johnson's inauguration as Prime Minister on 24 July 2018. The Review finishes at the dissolution of Parliament on 6 November 2019 in preparation for the General Election on 12 December.

Who was who in the period under review

On his first day as Prime Minister, Boris Johnson installed Robert Buckland as Secretary of State for Justice and Lord Chancellor, replacing David Gauke. Gauke had resigned as a Conservative Minister after declaring that he could not serve in a Johnson-led government, and later had the whip withdrawn after rebelling against the government in a parliamentary vote. Buckland was promoted following a short stint as Prisons Minister, taking over from Rory Stewart in May 2019. Sajid Javid was promoted from Home Secretary to Chancellor of the Exchequer, and replaced by Priti Patel.

In Scotland, Humza Yousaf took over from Michael Matheson as Cabinet Secretary for Justice in June 2018, just before the start of the review period. The power-sharing arrangement in Northern Ireland remained collapsed, breaking the world record for longest period spent without a sitting government.

Overview of developments

The period under review saw the criminal justice system in England and Wales creaking under the weight of nine years of government policy. Scotland was more sedate, with efforts to overcome some of the scandals surrounding the new single police force. There were signs of a potential crisis in Scottish prisons on the horizon. There was minimal activity in Northern Ireland due to the government shutdown.

Legislation

Parliamentary activity during this period was dominated by Brexit, leaving little room for legislative action/movement. As far as a legislative agenda could be discerned, preventing violence against women was a prominent theme. Key pieces of legislation that managed to reach the law books included the *Stalking Protection Bill* and the *Voyeurism (offences) (No. 2) Bill*. The *Domestic Abuse Bill*, however, fell victim to Boris Johnson's clamour to 'get Brexit done' by any means necessary, first by his ill-fated attempt to prorogue Parliament, then by his successful bid for an early General Election. The Scottish parliament, less impacted by Brexit preparations, passed the *Age of Criminal Responsibility (Scotland) Act* and the *Vulnerable Witnesses (Criminal Evidence) (Scotland) Act*.

Speeches

Speeches by Theresa May's most recent successors at the Home Office, Sajid Javid and Priti Patel, indicated that the potentially progressive elements of her policing agenda were being incrementally unpicked. First, Sajid Javid reiterated that he would support police officers' use of stop and search and their calls for more resources. Second, Priti Patel repeated Johnson's promise to restore police officer numbers to pre-austerity levels, amounting to 20,000 more officers than currently employed by police forces.

Meanwhile, Justice Secretary David Gauke made speeches outlining the development of plans to reduce pressures on the prison service, including stemming the flow in by minimising the use of short-term sentences. The plans did not survive his political demise.

Improving the experience of victims in the criminal justice system would be central to developments in Scotland, according to First Minister Nicola Sturgeon's Programme for Government speech in September 2018.

Courts

Reports by the National Audit Office and Public Accounts Committee, criticising the impact an ambitious programme of court closures had on access to justice and costs in other parts of the system, forced the government to issue new principles to guide future closures.

The legal profession managed to win several battles in the review period, halting some of the cuts to legal aid spending. A review found that although reforms had cut the cost of legal aid, it was unclear whether they had achieved greater value for money. In Scotland, a three per cent rise in legal aid fees was announced following an independent review.

Police

Both the House of Commons Home Affairs Committee and the National Audit Office made strong criticisms of the Home Office's leadership regarding the police, as well as the inadequacy of the police funding formula in the review period. This represented the reality of nearly a decade of police spending cuts, combined with poor understanding of demand and the complexity of emerging harms coming to a head.

Scotland saw attempts to move beyond the scandals that had dogged the single force and its accountability body, the Scottish Police Authority, with the publication of a review into complaints about the police and changes to the leadership of both organisations.

Knife crime continued to be a pertinent issue influencing developments in England and Wales, with levels reaching the highest since records began. One of the responses by Home Secretary Sajid Javid was to begin consulting on, then committing to legislate for, the imposition of a public health duty on health, local authority, police and other services to prevent serious violence. But soon after, a report by the Home Affairs

Committee lambasted the government's strategy on knife violence.

Prisons

The governments of both England and Wales and Scotland revealed that, in the space of just a few years, they had shifted from aiming to halt or manage down prison populations to planning for a long-term expansion in prison capacity. In England and Wales, the programme of like-for-like replacement of a number of Victorian-era prisons with new ones was cancelled. Instead, Prime Minister Boris Johnson promised 10,000 additional prison places, and Justice Secretary Robert Buckland told the House of Commons Justice Committee about plans to increase capacity by 13,600 places by the mid-2020s. Similarly, in Scotland, plans to close down prisons also included replacing them with new ones with significantly more capacity. The Justice Committee questioned whether the £2.5 billion earmarked for prison expansion in England and Wales might be better spent addressing the maintenance backlog.

Against this backdrop, the Prisons Inspector for England and Wales continued what has become a tradition of highlighting the desperate conditions inside prisons. The European Committee for the Prevention of Torture made shocking observations about the treatment of some prisoners in Scottish prisons, and the Inspectorate warned of trouble ahead from a rising prison population with complex needs and an overstretched workforce.

Probation

The government's beleaguered probation reforms were finally scrapped in 2019. After another set of damning reports about the Transforming Rehabilitation programme from the Inspectorate, the National Audit Office and the House of Commons Public Accounts Committee, David Gauke announced a new model for probation. Critics argued however that it looked like it would repeat the fragmentation of the current system.

Speeches

This section begins by taking a look at two major speeches on criminal justice reform by David Gauke, Justice Secretary for England and Wales. The speeches bookend the development of plans to reform short prison sentences, which were discarded by the incoming Johnson administration. The main themes of Nicola Sturgeon's Programme for Government, which in 2018-2019 were focused around victims' policy, are then outlined. Two signal speeches by Sajid Javid which reiterate his support for stop and search and providing the police with more resources, indicating a change in direction from the Home Office, are then explored, along with Priti Patel's first speech as Home Secretary in September 2019.

Beyond prison

In his speech 'Beyond prison, redefining punishment' delivered at the think tank Reform in February 2019, David Gauke sought to reframe the criteria used to assess criminal justice reforms from what he saw as 'a false choice between the narrow and often polarising discussion about "soft" justice versus "hard" justice' to one focused on effectiveness. 'We should', he said, 'be talking about "smart" justice. Justice that works'. The question of what smart justice might look like was prefaced by three practical questions as to the efficacy of the current system. Do current sentencing arrangements actually reduce crime? Can we truly call prisons rehabilitative environments? Should we think about alternatives to punishment and rehabilitation? Following in the footsteps of his counterparts in Scotland (see UKJPRs 6-8), Gauke took aim at short prison sentences. 'There is a very strong case', he

said, 'to abolish sentences of six months or less altogether, with some closely defined exceptions, and put in their place, a robust community order regime'.

The Justice Secretary set out the case for abolition, the core tenet of which was their apparent inability to curb further offending: 'nearly two thirds of those offenders [given short prison sentences] go on to commit a further crime within a year of being released'. Gauke emphasised that short-term prisoners tend to be in custody for less serious crimes, with the most common being shoplifting. Disruption to already chaotic lives, including loss of access to benefits, employment, accommodation and drug and alcohol support services, were said to be key factors undermining the effectiveness of short prison sentences, as was separation from families, particularly for women prisoners with dependent children. Gauke emphasised the disruptive impact of short term sentences on the lives of women – who often have dependents – and their families. He called for the criminal justice system to take into account the case that many are victims as well as offenders and this should be reflected in sentencing practices. The inability to carry out meaningful rehabilitative work with short term prisoners in custody was also offered as a reason reconviction rates were so high for this group. Community orders, Gauke said, were more effective at reducing reoffending as they 'are much better at tackling the root causes behind criminality'.

Despite his rejection of the 'soft' versus 'hard' justice binary, Gauke was eager to reassure cynics that community orders would be more punitive:

Now, I do not want community orders which

are in any sense a 'soft option'. I want a regime that can impose greater restrictions on people's movements and lifestyle and stricter requirements in terms of accessing treatment and support. And critically, these sentences must be enforced.

New technology in the form of GPS electronic tags and alcohol sobriety tags was the method by which this increased punitiveness would be delivered. Mental health, drug and alcohol treatment requirements attached to community orders would be expanded too, already evidenced by collaborative work between the Ministry of Justice, Department of Health and Social Care, NHS England and Public Health England on the Treatment Requirement Programme.

It seemed Gauke could only hope that a shift from short-term imprisonment to community sentences would be matched by resources, 'in thinking strategically about the future of our justice system I believe in the end there is a strong case for switching resource away from ineffective prison sentences and into probation'.

Reflecting ongoing concerns about the degradation of prison conditions (see previous UKJPRs), a key benefit of reducing the use of short-term prison sentences would be a reduction of churn in the prison population and a freeing up staff time:

The reception of a new offender into custody – that first night inside – is one of the most resource heavy moments in an offender's journey through the system... By abolishing these sentences we'd expect also to reduce the number of receptions carried out. Just think how much better we could use the prison officers' time and resources.

Despite opening his speech by describing England and Wales as an outlier in Western Europe due to its high incarceration rate, the Justice Secretary's speech did not include an explicit reference to reducing the overall prison population. Indeed, he admitted that this was not one of the aims in oral answers to questions in the House of Commons in June 2019:

the principal purpose is not reducing the prison population... Reducing reoffending... is the big prize rather than what are likely to be relatively marginal changes to the prison population.

By summer 2019 the Ministry of Justice had planned to publish a green paper containing a set of proposals to reduce the use of short-term custody. Due out a week before the result of the Conservative Party leadership election was to be announced, its release was put on hold. Gauke resigned on 23 July 2019, after promising to do so should Boris Johnson win the leadership election. In his final speech on 18 July, he fleshed out some of the details of the reform of short-term prison sentences following the development of the thinking behind the policy since his speech to Reform. He outlined two possible sentencing options. A bar would prohibit sentencers from handing down short sentences at all. A presumption against meant sentencers would retain the right to hand them down in some cases. Gauke also floated the possibility of a combination of a presumption and a bar. Some indication of the exemptions to a bar were specified. Cases of physical or sexual assault, some specific offences where public protection is a major concern such as knife possession, contempt of court orders or of the authority of the court, and cases where convicted law-breakers

Speeches

repeatedly and consciously defy community orders could all be excluded from a bar. He ended with a plea to the next administration:

I believe this is a balanced, considered and, crucially, evidence-based approach to sentencing policy. It will help reduce crime and result, therefore, in fewer victims of crime. And I would hope that the next Prime Minister would continue with this reform agenda.

Victims dominate agenda in Scotland

In her annual Programme for Government address on 4 September 2018, Nicola Sturgeon, First Minister of Scotland, made clear that improving the experience of victims would be prioritised in her administration's criminal justice reforms in 2018-2019, with a particular focus on victims of sexual violence. Amongst the reforms announced, improving support services featured heavily, with a new service to help families affected by culpable homicide. £2 million worth of funding over three years to speed up access to support for rape and sexual assault victims was also announced, along with a consultation on ensuring rape and sexual assault victims have access to forensic medical examinations and healthcare more generally. Victims' rights were to be extended through a consultation on widening the number of serious offences where victims are allowed to make impact statements, as well as greater transparency around prisoner release.

Domestic abuse reduction and victim support services also featured significantly in the Scottish Government's criminal justice activity in 2018-2019, with the programme including the implementation of a law banning coercive and controlling behaviour, introduced in England and Wales in 2015, and a consultation on new court orders banning domestic abuse perpetrators from victims' homes. Humza Yousaf, who had

been appointed justice secretary in June 2018, announced in his speech to the Scottish National Party (SNP) conference in October 2018, that this 'victims package' would be delivered via a victims task force, chaired by himself. Sturgeon reiterated her government's intention to extend the length of custodial sentence the presumption against which short-term prison sentences would apply to. Scotland introduced a presumption against prison sentences of less than three months in 2011. This was now to be raised to a presumption against sentences of up to 12 months, a change which came into force in June 2019. A consultation on hate crime law would begin in 2018-2019. Humza Yousaf announced in his speech to the SNP conference that this would include specific questions about whether misogynistic harassment should be incorporated into the legislation.

