

UK Justice Policy Review

Volume 7

From Brexit referendum
to General Election

24 June 2016 to 8 June 2017

by Richard Garside,
Roger Grimshaw and Matt Ford



THE HADLEY TRUST

CENTRE FOR CRIME
AND JUSTICE STUDIES

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Executive summary

Overview

This is the seventh volume in the UK Justice Policy Review series, covering the period from the referendum on the UK's membership of the European Union in June 2016 to the snap General Election in June 2017. It assesses and explains criminal justice developments across the United Kingdom's three criminal jurisdictions of England and Wales, Scotland and Northern Ireland.

This Review, like previous editions, focuses on the key criminal justice institutions of policing, the courts and access to justice, prisons, and probation across the UK. It combines concise, critical analysis of policy developments with key data on the main trends.

Speeches

The first section covers four speeches made by leading politicians in each jurisdiction. This includes two contrasting speeches on criminal justice reform, one by the former England and Wales Justice Secretary Liz Truss, and the other by the former Northern Ireland Justice Minister Claire Sugden.

Similarly contrasting speeches on police reform by Scottish Justice Secretary Michael Matheson and by the former Home Secretary Amber Rudd are also examined.

Legislation

This section covers key legislation that passed through the UK parliament and the devolved assemblies during the period under review. This includes: the Criminal Finances Act, the Investigatory Powers Act, the Policing and Crime

Act, the Prison and Courts Bill, the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act, the Domestic Abuse (Scotland) Bill, the Limitation (Childhood Abuse) (Scotland) Bill, and the Railway Policing (Scotland) Bill. The Northern Ireland Assembly was not sitting for much of this period and no relevant legislation was passed.

Police

This section gives an overview of key developments in policing across the criminal justice jurisdictions of the UK. It begins with an analysis of the rise in hate crime following the Brexit referendum and terror attacks in London and Manchester. Policy responses to hate and vulnerability in each jurisdiction are then covered.

The rest of this section discusses issues around the scrutiny and accountability of the police, including: developments around historic controversies surrounding South Yorkshire Police; the inquiry into police spying; ongoing problems with the practice of stop and search; how complaints about the police are handled; and developments in police governance. Debates around police numbers and funding, which gained renewed energy during the General Election period, are covered at the end of this section.

Data dashboard

The data dashboard shows changes in criminal justice expenditure, staffing levels and the number of people criminalised and subject to various criminal justice sanctions, in each jurisdiction between the review year and 2012/13 and 2016/17.

Courts

The section on courts begins by charting Liz Truss' short but gaffe-prone tenure as Justice Secretary for England and Wales. Further developments in the drive to digitise aspects of court proceedings and move away from physical courts are then highlighted. This includes an infographic highlighting the large-scale programme of court closures in all three jurisdictions on page 23.

This section goes on to describe how cuts to legal aid have continued to be implemented and examines their impact across the three UK jurisdictions. Declines in the numbers of magistrates and cases going through the magistrates' courts, as well as debates around increasing their sentencing powers, are outlined.

Prisons

The section on prisons covers developments in each jurisdiction separately. Key elements of the reform agenda for England and Wales set out in the White Paper, *Prison Safety and Reform*, as well as its uneven implementation, are highlighted. Page 27 includes an infographic giving an overview of all six areas covered by the White Paper.

In Scotland key developments include the progress of ambitious plans to reconfigure the women's custodial estate and concerns about the state of healthcare in Scottish prisons. Levels of safety in prisons are assessed through inspection reports and reviews in each jurisdiction during the year in review.

Probation

The section on probation begins by tracking the implementation of the beleaguered *Transforming Rehabilitation* reforms in England and Wales during the year in review. Newer arrangements in Scotland, following the reorganisation of community justice in 2016, are contrasted with those of England and Wales. Activity around how probation work in Northern Ireland was used to prevent reconviction and avoid short prison sentences are covered at the end of this section. An infographic on page 35 shows the different reconviction rates in England and Wales, Scotland and Northern Ireland.

Coming up

The final section previews some of the main elements that will be covered in more detail in the next edition of UKJPR. This includes: The reverberations of the 2017 General Election, including the Conservative loss of its parliamentary majority and the lack of legislative activity. The formation of Her Majesty's Prison and Probation Service and the effects of continuing increases in resource demands in prisons. Intense scrutiny of the probation reorganisation in England and Wales. Accountability issues surrounding the new police complaints body, the UK National Preventive Mechanism and the refusal of the Scottish Justice Secretary to extend the police spying inquiry to Scotland. Questions over the sustainability of continued spending cuts; and the implications of Brexit on criminal justice policy.

Introduction

From Brexit referendum to General Election

This edition of *UK Justice Policy Review* (UKJPR) covers the period between the ‘Brexit’ referendum on 23 June 2016, and the 8 June 2017 General Election.