Punitive turn in policing

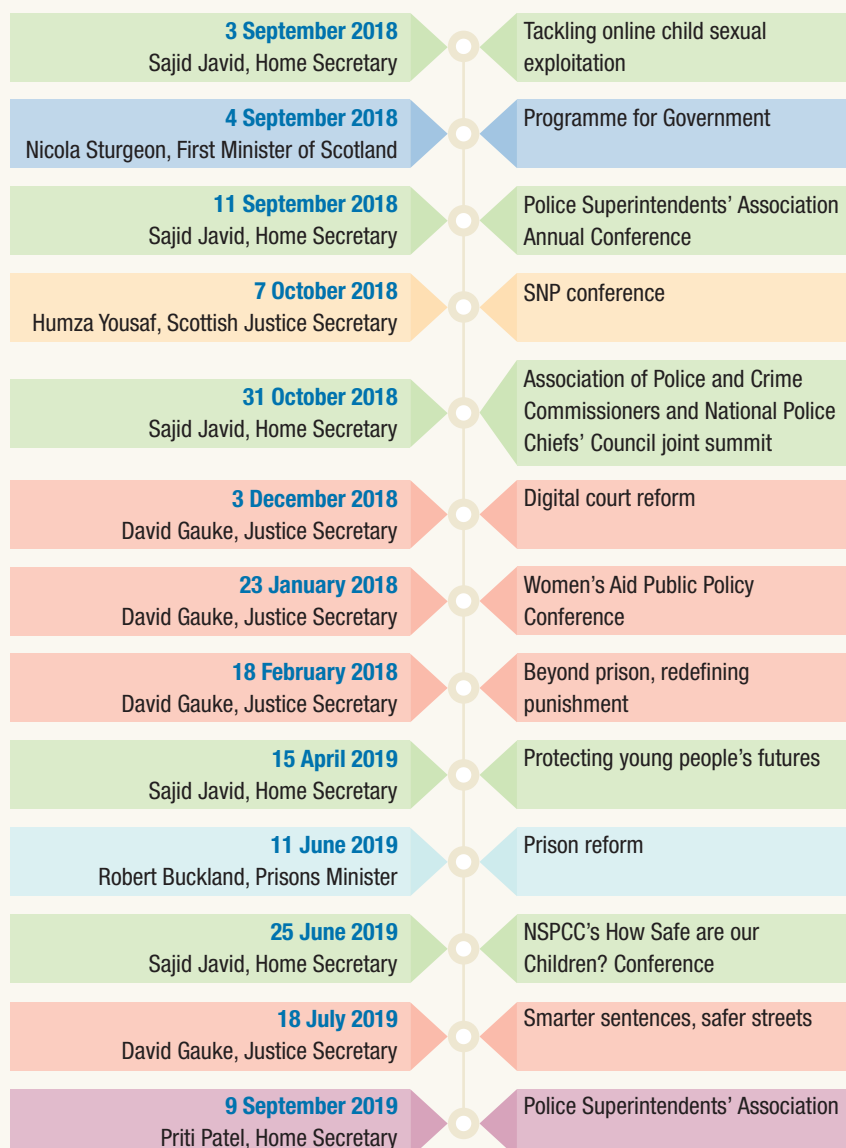
In his first speech as Home Secretary in May 2018, Sajid Javid stated his intention to 'reset the relationship between the government and the police' (see UKJPR 8). Relations between the government and police under his two predecessors, Amber Rudd and Theresa May, had been marked by conflict over pay, pensions, budgets and direct entry (see UKJPR 7). Resetting the relationship included a willingness to answer ongoing calls from the police for more resources, and an end to attempts to curb the use of controversial stop and search powers. On funding, the Home Secretary had only promised to 'prioritise police funding in the spending review next year' in his May 2018 speech. Six months on, during a speech to the Police Superintendents' Association in September 2018, he highlighted £21 million in new funding to tackle online child sexual exploitation, announced the week before. A month later, in a speech to a joint summit of the Association of Police Chief Constables and

National Police and Crime Commissioners, he added £160 million extra to protect counter-terrorism officer numbers in 2019-20, a funding commitment announced by the Chancellor in his budget speech a few days before.

Following Boris Johnson's appointment as Prime Minister, Javid moved onto the Treasury, to be

replaced in the Home Office by Priti Patel. In her first keynote in September, she completed the journey begun by Javid, 'You told us you needed more bobbies on the beat', she told the Police Superintendents' Association, 'so one of our very first acts was to pledge 20,000 more officers... You told us that stop and search helps tackle violent crime, so we're empowering you to do more.'

Key speeches



Legislation

The legislative process in England and Wales was frustrated during this period by political turmoil, including Brexit, the attempted prorogation of parliament and the dissolution of parliament preceding the General Election in December 2019.

In contrast to the stuttering legislative timetable in England and Wales, three key pieces of legislation were passed in Scotland.

Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill

The two most symbolically significant pieces of legislation went through the Scottish parliament during this parliament. The *Age of Criminal Responsibility (Scotland) Act* raised the age at which children could be held criminally responsible for their actions from eight to 12 (see UKJPR 8). Passed simultaneously, with importance for how children are supported in the criminal justice system, the *Vulnerable Witnesses (Criminal Evidence) (Scotland) Act* made provisions for child witnesses in criminal trials for more serious offences to give pre-recorded evidence in advance of the trial.

Domestic abuse, stalking protection, voyeurism

Three pieces of legislation worked their way through the UK parliament related to violence against women. The *Domestic Abuse Bill*, *Stalking Protection Bill* and *Voyeurism (Offences) (No.2) Bill*. The second two both gained Royal Assent during this period. The more significant and potentially far-reaching *Domestic Abuse Bill* failed to progress before parliament was dissolved for the December 2019 General Election.

The *Stalking Protection Act* created a new civil stalking protection order, available on application

by the police to a Magistrates' Court. Breach of an order is a criminal offence, subject to a fine and/or a term of imprisonment of up to five years. In contrast to the relatively low-key *Stalking Protection Bill*, the *Voyeurism (Offences) Bill* attracted widespread media attention and political support for its provision to outlaw so-called 'upskirting'. Commencing as a Private Members' Bill and gaining cross-party backing, the Bill became law in February 2019.

Meanwhile, the arguably more substantial *Domestic Abuse Bill*, offering a statutory definition of domestic abuse to include non-physical, emotional and economic abuse, faced more difficulties progressing. The Bill, which fell after parliament was wrongly prorogued in September 2019, was picked up again when parliament returned following the Supreme Court judgment, only to fall again with the dissolution of parliament in November 2019.

Although the Bill was described by Theresa May as a 'once-in-a-generation' opportunity, campaigners voiced concerns about various aspects of its provisions. Anna East, writing for the Centre for Women's Justice, called for the Bill to recognise explicitly the needs and vulnerabilities of migrant and homeless women, often without the recourse to state or financial support to leave abusive relationships.

Further criticism came from a range of figures including the Chair of the Home Affairs Committee, Yvette Cooper and Women's Aid, calling for the Bill to recognise the gendered dimension of violence, given that victims of domestic and sexual violence are disproportionately women. Such criticism came at a time when it was revealed that rape prosecutions in England and Wales are at their lowest in the last decade, despite reports being up by 173 per cent between 2014 and 2018.

Sentencing

Sentencing reform was placed firmly on the agenda in 2019 by the then Justice Secretary David Gauke (see [Speeches](#)), whose proposals, to be set forth in a planned Green Paper, never actually materialised. Reform of short sentences may have fallen by the wayside but procedural sentencing reform proposed by the Law Commission

materialised in the *Sentencing (Pre-consolidation Amendments) Bill* introduced in May.

The Law Commission's report, *Sentencing Code*, provided the groundwork for the Bill, with the aim of minimising unlawful sentencing, inefficient practices and to ensure the law was accessible by consolidating existing legislation into a single 'Sentencing Code'.

Legislation



Type of
legislation
Private Members'
Government

Legislation UK Parliament

Legislation	Date introduced	Status on 6 November 2019
<i>Age of Criminal Responsibility Bill</i>	26 Jun 17	Failed to complete passage
<i>Age of Criminal Responsibility Bill</i>	23 Oct 19	In progress
<i>Anonymity (Arrested Persons) Bill</i>	4 Jul 17	Failed to complete passage
<i>Assaults on Emergency Workers (Offences) Act</i>	19 Jul 17	Royal Assent (13 Sep 18)
<i>Criminal Fraud (Private Prosecutions) Bill</i>	5 Sep 17	Failed to complete passage
<i>Criminal Records Bill</i>	22 Oct 19	In progress
<i>Domestic Abuse Bill</i>	16 Jul 19	In progress
<i>Historical Institutional Abuse (Northern Ireland) Bill</i>	16 Oct 19	Royal Assent (5 Nov 19)
<i>Illegal immigration (Offences) Bill</i>	5 Sep 17	Dropped by sponsor
<i>Offensive Weapons Act</i>	20-Jun-18	Royal Assent (16 May 19)
<i>Policing Resources Bill</i>	29 Oct 19	In progress
<i>Prisons (Interference with Wireless Telegraphy) Act</i>	19 Jul 17	Royal Assent (20 Dec 18)
<i>Sentencing (Pre-consolidation Amendments) Bill</i>	22 May 19	In progress
<i>Stalking Protection Act</i>	19 Jul 17	Royal Assent (15 Mar 19)
<i>Victims of Crime (Rights, Entitlements and Notification of Child Sexual Abuse) Bill</i>	6 Jul 17	Failed to complete passage
<i>Violent Crime (Sentences) Bill</i>	7 Jun 18	Failed to complete passage
<i>Voyeurism (Offences) Act</i>	21 Jun 18	Royal Assent (12 Feb 19)



Scottish Parliament

<i>Age of Criminal Responsibility (Scotland) Bill</i>	13 Mar 18	Royal Assent (11 Jun 19)
<i>Management of Offenders (Scotland) Act</i>	22 Feb 18	Royal Assent (30 Jul 19)
<i>Vulnerable Witnesses (Criminal Evidence) (Scotland) Act</i>	12 Jun 18	Royal Assent (13 Jun 19)

Police

‘A complete failure of leadership’

The report *Policing for the Future* published by the House of Commons Home Affairs Committee in October 2018 set forth a trenchant agenda for policy discussion which echoed throughout the remainder of the year under review. It called for a fundamental change in the police funding model and highlighted gaps in effective responses to emerging problems like online fraud, child sexual abuse and safeguarding vulnerable people. It criticised ‘a complete failure of leadership’ by the Home Office and demanded an immediate and fundamental review of policing, proposing new structures including a National Policing Assembly comprising all police and crime commissioners (PCCs) and chief constables. Later, as the May government finally expired in mid-2019, the Committee repeated its critical stance.

Police spending

In September 2018, in the report *Financial sustainability of police forces in England and Wales 2018*, the National Audit Office (NAO) had criticised the ‘light touch’ approach and lack of strategic oversight from the Home Office.

Noting an 18 per cent reduction in the total workforce since 2010, the NAO made clear that the forces most dependent on central government funding had suffered the greatest reductions in spending, whereas others had become more reliant on money from local funding sources:

While no police force has failed financially, there are signs emerging that forces are finding it harder to deliver an effective service.

The government’s funding formula for police forces did not adequately take into account several types of demand.

The authoritative analysis underpinned growing dissatisfaction with current spending policy, as

Key reports



Financial sustainability of police forces in England and Wales 2018

National Audit Office
11 September 2018

Criticised the government’s lack of strategy and identified wide differences in forces’ dependence on central government grants.



Policing for the Future

Home Affairs Committee
22 October 2018

Criticised ‘a complete failure of leadership’ by the Home Office and demanded an immediate and fundamental review of policing.



Keeping kids safe: Improving safeguarding responses to gang violence and criminal exploitation

Anne Longfield, Children’s Commissioner for England
28 February 2019

Criticised funding shortages, fragmentation between government departments, and insufficient services for families and children.



Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing: preliminary report

Dame Elish Angiolini
21 June 2019

Recommended the setting up of a statutory Board in Scotland to scrutinise and support the work of the Police Investigations and Review Commissioner, as well as streamlined systems to inform the public about the complaints procedure.



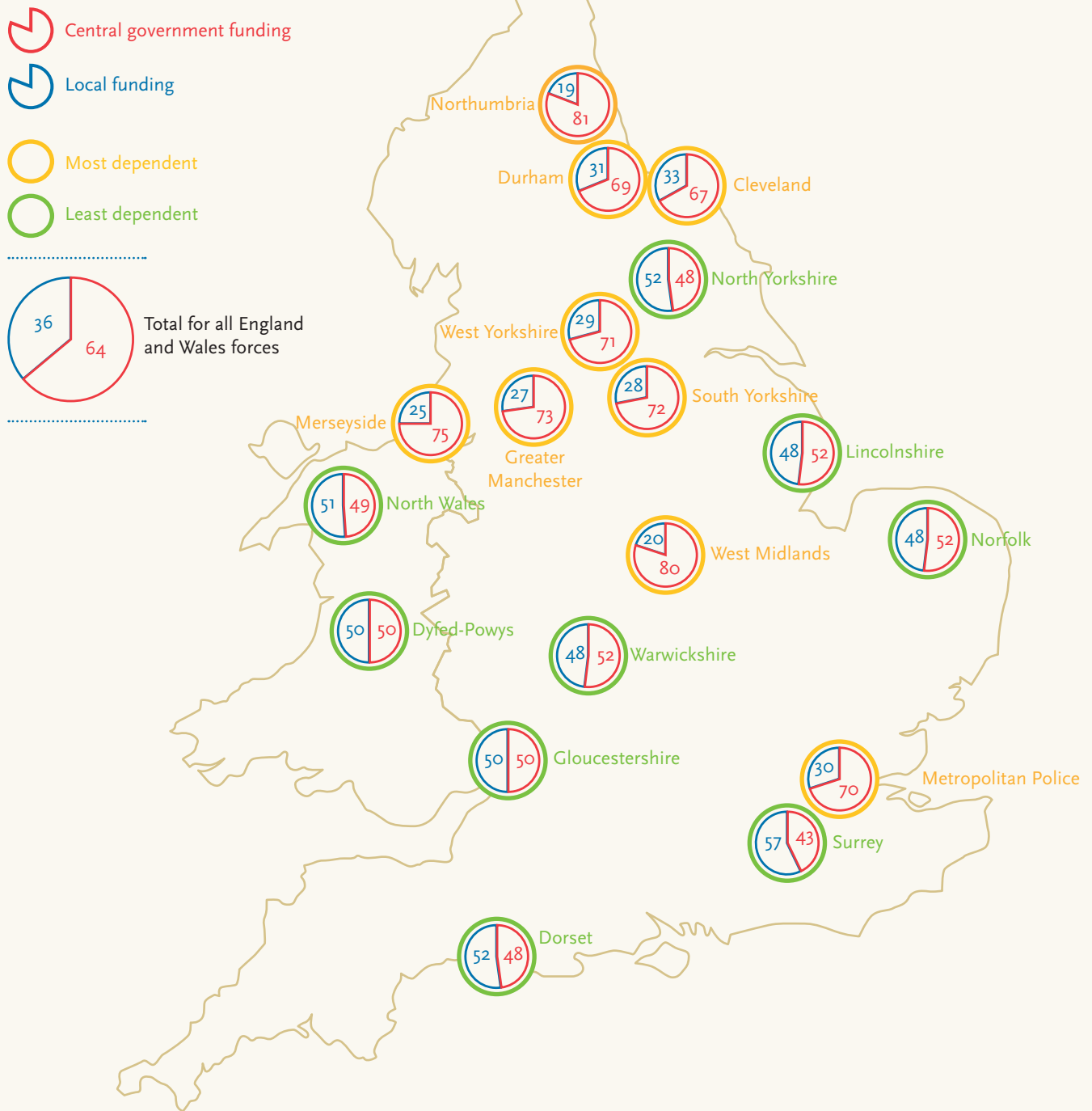
Serious youth violence

Home Affairs Committee
18 July 2019

Urged the Prime Minister to lead action to address the problem, including increased police numbers, early prevention and youth services, and more treatment for drug users.

A funding patchwork

Out of the 43 England and Wales police forces these are the most and the least dependent on funding from central government



Source: Financial sustainability of police forces in England and Wales 2018, National Audit Office.

Police

Policing for the Future pointedly went on to state:

The current police funding model is not fit for purpose: it is time to stop kicking the problem into the long grass, and recognise the true cost of policing.

In the Autumn Budget, the Chancellor of the Exchequer, Philip Hammond, declared that austerity ‘was coming to an end’ and allocated extra funds for counter-terrorism policing. John Apter of the Police Federation sarcastically claimed that this money was less than half the funding due to be spent on repairing potholes. Further announcements of additional funding came in December 2018 and March 2019.

In July 2019, the Chief Inspector of Constabulary, Sir Thomas Winsor, issued *State of Policing: The Annual Assessment of Policing in England and Wales 2018*. He stated that significant pressures on some police forces to meet growing complex demand had increased since inspections the previous year.

In this context the progress of the *Policing Resources Bill* offered some hope for change. It proposed that a duty be placed on the Home Secretary to fund police forces adequately, and an independent body be responsible for reviewing the police grant annually.

Accountability and complaints

In 2018-2019, the Independent Office for Police Complaints (IOPC) completed its first full year of operation; there was a 17 per cent fall in police complaints, according to its *Annual report and statement of accounts 2018/19*. The IOPC commissioned research showing that people with mental health conditions were fearful of complaining about police.

In June 2019 Dame Elish Angiolini published the *Independent Review of Complaints Handling*,

Investigations and Misconduct Issues in Relation to Policing, her preliminary report on the system of complaints against police in Scotland. She noted that there were four bodies with some role in the system: Police Scotland; the Scottish Police Authority (SPA); the Crown Office and Procurator Fiscal Service (COPFS); and the Police Investigations and Review Commissioner (PIRC). Her numerous recommendations included: the setting up of a statutory Board to scrutinise and support the work of the PIRC; streamlined systems to inform the public about the complaints procedure; and the acceleration of plans to expand the use of body-worn video technology.

In May 2019, Karen Bradley the Secretary of State for Northern Ireland announced her intention to recommend the appointment of Marie Anderson, currently the Public Services Ombudsman, as the new Police Ombudsman.

Governance and reorganisation

An emerging crisis of management and leadership began to take hold of Cleveland Police.

The Chief Constable Mike Veale resigned in January 2019 after an IOPC investigation of conduct relating to the investigation of allegations against former Prime Minister Sir Edward Heath. His resignation followed two other departures since the dismissal of Sean Price in 2012.

Barry Copping, the Police and Crime Commissioner responsible for the appointment of Mike Veale, came under fire from Ben Houchen, the Mayor of Tees Valley, who called on him to resign. Commenting on Mike Veale’s resignation, Jawad Iqbal, writing in *The Times* on 24 January, urged that local councillors should take back responsibility for police governance.

The culmination of the crisis was to take place

later in the Autumn when an assessment of Cleveland Police by Her Majesty's Inspectorate of Constabulary, and Fire and Rescue Services judged the force inadequate and it was put into special measures. While the force had suffered central government funding cuts since 2011, these were close to the national average, according to the NAO report on financial sustainability.

Plans for PCCs to take over fire and rescue services encountered resistance when three fire service authorities (Hereford and Worcester, Shropshire and Wrekin, and Cambridgeshire and Peterborough) took their cases to judicial review, arguing that the Secretary of State had failed to apply appropriate tests in making this decision, but according to a court judgement issued in July 2019 their arguments failed to secure a change in the plans.

In June 2019, Dame Elish Angiolini, in a preliminary report on the system of complaints against police in Scotland, reflected:

In these first years of Police Scotland and the SPA a number of high-profile issues and problems have been the subject of intense media and public scrutiny and the atmosphere around the fledgling force appeared at times to be febrile.

With perhaps hopes for a fresh start, a new Chief Constable, Iain Livingstone, had taken office in August 2018, along with a new Chief Executive of the SPA, Hugh Grover. In the same month the SPA and Police Scotland committed themselves to establish a Partnership Forum with representatives of the five staff associations and trade unions. In July 2019 a Scottish Railways Policing Committee was established jointly by the SPA and the British Transport Police Authority, in an attempt to progress governance from Scotland.

In Northern Ireland, owing to the continuing suspension of the Stormont Assembly, regulations were issued by the Secretary of State to enable the appointment of new members to the Northern Ireland Policing Board: ten with links to political parties, and three with no declared political connections.

Vulnerability and hate

In October 2018, new figures showing an increase in recorded hate crime were published and the government launched a campaign to increase understanding of what the term meant. A *Domestic Abuse Bill 2019* containing new proposals to establish greater clarity and protection for victims was published in January 2019 (see [Legislation](#)).

In a *Daily Mail* article published on 20 September 2018 titled, 'These cowards are using kids as human pawns', Sajid Javid had announced the foundation of a National Coordinating Centre to combat 'county lines' drug dealing, exploiting vulnerable children and adults. In February 2019 the Children's Commissioner for England, Anne Longfield, intervened in the policy debate. In *Keeping kids safe: Improving safeguarding responses to gang violence and criminal exploitation*, she made wide-ranging criticisms of funding shortages, fragmentation between government departments, and insufficient services for families and children.

In his annual assessment, Chief Inspector Sir Thomas Winsor returned to his theme of vulnerability, referring to the impact of adverse childhood experiences and inadequate state care on those with poor outcomes.

A focus for concerns about vulnerable children

Police

has been the campaign for ‘Sammy’s Law’, a law to expunge the offences of those who have committed crimes under the direction of others and to provide the accused with a statutory defence. The campaign has been led by Sammy Woodhouse, a victim of exploitation in Rotherham. Prominent police figures who have supported the case for change have included Simon Bailey, national police lead for child sexual abuse cases, and Sir Thomas Winsor himself. In March 2019, the Minister for Crime, Safeguarding and Vulnerability and Minister for Women, Victoria Atkins, met Woodhouse to discuss her experiences.

In June 2019, the *Chief Constable’s Report to the Northern Ireland Policing Board* described the development of multi-agency Support Hubs intended to support families in crisis.

Regulating safety online

The Chief Inspector Sir Thomas Winsor noted ‘a very significant increase’ in online child abuse images referred to the National Crime Agency (NCA) over recent years. In April 2019 the Government published a White Paper *Online Harms*. The paper proposed the creation of a regulator for online safety, affecting social media platforms, public discussion forums, file hosting sites, messaging services and search engines.

The development of a regulatory policy marked a change in the governmental standpoint towards the social dynamics of the internet age.

Serious Violence

In the year ending March 2019, though homicide declined after four years of increases, recorded

offences involving knives or sharp instruments rose to 45,316, the highest number since recording began, while firearms offences also increased.

In April 2019 the Home Secretary began a consultation on a ‘public health duty’ to prevent serious violence, presaging a commitment in July to legislate for such a duty embracing health, local authorities, police and other services.

In June 2019 the *Chief Constable’s Report to the Northern Ireland Policing Board* carried little of this specific focus, perhaps reflecting a modest annual increase of three per cent in violence with injury, according to *Police Recorded Crime in Northern Ireland period ending 31 May 2019*. In Scotland, there was a four per cent increase in recorded serious assault and attempted murder in 2018-19, according to *Recorded Crime in Scotland, 2018-19*.

In July 2019 the Home Affairs Committee published *Serious youth violence*, a report on the progress of the government’s strategy to tackle a concerning problem. It did not mince its words, stating that:

We have concluded that the Government’s Serious Violence Strategy is a completely inadequate response to this wave of violence blighting our communities.

Greater central coordination led by the Prime Minister was necessary.

Moreover, early prevention and youth services should be strengthened in a systematic manner. With evidence of child exploitation through ‘county lines’ drug dealing, a fresh approach to safeguarding was urged.

The report called for increases in police officers and staff. At the same time, confidence in the police among young people from minority ethnic

groups subject to disproportionate rates of stop and search needed to be raised.