On 13 July 2016 the new Prime Minister, Theresa May gave a speech setting out her vision for Britain. How she came to her new position is a story directly related to the result of the referendum, which had led to the resignation of David Cameron. With a new government came new challenges and responsibilities, chief among them: to face the consequences of the referendum and to chart a new path in Europe.

Theresa May spoke of leading a ‘one-nation’ government and tackling injustices, including discrimination in criminal justice. Her broad statement of intent opened a fresh chapter in policy discussions. The enormity and complexity of the Brexit task quickly overwhelmed the government, preventing many potential policy initiatives, including in the area of criminal justice, at least in England and Wales. The collapse of power-sharing in Northern Ireland in early 2017 brought the ongoing criminal justice reform programme to a juddering halt. During this period, it was only Scotland that had a government that could claim to be ‘strong and stable’.

Implications of the Brexit decision for criminal justice

This review begins at the moment when the EU referendum decision signalled an impending withdrawal from the EU. What would be the future

relationship? Here we take forward the story of the exceptional focus that prevailed in this period upon what the future might hold.

EU cooperation in justice and security covers a number of fields (see [EU cooperation](#)). The UK’s approach to EU justice measures involved selective ‘opt-ins’ rather than full participation. The government subsequently expressed a wish to maintain a close relationship with EU institutions. By refusing to accept the jurisdiction of the Court of Justice of the EU in the future, the government was faced with the question about how disputes might be settled once the UK departed.

Under the *Scotland Act 1998*, policing and criminal justice were devolved matters, with some exceptions such as terrorism. While the UK government sets the direction of the UK’s relation with EU justice, the Scottish government has a voice, pointing out how a common justice policy is complementary to the development of a European market. Sections of the justice system in Scotland have been direct participants in EU justice institutions: for example, the Crown Office and Procurator Fiscal Service has been represented in the UK’s Eurojust oversight board; a Police Scotland officer has been assigned to the Europol Liaison Office in The Hague.

If the result of the referendum was unexpected, it added a completely new dimension to the policy scene in the period under review. Not surprisingly there was no shortage of high-level inquiries dedicated to Brexit.

In Scotland a national Summit on EU Justice was convened in November 2016, at which Scotland’s relationships with agencies such as Europol, and access to measures such as the European Arrest Warrant were rated highly. In

EU cooperation

Brexit has thrown into question the future of international criminal justice cooperation in Europe.

In relation to mutual recognition of decisions, participation in EU agencies, and information sharing, questions about continuing cooperation were posed.

Information exchange

- The Second Generation Schengen Information System records and updates data about people and objects (such as vehicles) of interest to EU law enforcement agencies.
- The European Criminal Records Information System enables the exchange of information on criminal convictions between Member States.
- Passenger Name Records for flights into the EU are shared across Members.
- The so-called Prüm Decisions affect the exchange of data on matters such as biometrics.
- The fourth EU Money Laundering Directive encourages sharing of financial intelligence.

Cooperation

- Europol supports cooperation against terrorism and serious crime. The Europol Information System contains

information about people identified as criminals and terrorists from across the EU.

- Eurojust coordinates investigations and prosecutions in cases of international crime.

Mutual recognition

- The European Arrest Warrant facilitates extradition, relying on mutual recognition of Member States' laws. Similarly a system of prisoner transfers enables convicted prisoners to serve sentences in their country of nationality or habitual residence, provided they have 6 months to serve.
- The European Investigation Order applies to evidence the principle of mutual recognition.
- The European Supervision Order applies to pre-trial supervision.
- The European Protection Order enables measures to be imposed in order to give EU-wide protection for a person against a criminal act. Courts are required to treat convictions in another Member State in the same way as convictions in their own jurisdiction.

December 2016, the House of Lords EU Home Affairs Sub-Committee issued a report of its inquiry into future UK-EU security and policing co-operation. The National Crime Agency viewed access to Europol information as highly desirable while the Director of Public Prosecutions valued the cooperative strength of Eurojust. The Sub-Committee also heard evidence questioning how UK participation in the European Arrest Warrant might continue. The Committee judged that there was no satisfactorily complete model for future relations in the existing agreements between the EU and third-party countries. It also warned about the UK's loss of influence on EU decision-making.

The Committee on Exiting the European Union published its report on the process for exiting the European Union and the government's negotiating objectives in January 2017. In March 2017 the government responded to the recommendations of the Committee. It reiterated its commitment to negotiating a 'strong and

close relationship' with the EU on cooperation to combat crime and terrorism. Criminal justice would be included in phased implementation arrangements. It emphasised too that it was consulting with the regions and nations of the UK.

In March 2017, the House of Commons Justice Committee published a report on *Implications of Brexit for the justice system*. The Committee noted strong support for existing EU cooperation arrangements among many submissions to its Inquiry. In a riposte to the apparent stance of the government, it warned against tactical bargaining with the EU on criminal justice.