It recommended new action to improve treatment for drug users, thereby reducing the demand met by drug dealing.

Funding and functions – the big picture

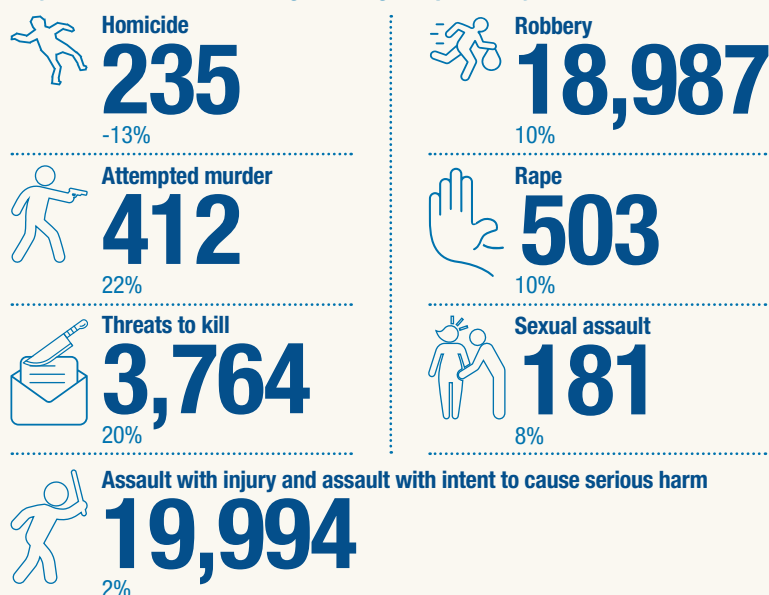
In the autumn the Home Affairs Committee had produced a wide-ranging report questioning the functional competence of the Home Office and the police. By July 2019 the Committee was proposing more holistic and integrated solutions to the problem of serious youth violence than appeared to have emerged from the government's strategy. In the same month the Chief Inspector Sir Thomas Winsor criticised police funding, called for force reorganisation, and described the wider criminal justice system as 'dysfunctional and defective'.

A pattern of disquiet and reflection was emerging suggesting that major and harmful challenges were being inadequately tackled by approaches based on rigid and outmoded thinking; at stake were assumptions which over-estimated the impact of police practice and failed to recognise other factors in reducing harm. Meanwhile the Home Secretary announced plans to establish a Police Covenant.

In the face of criticism, the new government led by Boris Johnson was determined to declare its willingness to support and fund the police. On 24 July 2018, in his first speech as prime minister, Boris Johnson announced that the government would recruit an additional 20,000 police officers, a pledge the new Home Secretary, Priti Patel, repeated in her first speech in September (see [Speeches](#)).

Selected offences involving a knife or sharp instrument recorded by police in England and Wales (excluding Greater Manchester Police)

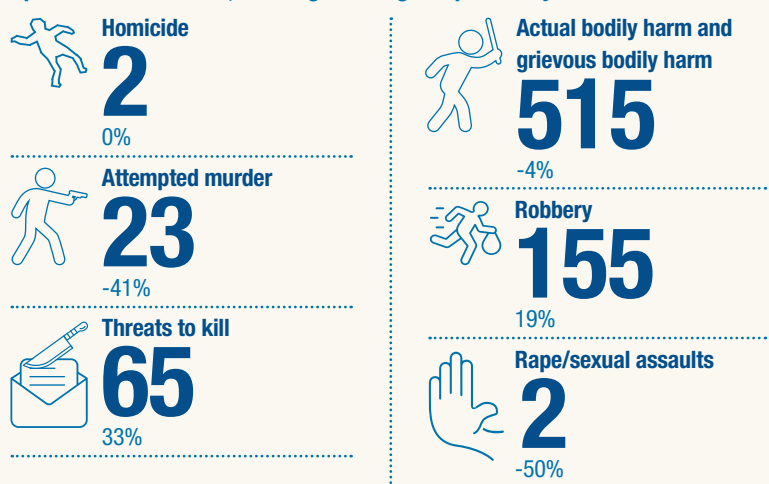
July 2018–June 2019, showing % change on previous year



Source: Office for National Statistics, *Crime in England and Wales: year ending June 2019*

Selected offences involving a knife or sharp instrument recorded by police in Northern Ireland

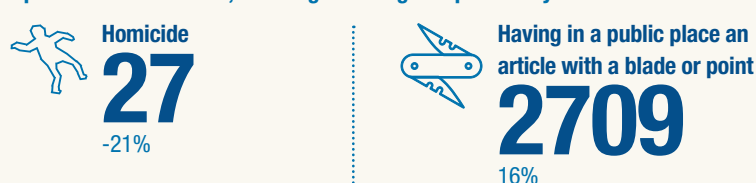
April 2018–March 2019, showing % change on previous year



Source: Police Service of Northern Ireland, *Police Recorded Crime in Northern Ireland: Update to 31 October 2019*

Select offences involving a sharp instrument recorded by police in Scotland

April 2018–March 2019, showing % change on previous year



Source: Scottish Government, *Homicide in Scotland, 2018-19*

Source: *Recorded crime in Scotland: 2018-2019*

Data dashboard

The three data dashboard charts offer an at-a-glance view of the key criminal justice data across the three UK jurisdictions at three points in time: the 2014/15, 2017/18 and 2018/19 financial years. This means key criminal justice changes can be seen over a short and longer time period.

To make it as easy as possible to understand this mass of data, we have used a form of pie chart. These represent the magnitude of different data, relative to each other.

The charts for England and Wales and Scotland contain 57 'slices' of data, and the one for Northern Ireland contains 60 slices. All charts are divided into four domains:

- Spending: how much was spent across the different agencies and fields of operation (e.g. police, legal aid, prosecution).
- Staffing: how many people worked in the

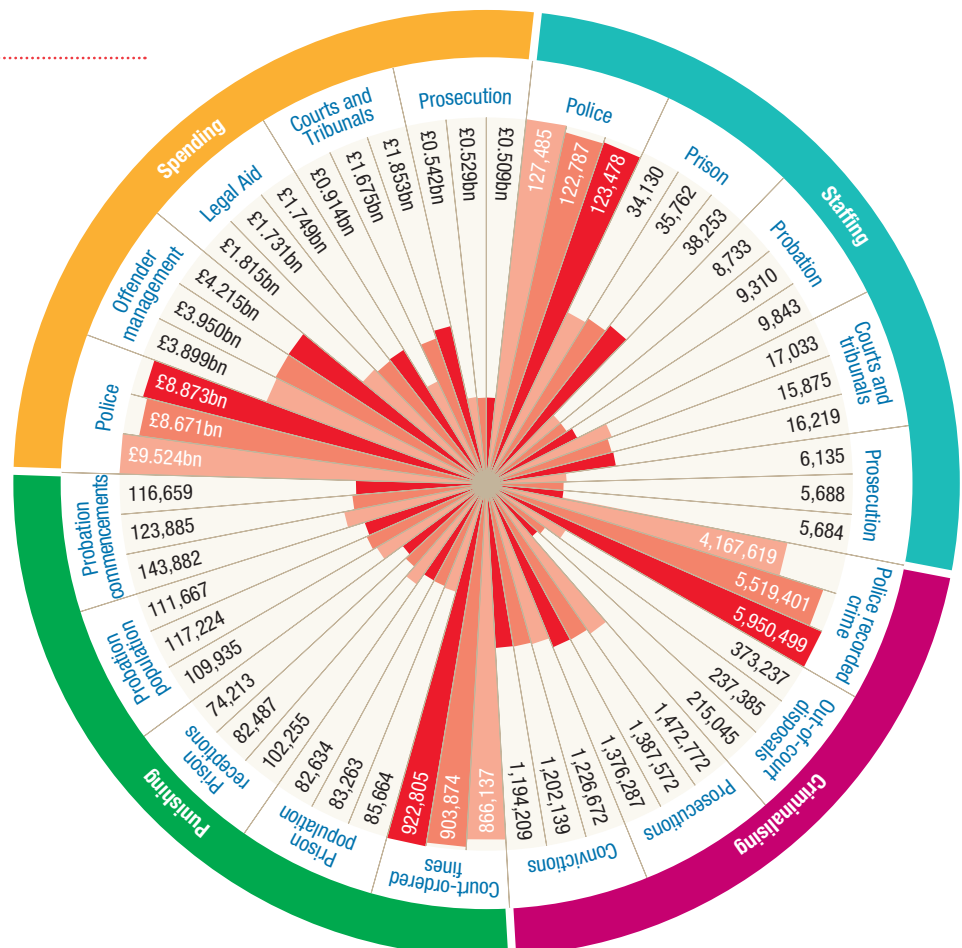
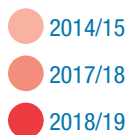
different agencies and fields of operation.

- Criminalising: the criminal justice caseload, from the point of an offence being recorded to the point of conviction.
- Punishing: the main outcomes from convictions: fines, community supervision and imprisonment.

The area of each slice represents the value of the indicator in a given year. Each slice is represented proportional to the other slices in its domain. For instance, the slice representing prison staff in England and Wales in 2014/15 (34,130) is around twice the size of the slice for courts and tribunals staff in the same year (17,033). The slices are not represented proportionally across domains, nor between the different jurisdictions.

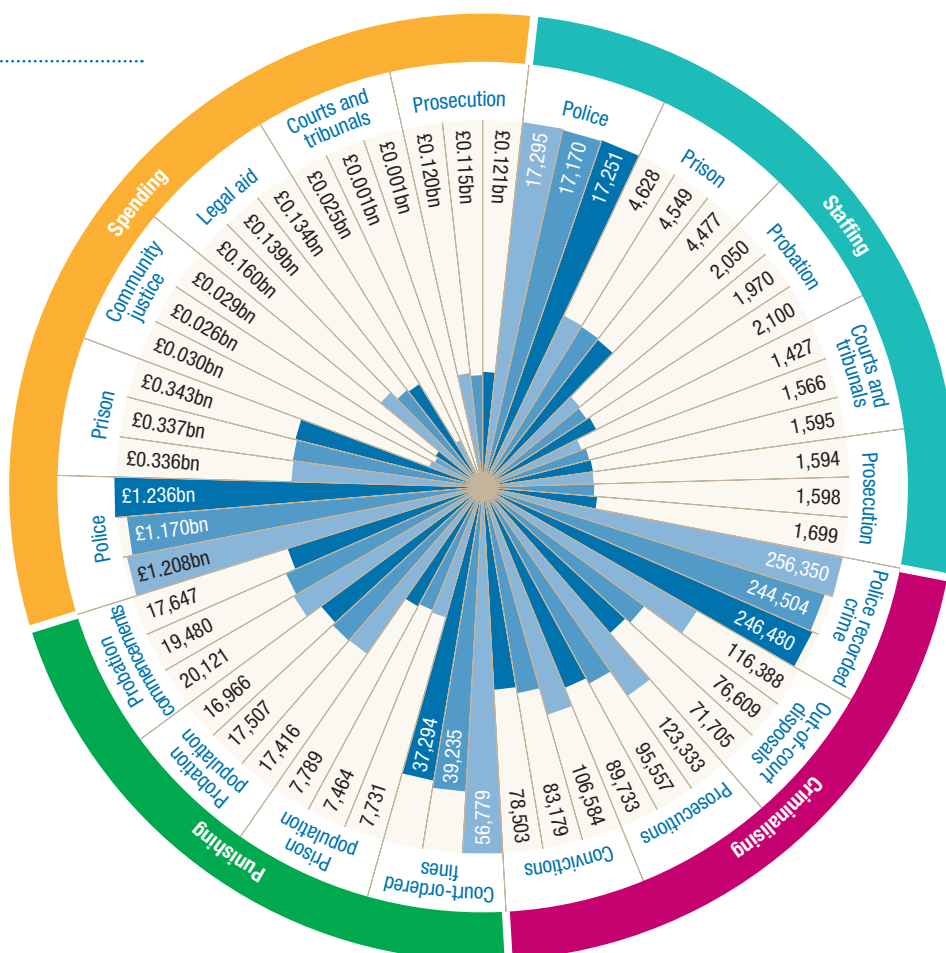
For more information on the data dashboard, see the technical appendix on page 38.

England and Wales



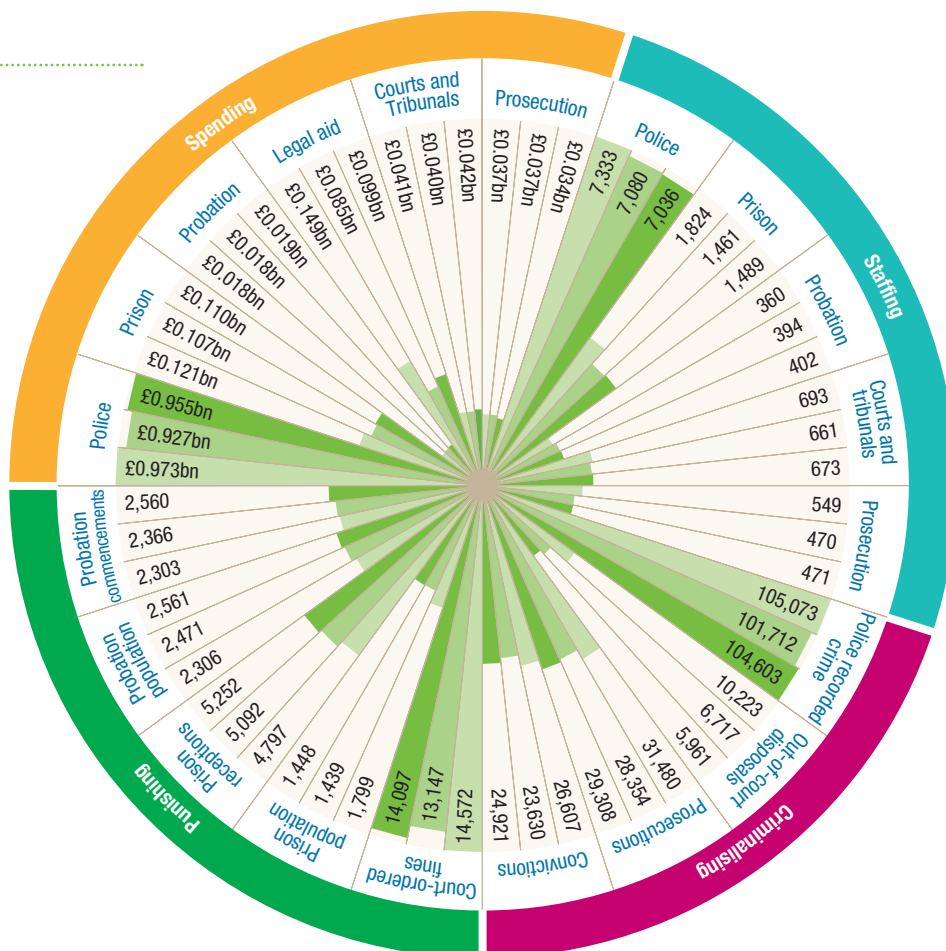
Scotland

- 2014/15
- 2017/18
- 2018/19



Northern Ireland

- 2014/15
- 2017/18
- 2018/19



Courts

121 closures and counting

In May 2019 the government announced that new principles would inform their ongoing programme of reducing the court and tribunal estate in England and Wales. At the time of the announcement there had been 121 building closures as part of the HM Courts and Tribunals Service reform programme, which was launched in 2016. Continued estate reduction had been originally planned until 2022. Proceeds from the sale of buildings had been earmarked to contribute around half the departmental savings the Ministry of Justice committed to in the 2015 Spending Review.

Following critical reports by both the National Audit Office and Public Accounts Committee, the programme began this period of review with the reputation of being committed to closing buildings on an ambitious scale, with little consideration given to potentially impeding access to justice, or to the potential increased costs these closures might create elsewhere in the system (see UKJPR 8).

In response, and following a consultation, the government issued new principles for future court closures. This included the overwhelming majority of the population to be able to travel by public transport to and from a court between 7.30am and 7.30pm. More consideration was promised regarding assessing the needs of potential court users as part of the closure process. 'Vulnerable users' in particular were promised further needs assessments to mitigate any disproportionate impact court closures may have.

This definition of an acceptable court journey time introduced greater specificity to closure decisions than had been the case in the programme to date. However, it is a notably less restrictive criterion than that of the previous court reduction programme. The 2010 Court Estate Reform

Key reports



Disclosure review

Attorney General's Office
15 November 2018

Significant improvements could be made if some disclosure obligations were performed earlier.



Scottish Government response to review of legal aid

Scottish Government
29 November 2018

Commitment to overhauling the legal aid system, the details of which will be the subject of public consultation later in 2019.



Post-implementation review of LASPO Act 2012

Ministry of Justice
7 February 2019

Reducing the scope of legal aid delivered significant savings but may not have delivered value for money overall.



Transforming the court and tribunal estate

HM Courts and Tribunals Service
10 May 2019

New principles will inform the ongoing court modernisation programme following widespread criticism and a government consultation about its work.



Court closures and access to justice

House of Commons Library
18 June 2019

Full list of the 295 court facilities closed since 2010.

Court reform: Scrapping and extending



Length of programme extended by a year to 2023.



Scrapped plans to introduce online processes for the Court of Protection.



Scrapped plans to change the enforcement of court orders and historic criminal debt.

Source: HM Courts and Tribunals Service, *Reform update*, June 2019

Programme, which also reduced the court estate, was guided by the principle that most of the public should be within one hour of their nearest court by public transport.

These new principles were closely followed by modifications to the HM Courts and Tribunals Service reform programme (see Court reform: Scrapping and extending).

Meanwhile another central plank of planned court reform, increased digitisation, ran into difficulties. The primary legislation required for online-only proceedings to be used as alternatives to in-person court proceedings failed to complete its passage through parliament before the end of the parliamentary session.

Legal aid

The vastly reduced scope of legal aid has been a thread running throughout the UKJPR series. This year saw an official review document the scale of change over the past six years, as well as continuing disputes between the government and the legal profession about their commitment to future legal funding.

One battle that reached its conclusion was on the cuts to the Litigators' Graduated Fee Scheme. The Ministry of Justice had introduced a 37 per cent cut in the maximum number of pages of prosecution evidence that legal representatives could be paid for in some Crown Court cases. Following a legal challenge by The Law Society, a High Court judgement on 3 August 2018 ended this cap.

The following summer, the Criminal Bar Association called off a week-long strike by its members, having reached an interim agreement with the government on barristers' prosecution fees and received assurances about a review

of defence fees. The government also agreed to increases in judges' remuneration. This followed the Court of Appeal upholding a legal challenge to changes in judges' pensions and an 'unprecedented' recruitment crisis in High Court judges.

In February 2019 the MoJ published a post-implementation review of the *Legal Aid, Sentencing, and Punishment of Offenders (LASPO) Act, 2012*, the legislation which paved the way for significant legal aid cuts. One consequence of the cuts shown in the review is the reductions across legal aid providers (see Criminal legal aid providers after LASPO). The review concluded the legislation 'met some of its objectives' to deliver savings and focus legal aid on the highest priority cases. However, it found that whilst savings had been made to the cost of legal aid, it was not possible to conclude whether LASPO had achieved better overall value for money for the taxpayer, as the knock-on effects of the cuts on other departments could not be easily calculated.

Future legal aid commitments were the subject of the *Legal Support Action Plan*, published alongside the post-implementation review. 'The time is right,' the plan stated, 'for a more holistic review of criminal legal aid'. The first phase of this, an initial scoping of the review's parameters, is due to conclude in summer 2020.

Inquests

In February the Ministry also issued the final report in its review of legal aid for bereaved families following a state-related death. Currently families can apply for legal aid to take part in an inquest, which they may or may not be awarded. The government only went as far as outlining new measures around guidance and signposting for bereaved families and their representatives.

Courts

It dashed any raised hopes for automatic non-means tested legal aid.

There was also stalled progress on the creation of the Independent Public Advocate. Introducing this role had been a Conservative manifesto commitment, with the promise to legislate for such a position to act for bereaved families after a public disaster, and support them during inquests and inquiries. A consultation on proposals for the post was held in late 2018. Several responses were critical about whether the planned role would have adequate independence from government and if it would have meaningful power in the inquest process.

reforming the system for handling complaints about legal services, including replacing the current regulatory bodies with a single regulator (see Regulating legal services in Scotland).

In November the Scottish Government announced its future intentions for legal aid following an independent review of legal aid earlier in the year (see UKJPR 8). A three per cent increase in all legal aid fees from April 2019 was announced. The proposal for a new public body to replace the Scottish Legal Aid Board and drive legal aid reforms was rejected. A longer-term programme of legal aid reform was the subject of public consultation launched in June 2019.

Scotland

The regulatory system for Scottish legal services requires overhauling, according to *Fit for the Future*, an independent review commissioned by the Scottish government, published in October 2018. The report made 40 recommendations on

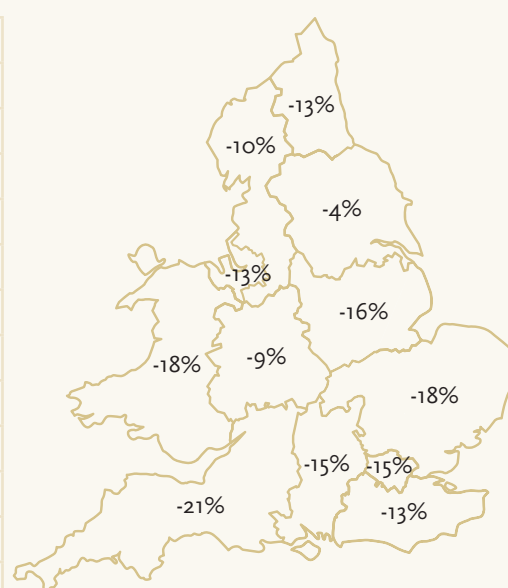
Disclosure

In November 2018 the Attorney General, in his review of disclosure – the process by which the police and the Crown Prosecution Service share information with the defence that might help the accused – acknowledged current failures

Criminal legal aid providers after LASPO

Change in no. of providers 2012-2013 to 2017-2018

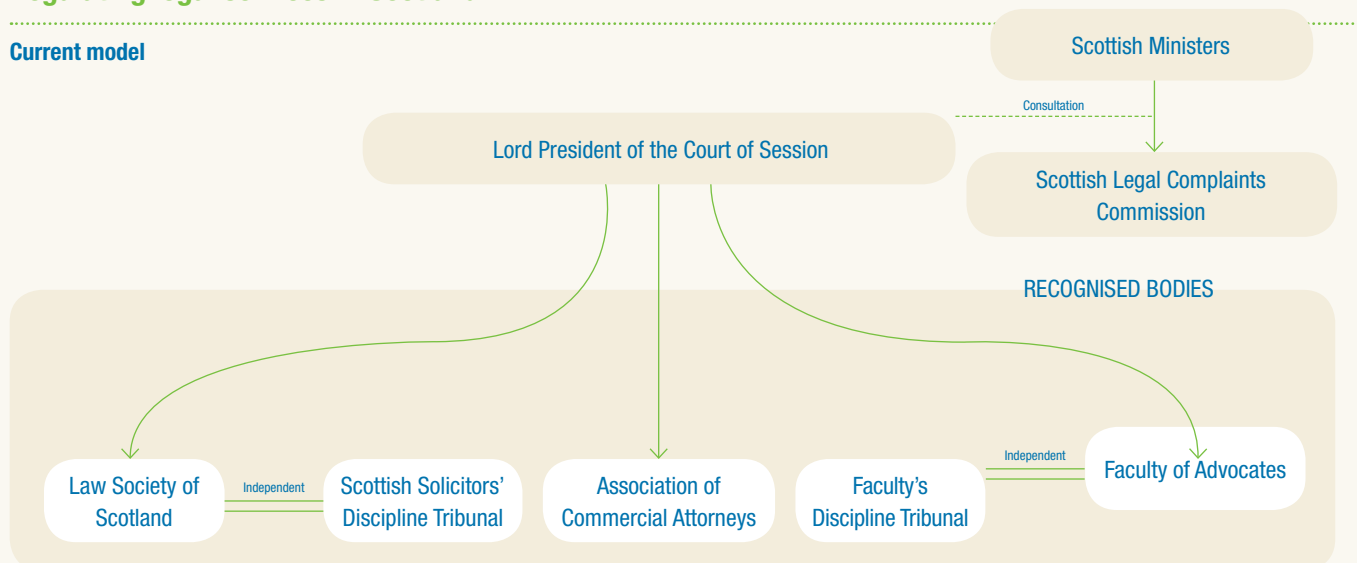
Region	Number
South West	-21%
Eastern	-18%
Wales	-18%
East Midlands	-16%
South	-15%
London	-15%
Merseyside	-13%
North East	-13%
South East	-13%
North West	-10%
West Midlands	-9%
Yorkshire and Humberside	-4%
Total England and Wales	-14%



Source: Post-Implementation review of part 1 of the LASPO Act 2012, February 2019

Regulating legal services in Scotland

Current model



Proposed model



Source: *Independent Review of Legal Services Regulation in Scotland*, October 2018

were 'systemic'. In response, the review set out a programme of training with a greater focus on disclosure obligations earlier in the prosecution process, and looking into the technical support options to better review digital evidence.

Courts and sentencing

Court decision-making featured in two wide-ranging reviews of criminal justice during the year. The potential to extend the convictions considered by the Unduly Lenient Sentence Scheme was mooted in the UK Government's *Victims Strategy* in September 2018. The scheme enables victims and the public to have sentences reconsidered by the Court of Appeal. To do so would be the second time the current government have increased the scope of the scheme. The Unduly Lenient Scheme was first extended in July 2017 to include terror convictions. The strategy also committed to

abolishing the 'same roof rule'. This rule excludes victims of crime pre-1979 from criminal injuries compensation if their assailant lived with them. The move follows a High Court ruling in July 2018 which found the restriction unfair.

Sentencing also featured in the Northern Ireland National Audit Office's review of mental health in the criminal justice system in May 2019. 'The current sentencing framework is generally considered to be ineffective in supporting rehabilitation,' the review stated. This echoed calls for a comprehensive look at sentencing in Northern Ireland. Sentencing was to be the subject of a Department of Justice review commissioned in 2016, before these plans were interrupted by the dissolution of the assembly in 2017. A public consultation on sentencing policy was finally launched by the department in late October 2019.

Prisons

In England and Wales, Peter Clarke, the Chief Inspector, opened his *Annual Report 2018-19* by remarking on the ‘deeply troubling’ situation in many prisons. Far too many, he wrote, were ‘plagued by drugs, violence, appalling living conditions and lack of access to meaningful rehabilitative activity’. Levels of self-harm, he added, were ‘disturbingly high’ while self-inflicted deaths had ‘increased by nearly one-fifth on the previous year’. Far too many prisoners, he also noted, were enduring ‘very poor and overcrowded living conditions’.

Prisons in Scotland appeared less crisis-prone, at least compared to England and Wales. However, in her first *Annual Report* as incoming Chief Inspector, published in August 2019, Wendy Sinclair-Gieben offered a note of caution. A rising prison population, with ‘increasingly complex’ needs, was a ‘heavy burden’ for an ‘overstretched prison service’. She also raised concerns that ‘the number of prisoners is starting to exceed design capacity’.

While the governments in London and Edinburgh were variously addressing, downplaying or plain ignoring the immediate crisis conditions in many prisons, a longer-term shift became clearer. In 2015, the UK government had announced a new-for-old ‘prison building revolution’. Old Victorian prisons were to be closed and replaced by new facilities. The underlying aim was broadly to maintain prison capacity at existing levels, while modernising the estate. At around the same time, the then Scottish Justice Secretary, Michael Matheson committed the Scottish government to delivering ‘an appreciably smaller prison population’, starting with women’s prisons (see UKJPR 6).

The new-for-old plans in England and Wales made faltering progress in the years following the 2015 announcement. In August 2019 they came to an abrupt halt, with the announcement of 10,000 additional prison places ‘to keep the public safe’.

Key reports



Prison health

House of Commons Health and Social Care Committee

1 November 2018

The Government is failing its duty of care towards prisoners, with prisoners held in unsafe conditions and limited access to healthcare.



Prison population 2022

House of Commons Justice Committee

3 April 2019

The Government’s current approach to a potentially growing prison population is inefficient, ineffective, and unsustainable.



The 2018/19 audit of the Scottish Prison Service

Audit Scotland

12 September 2019

A rising prison population, declining standards and financial pressures are a threat to operational safety, effectiveness and financial sustainability.



Report to the Government of the United Kingdom

Council of Europe

11 October 2019

The Committee for the Prevention of Torture condemns treatment of prisoners in Scotland, especially those with mental health conditions.



Prison Governance

House of Commons Justice Committee

31 October 2019

The government is failing to address the crisis in the prison system across England and Wales and has no clear vision for the future.

In Scotland, there was little evidence that the government would deliver on its commitment to reducing the women's prison population. Meanwhile, it also was laying down plans to expand prison capacity. Over a period of a few years, both governments had shifted from halting attempts at managing, perhaps reducing, the prison population to an agenda that, if delivered, would see the UK moving towards a prison capacity comfortably in excess of 100,000 by the mid-2020s (see Incarceration nations).

Into the 22nd century

Since 2015, the UK prison population had been on a slow, declining trend. The change in the prison population in Northern Ireland was the most dramatic, dropping by nearly 20 per cent between 2015 and 2019. Scotland had bucked the trend. Its male prison population grew by six per cent, while the, numerically much smaller, female population had remained stable. England and Wales had seen a modest three per cent fall, from around 86,000 to just under 82,700 (see Numbers in prison).

The prison population estimate for England and Wales, published by the Ministry of Justice in August 2019, projected a roughly stable prison population looking ahead, with around 82,000 in prison by June 2023. Against this background, the Justice Secretary Robert Buckland briefed MPs on the House of Commons Justice Committee in October 2019 on the government's ambitious plans to create an additional 13,600 prison places by the mid-2020s. He also told the Committee the government was scrapping plans, first announced in 2015 (see UKJPR 6), to close down Victorian-era prisons. This combination of new prison places and no more prison closures would deliver 'between 95,000 and 105,000' in total prison capacity in England and Wales by the mid-2020s, Sir Richard Heaton, Permanent Secretary at the Ministry of Justice who accompanied Buckland, told the Committee.

'Who is going to fill those extra places?', asked the Labour MP and former prisons minister David Hanson. Plans to extend the period of imprisonment for some, Buckland had earlier told the Committee, would mean an additional 2,000 people would probably be held in prison in ten years' time. 'The other factor inflating the prison population', Heaton volunteered, were plans to recruit 'the 20,000 additional police officers'.

Alongside scrutiny of the government's plans to expand prison capacity, the Committee raised concerns about the prison maintenance backlog. Estimated at £900 million, the Ministry had earmarked only £156 million. 'I am not going to pretend that it is enough', Buckland said. Would not some of the £2.5 billion earmarked for questionable prison expansion be spent on addressing the backlog, asked Hanson. Buckland's response was revealing:

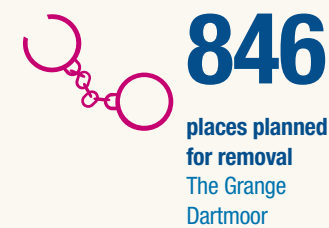
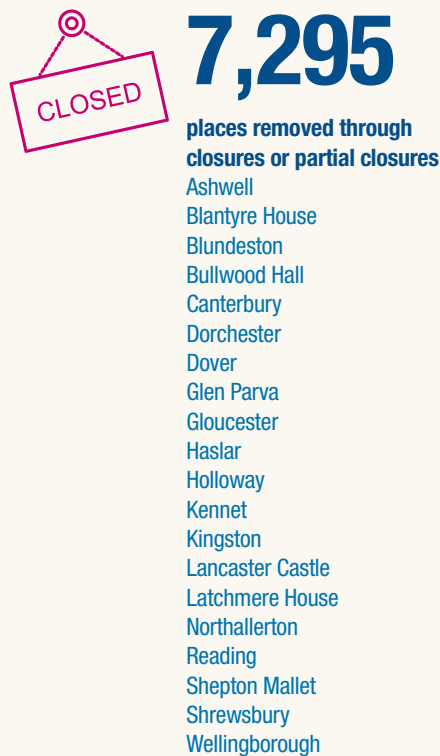
It is tempting to say that, but we also need to look long term. The new prison model and design we see at Wellingborough will take us into the 22nd century, as opposed to just tiding us over for now.

Buckland's predecessor, David Gauke, had been exploring ways to manage down the prison population and close some of the older prisons. A report from the Justice Committee published in April 2019 – *Prison Population 2022* – had argued that 'ploughing funding into building prisons to accommodate prison projections is not a sustainable approach in the medium or long-term'. Buckland's evidence indicated that the government was setting in place the foundations for a long-term expansion of the prison system.

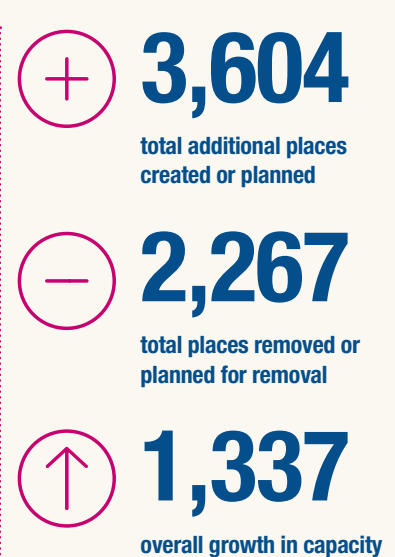
In Scotland, the Scottish Prison Service warned in its 2018 - 2019 Annual Report, published in September 2019, that the prison population was 'continuing to increase', in the context of 'an ageing prison estate' that raised challenges over useable capacity.

Incarceration nations







England and Wales



Scotland

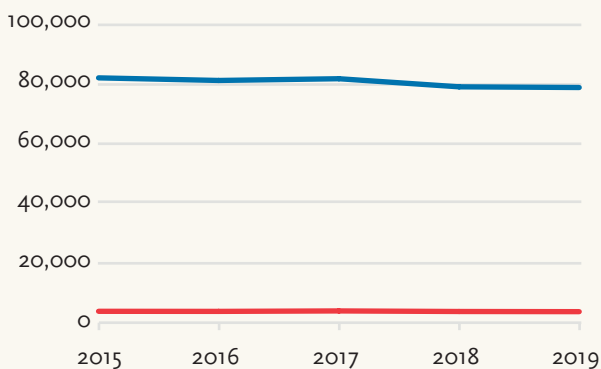


Numbers in prison

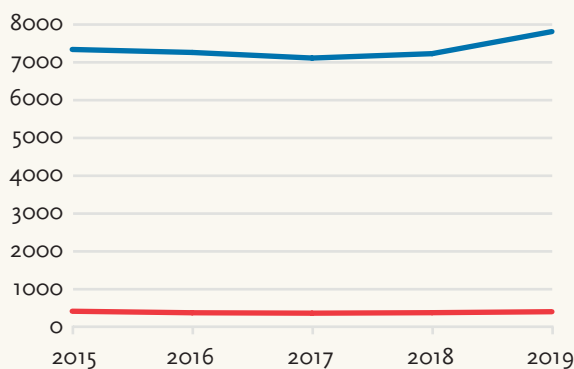
	UK	England and Wales	Scotland	Northern Ireland
 Total 2015	95,571	86,028	7,744	1,799
Total 2019	92,330	82,676	8,205	1,449
 Change	-3,241 (-3%)	-3,352 (-4%)	+461 (+6%)	-350 (-19%)
 Male prisoners 2015	91,211	82,144	7,333	1,734
Male prisoners 2019	88,100	78,910	7,806	1,384
 Change	-3,111 (-3%)	-3,234 (-4%)	+473 (+6%)	-350 (-20%)
 Female prisoners 2015	4,360	3,884	411	65
Female prisoners 2019	4,230	3,766	399	65
 Change	-130 (-3%)	-118 (-3%)	-12 (-3%)	0 (0%)

UK prison population

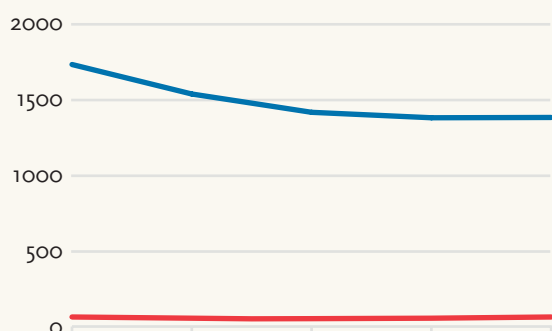
England and Wales[†]



Scotland[†]



Northern Ireland^{*}



— Male
— Female

[†] England, Wales and Scotland figures relate to snapshot figure in last week of June

^{*} Northern Ireland figures relate to average annual population figures by financial year

The Scottish Government 2019 – 2020 programme for government, published in September 2019, committed to developing whole system changes needed to address Scotland's internationally high rate of imprisonment'. But as in England and Wales, the Scottish Government was expanding prison capacity under the guise of modernisation (see *Incarceration nations*). Older prisons, such as Barlinnie, Greenock and Inverness were identified for closure. Their planned replacements were bigger. Highland prison, for instance, was planned to have at least double the capacity of Inverness.

The crisis continues

While the governments in London and Edinburgh were planning the expansion of prison capacity, the rising toll of suicide and self-harm across the prisons in the UK was but one of the more striking signs of the day-to-day crisis gripping the system (see *Prison suicide and self-harm*).

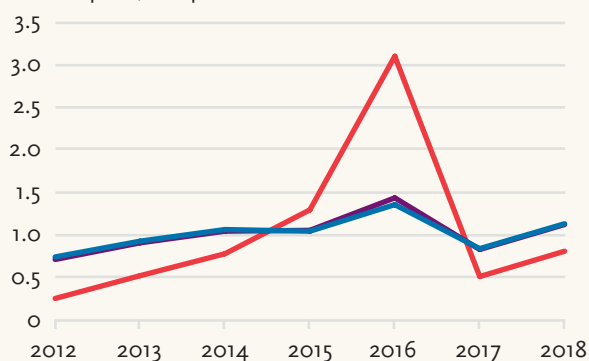
The prisons inspectorate in England and Wales issued two urgent notifications (see UKJPR 8 for more detail on urgent notifications): for Bristol and Feltham A in June and July 2019 respectively. A November 2018 report on prison health care by the House of Commons Health and Social Care Committee concluded that the government was 'failing in this duty of care towards people detained in prisons in England'. A month earlier, the prisons inspectorate and the Care Quality Commission had highlighted gaps in the provision of social care to older prisoners.

These concerns were crystallised in a House of Commons Justice Committee report – *Prison Governance* – published in late October 2019,

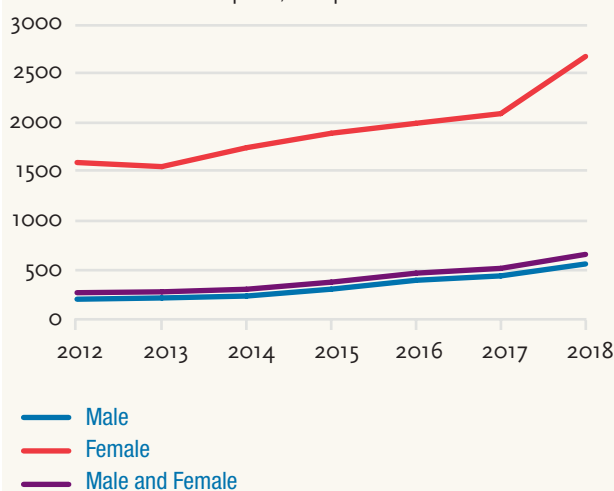
Prison suicide and self-harm

England and Wales

Suicide per 1,000 prisoners



Self-harm incidents per 1,000 prisoners



shortly before parliament dissolved for the General Election. The prison system across England and Wales, it stated, was 'enduring a crisis of safety and decency', with many prisons 'in an appalling state of disrepair'. The government's 'policy by press notice' approach lacked 'a clear vision for the future of the prison system'. The Committee also criticised the government for

ignoring recommendations from the prisons inspectorate.

An Audit Scotland report on the Scottish Prison Service, published in September 2019, noted that sickness absence among prison officers had risen by 60 per cent in the three years to 2019. It also highlighted ‘growing violence between prisoners and against prison officers’ and questioned the long-term financial sustainability of the Scottish Prison Service.

An October 2019 report by the European Committee for the Prevention of Torture made shocking observations about the treatment of some Scottish prisoners. In Cornton Vale women’s prison, the Committee members witnessed several women being held in near medieval conditions:

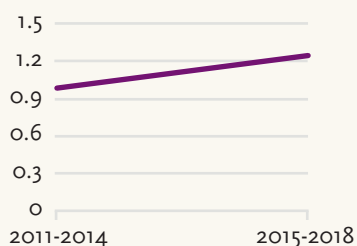
One woman refused any human contact, another refused to dress and remained naked every day, another smeared her walls with blood and excrement, one regularly set her hair on fire, another had bitten her arm through the skin and muscle down to the bone. Some of the women had rare human contact other than observation through hatches in the cell door.

They found cells in Barlinnie prison to be particularly overcrowded. They also repeated their criticism, first raised in 1994, of the ‘very small waiting cubicles... termed “dog-boxes” by the prisoners’ in the prison’s reception area. The former prison governor and international prisons expert, Professor Andrew Coyle, wrote in *The Times* newspaper that the report was ‘the most critical I have seen it publish about British prisons’. He also criticised the Scottish government’s ‘disappointing and anodyne’ response.

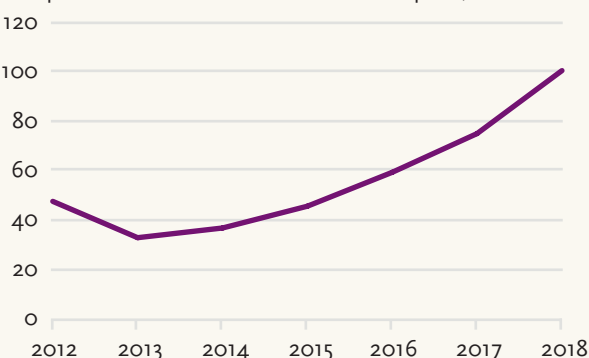
Prison suicide and self-harm

Scotland

Suicide per 1,000 prisoners

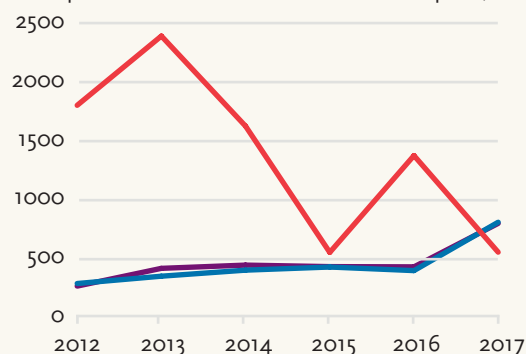


Attempted suicide and self-harm incidents per 1,000



Northern Ireland

Attempted suicide and self-harm incidents per 1,000*



*Figures for 2018 could not reliably be established.

— Male
— Female
— Male and Female

Probation

The period under review was marked by a rapid series of developments in England and Wales. The events resulted in the scrapping of the failed probation arrangements introduced in 2015 and proposals for, what seemed to many observers, equally flawed new arrangements. There were no probation developments of a similar scale or significance in Scotland or Northern Ireland. This section focuses exclusively on the England and Wales developments.

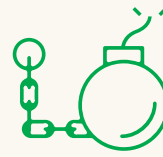
Irredeemably flawed

The Chief Inspector of Probation in England and Wales, Glenys Stacey, stood down in May 2019. She was replaced by Justin Russell, a long-standing Whitehall insider who had served under both Labour and Conservative governments.

A couple of months earlier, Glenys Stacey had used her final annual report to launch a stinging critique of the ‘irredeemably flawed’ changes to probation: the so-called ‘Transforming Rehabilitation’ programme implemented in 2015 (see former UKJPR reports). Probation leaders, she wrote, had been ‘required to deliver change they did not believe in, against the very ethos of the profession’. The changes had delivered a ‘deplorable diminution of the probation profession and a widespread move away from good probation practice’.

Stacey’s was but one of a series of interventions strongly critical of the ‘Transforming Rehabilitation’ programme. Also, in March, a National Audit Office report highlighted how badly wrong the government had got its sums (see Transforming rehabilitation?). Then in May, the House of Commons Public Accounts Committee concluded that the programme has ‘left probation

Key reports



Transforming rehabilitation: Progress review

National Audit Office
1 March 2019

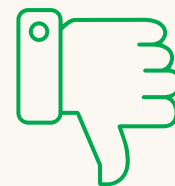
The rushed probation changes introduced in 2015 resulted in failure and waste. The government’s future plans for probation are storing up future problems.



Report of the Chief Inspector of Probation

HM Inspectorate of Probation
28 March 2019

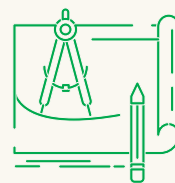
The current probation model is ‘irredeemably flawed’. A new approach, based on evidence, individual needs, professionalism and public confidence should be developed.



Transforming rehabilitation: Progress review

House of Commons Public Accounts Committee
3 May 2019

The probation service has been left in a worse position than it was following the ill-thought-through probation reorganisation.



The Proposed Future Model for Probation

HM Prison & Probation Service
19 June 2019

The draft operating blueprint for the future model of the probation system from early 2021.



Youth resettlement – final report into work in the community

HM Inspectorate of Probation and HM Inspectorate of Prisons
8 Oct 2019

Many of the same issues and barriers facing the children on release from custody, previously identified in 2015, remain the same.

Transforming rehabilitation?



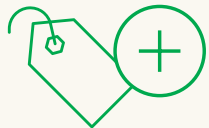
£269 million

Forecast profit for CRCs at bid stage



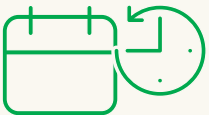
- £294 million

Forecast losses for CRCs had contracts continued



£467 million

Estimated additional cost above original expectations



14

Number of months early the contracts are due to end

CRCs: Community Rehabilitation Companies

services underfunded, fragile, and lacking the confidence of the courts'. Moreover:

Inexcusably, probation services have been left in a worse position than they were in before the Ministry embarked on its reforms.

Reducing the rates of recriminalisation and reconviction of those released from prison having served a short (under 12 months) prison sentences was a key government rationale for the 'Transforming Rehabilitation' programme. A report by the probation inspectorate in May 2019 found 'no tangible reduction' and 'no material change' in rates of recriminalisation, while 'almost one in four are recalled to prison'. Rather than receiving 'intensive and holistic rehabilitative supervision', released prisoners were 'locked in an expensive merry-go-round of criminal justice

processes and the public are left at undue risk'.

A Ministry of Justice statistical bulletin on deaths of offenders in the community, published in October 2019, pointed further to a general state of malaise. The number of deaths of individuals under probation supervision had doubled since 2015, and was at the highest number since recording had started in 2011. This included a steep rise in the number of suicides (see Suicide under probation).

New model for probation

In July 2018, as UKJPR 8 notes, the then Justice Secretary, David Gauke, announced his intention to bring the disastrous probation changes to a premature end. Glenys Stacey had praised Gauke for this 'bold decision', in the March 2019 annual report. She also expressed doubt about his working proposals for a new model, which in her mind 'would leave serious design flaws unaddressed'.

Elsewhere in her report, Stacey set out four 'design principles', for use both in evaluating of existing probation services, and in guiding future system design. The four principles covered the importance of: evidence-based practice; meeting individual needs; system integration and professionalism; and instilling confidence among victims, the judiciary and the wider public.

Against these four principles, the current probation system fared badly. In day-to-day work, for instance, Stacey had found 'a notable drift away from the evidence base for effective probation services'. This was a systemic issue with the current system, Stacey argued, as she made clear to the House of Commons Justice Committee in May 2019:

Probation

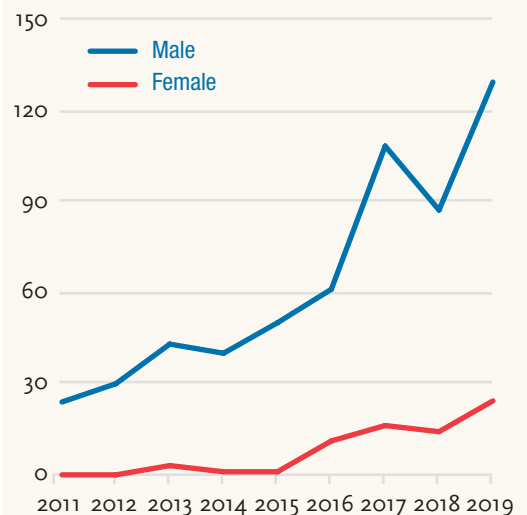
...a model where companies are in different ownership hardly suggests that you are going to be openly sharing best practice. I know of no mechanism at the moment for that. Sodexo owns a good number of CRCs, and good practice can promulgate in that company, within that ownership arrangement, but it might not cross a boundary into Interserve or whatever.

On system integration and professionalism, Stacey argued that provision of probation interventions was patchy, that there was a 'national shortage of professional probation staff' and that the profession as a whole had been 'downgraded'.

Looking forward Stacey argued that future probation arrangements needed a structure and culture that ensured consistent, evaluated, evidence-based practice. Professional judgement and consistent practice also needed to be at the heart of probation work. To rebuild confidence in the system, she argued for national strategies in areas such as estates, workforce planning and commissioning. She also called for effective integration of key probation activities 'to ensure

Suicide under probation

Suicide under probation supervision following release from prison have risen



Note: Each year is 12 months to end of March of that year.

Commission on Justice in Wales

Justice in Wales for the People of Wales, the report of the Commission established in 2017, was published in October 2019. The 'people of Wales', it argued, were 'being let down by the system in its current state'. Legal aid cuts and advice deserts were a particular problem in Wales.

While criminal justice policy in Wales was determined in Westminster, a range of other matters - such as education, health and economic

development - were devolved to the Welsh Assembly. This split resulted in complexity and lack of coherence, and resulted in 'serious disadvantages to the people of Wales which people in England, Scotland and Northern Ireland do not experience'.

The Commission called for 'full legislative devolution' of criminal justice to Wales, including 'a full transfer of the funding for the justice system' and 'the development in Wales of capacity, capability and leadership'.

more consistent and effective supervision for **ALL** offenders' (her emphasis - in bold).

The Commission on Justice in Wales, which published the report of its two-year review in October 2019, was impressed enough by these four principles to argue that they 'should be applied to the design of the new integrated National Probation Service of Wales' (see Commission on justice in Wales).

The response from the government in London was somewhat more muted. Stacey told MPs on the Justice Committee in May 2019 that the Ministry of Justice had not consulted her on its probation workforce strategy; an answer the Labour MP Marie Rimmer said left her 'quite shocked'. Stacey's apparently upbeat tone of her report's reception could also not mask a somewhat downbeat note:

[M]y report from March is fully accepted by the Secretary of State and by Rory Stewart, although he is no longer the Minister. No one has said to me that the report is in any way ill-informed or wrong. The issues are understood and, in large part, accepted. The question is where we go from here.

Two days after Stacey's appearance before MPs, the Ministry of Justice announced its 'new model for probation'. It planned 'to build on the successful elements of the existing system', while introducing 'fresh ideas and innovative new rehabilitative services from private and voluntary providers'.

The government blueprint for the new model for probation, published in June 2019, went some way to meet the challenge posed by Stacey and others. In a nod in the direction of greater system integration, for instance, the model proposed that

all those under community supervision would be the responsibility of the National Probation Service, working at a regional level. The blueprint also expressed a commitment to 'recognising probation work as a professional vocation', a commitment the government proposed to underpin via a 'regulatory framework for setting qualification requirements and practice standards'.

In other respects, though, the blueprint signalled an ongoing attachment to commercialisation and competition that many in the service, including Stacey, saw as part of the problem. The delivery of much probation work – including unpaid work and accredited programmes – would be undertaken by private or voluntary sector 'innovation partners', rather than by the probation service itself. To many this looked rather like the discredited community rehabilitation company model, albeit in reduced form.

Seasoned probation observers in any case struggled to see the 'successful elements' in the existing system and were concerned that the new model looked like repeating the fragmentation of probation work that had bedevilled the 'Transforming Rehabilitation' changes. When the *Financial Times* reviewed the plans in early December 2019, they reported criticism of a 'stack 'em high and treat 'em cheap' approach, and concerns over the split tendering approach, which would mean probation officers 'having to co-ordinate an individual's probation plan with two separate organisations'. The Chair of the National Association of Probation Officers, David Raho said:

What is needed is an entirely joined up and integrated public probation service that frees up frontline professionals to tackle reoffending.

Coming Up

Brexit in sight?

The Brexit deadline ran to 31 October 2019 when the new government headed by Boris Johnson agreed to leave the EU, this time without fail. In July, important new faces had joined the Johnson cabinet: Priti Patel was appointed as Home Secretary and Robert Buckland took over as Minister of Justice.

When parliament returned to Westminster after the Supreme Court nullified its prorogation, questions were posed about justice and security arrangements. The Chancellor of the Duchy of Lancaster, Michael Gove, reported that talks with the EU were under way about access to relevant EU instruments but there would be ‘new tools available to tackle people trafficking, smuggling and other criminal activity.’

It was reported that, in England and Wales, 26 out of 43 forces had restricted officers’ leave in the period up to the possible no-deal departure on 31 October. Meanwhile, Simon Byrne, Chief Constable of the Police Service of Northern Ireland, stated that the service had no plans to police checkpoints on the border with the Republic.

In mid-October, however, a proposed ‘deal’ between the EU and the new government suddenly materialised. The political declaration on the future relationship spoke of ‘comprehensive, close, balanced and reciprocal law enforcement and judicial cooperation in criminal matters’ and sought to identify areas of cooperation: data exchange; operational cooperation between law enforcement authorities and judicial cooperation in criminal matters; and anti-money laundering and counter terrorism financing.

Criminal justice policy put back in the spotlight

The new government made early announcements about criminal justice changes, which were consolidated in the Queen’s Speech in October.

By 2022 an extra 20,000 police were to be recruited.

After a review of sentencing it was proposed that those convicted of violent and sexual offences and serving four or more years will serve at least two thirds of their sentence in prison.

Foreign national offenders who breached deportation orders would be treated more severely.

10,000 new prison places were to be created by the mid-2020s and £100 million was due to be spent on extra prison security.

Restrictions were to be lifted on the use of stop and search in an area, under S.60 of the *Criminal Justice and Public Order Act 1994*, which does not require suspicion of particular individuals.

Reports

In *Thematic Inspection of the Scottish Police Authority*, Gillian Imery, Her Majesty’s Chief Inspector of Constabulary in Scotland, commended changes in its membership and personnel but questioned its relationship with the Chief Constable and lamented its lack of public profile. The SPA Chief Executive’s departure was announced in September 2019, followed by the appointment of an interim replacement.

In October, in her *Annual Report 2018-19*, the Prisons and Probation Ombudsman (PPO) Sue McAllister commented on the need to address failures to implement PPO recommendations.

In *Transforming courts and tribunals – a progress update*, the National Audit Office warned that the impact of the courts closure programme on users remained unclear and that savings were not as great as anticipated.

The General Election campaign

After the December election was announced, the manifestos of the leading parties duly touched on criminal justice.

Police

All three leading parties wanted to strengthen the National Crime Agency. The Liberal Democrats promised to invest £1 billion in community policing; Labour competed with the Conservatives over police numbers, promising to exceed the Conservative commitment by 2,000 front line officers.

Whereas the Conservatives wished to expand the role of Police and Crime and Commissioners, the Liberal Democrats would replace them with Boards of local councillors.

The leading parties promised more joined up approaches to reducing violent crime; Labour and the Liberal Democrats planned to restore community or neighbourhood policing.

Online harms were a focus of commitments from all three leading parties, Labour proposing a cyber security minister and the Liberal Democrats an Online Crime Agency.

Legal aid, courts and sentencing

The Conservatives proposed a Royal Commission on criminal justice process; Labour would implement the criminal legal aid review, halt court closures and staff cuts, and facilitate a more representative judiciary.

The Conservatives pledged again to end release at the halfway stage of sentences for serious crimes; the parole system was to be thoroughly reviewed.

Labour and the Liberal Democrats presented proposals to reduce short prison sentences and pursue alternatives.

Prisons and probation

Whereas the Conservatives focused on creating

10,000 extra prison places, the Labour party committed to restore prison officer numbers to the levels of 2010 and would bring about fully public systems of prison and probation. Liberal Democrats promised an additional 2,000 prison officers and a package of support for all released prisoners.

Drug policy reform

Distinctively, Labour would establish a Royal Commission 'to develop a public health approach to substance misuse, focusing on harm reduction rather than criminalisation'. Liberal Democrats would end prison sentences for personal drug possession.

Equalities

The Liberal Democrats promised to reduce the over-representation of Black and Minority Ethnic groups in the criminal justice system, including in the use of stop and search.

Labour too vowed to confront institutional bias against Black and Minority Ethnic groups.

Vulnerabilities

Labour and the Conservatives were committed to upholding standards for crime victims in general. All three leading parties would fight violence against women and girls, legislate on domestic abuse and propose measures to support refuges and rape crisis centres.

Brexit

Though the Conservative manifesto fell virtually silent on European criminal justice cooperation, Labour would prioritise a new security treaty with the EU while the Liberal Democrats, advocating remaining in the EU, were predictably content with current EU cooperation. The Conservative election victory ensured that its proposals will take centre stage in the coming year, though at the time of writing the coronavirus pandemic has put plans on hold.

Technical appendix

References

To avoid the unnecessary clutter of a detailed scholarly apparatus, this report contains no references or footnotes. Sufficient detail on the titles and publication dates has been included to enable most readers to track down publications referred to in the text.

Data dashboard

Data

All data used in the charts is collated from official administrative sources. This includes annual reports and accounts and official statistical releases.

Care was taken to produce comparable indicators across jurisdictions that had the same units of analysis and were measured over the same time period. However, directly comparable data was not always available. Some staffing figures are different measures of labour time (full time equivalents or whole time equivalents) and some are actual numbers of people employed (headcounts). Most indicators are measured over financial years, but a few were only available for calendar years. For measures at a single point in time, like prison population or staffing levels,

some are at 31 March each year, and others are averages over the financial year.

Some agencies and functions have different names in different jurisdictions even though they refer to roughly the same thing. In England and Wales, the main prosecuting authority is the Crown Prosecution Service. In Scotland, it is the Crown Office and Procurator Fiscal Service. In Northern Ireland, it is the Department of Public Prosecutions. Prosecution spending and staffing data refer to these agencies in the relevant jurisdiction. Community justice in Scotland is equivalent to probation in the rest of the UK.

All spending data included in the charts refers to central government expenditure on criminal justice. Some figures are total managed expenditure which includes resource, capital and annual managed expenditure. Other figures are comprehensive net expenditure. Expenditure is adjusted to real terms.

Definitions

Prison receptions are the number of people entering prison in a given year. Scotland did not have current data on prison receptions. Probation commencements refer to commencements of a period of court-ordered supervision in the community.

More detailed footnotes to the data and a full list of original sources is available in data files from our website: www.crimeandjustice.org.uk/project/uk-justice-policy-review

UK Justice Policy Review

Publications in the series



You can download all the previous reports from our website:
www.crimeandjustice.org.uk/project/uk-justice-policy-review