Meanwhile, the government embarked on handling the 'normal' business of criminal justice, facing a series of 'home-grown' challenges that demanded just as much urgency. The following sections shed light on the extent to which those responsible for criminal justice policy succeeded in meeting these challenges.

Speeches

On 21 July 2016, Liz Truss was sworn in as the first female Lord Chancellor. ‘The duties that go with this role today – to respect and defend the rule of law and the independence of the judiciary – must be upheld now as ever’, she said in her swearing-in speech. ‘In my time as Lord Chancellor, I will uphold them with dedication’. She returned to her role as a defender of judicial independence in early October, in a speech marking the opening of the legal year: ‘I am determined – as Lord Chancellor – to respect the rule of law here and abroad, to defend the independence of the judiciary’. Less than a month later, her lukewarm defence of judicial independence, in the face of tabloid attacks on three High Court judges, dealt her reputation a severe blow; a blow from which she never really recovered (see [Enemies of the people](#), p. 22).

This section begins with an assessment of what was probably the most significant speech given by Truss during the period under review: her February 2017 speech on criminal justice reform. Her vision in this speech contrasted strongly with that of the Northern Ireland Justice Minister, Claire Sugden, set out in a speech to the Centre for Crime and Justice Studies the previous October. Also in this section are two contrasting speeches on police reform: the first by the Scottish Justice Secretary, Michael Matheson to the Scottish Police Federation; the second by the Home Secretary, Amber Rudd to the Police Federation of England and Wales.

No magic bullet

Though billed as being about criminal justice reform, Liz Truss’ speech on 13 February 2017 offered a narrower prospectus. In a carefully crafted intervention, she focused on what she

claimed were the four main bones of contention in relation to sentencing and the prison population. First, that sentences are too long; second, that prisons are too overcrowded to work; third, that the wrong people are in prison and; fourth, that the management of the prison population requires improvement. On each of these four issues she sought to mark out a distinctive position that neither accepted mainstream reformist demands, nor embraced the tough ‘lock ‘em up’ policies of some, at least, of her predecessors.

Sentence lengths, she argued, had increased for some offences, but they had not ‘gone up across the board’. There had been a decline in short sentences and a rise in sentences for more serious offences, such as sexual offences and violence. This reflected a welcome shift in societal attitudes, which ‘no longer shames victims of rape... is prepared to confront child sex abuse, and has brought domestic violence out in the open’. In a clever riposte to the standard reformist complaint about the overuse of imprisonment, her message was that more people were now properly being imprisoned for serious offences; fewer were being imprisoned for more minor transgressions.

In November 2016, Truss’ predecessor, Michael Gove, had called for the early release of certain prisoners to reduce overcrowding, in a speech to The Longford Trust. Now, in a coded attack, Truss argued that such an approach ‘would be reckless and endanger the public’. In December 2016, Ken Clarke and Jacqui Smith, both former Home Secretaries, had joined forces with the former Deputy Prime Minister, Nick Clegg, in calling for the prison population to be halved. But this too, Truss argued, was not the right answer to prison overcrowding. The answer, instead, was to invest in prisons so that they could ‘reform offenders

and turn their lives around'. This, she said, was 'exactly what I am doing' through the *Prison and Courts Bill* (see [Legislation](#), p. 13).

Truss did acknowledge that some people are wrongly imprisoned, notably those with mental health problems. She called for a 'more systematic, nationally consistent approach' towards mental health treatment. She also acknowledged that the management of some sentences, particularly the indeterminate 'imprisonment for public protection' sentence, needed change. The Justice Secretary also injected an element of urgency. Needed changes, she said would, 'take time and determination to deliver but... we simply cannot afford to put this off any longer'. The 2017 General Election result ensured that further delay would continue.

Problem-solving justice

In her speech at the Centre for Crime and Justice Studies conference in October 2016, the Northern Ireland Justice Minister, Claire Sugden explained that a 'problem-solving justice' approach would 'drive my reforms over the next five years'. This was not to be. The Northern Ireland power-sharing executive collapsed three months later and remained non-functioning during the rest of the period under review and beyond. The vision Sugden set out, however, offers a useful counterpoint to that of Liz Truss and highlights the significant divergence of policy and approach across the UK's different criminal justice jurisdictions.

In language that is out of fashion in England and Wales, Sugden spoke of the need for 'transformative change' to address the problem of 'far too many vulnerable people' getting 'drawn

into the justice system and... ending up in prison'. A problem-solving approach, she said, would 'redirect vulnerable people towards therapeutic and other supportive interventions rather than defaulting into the formal justice system'. Over time, this would lead to 'a reduction in the number of vulnerable people in our prisons over the next 15 years'.

In common with Truss, however, Sugden also sought to draw a distinction between the minor infractions that should not result in a prison sentence and the use of 'the full weight of the law to deal with serious crime... This is not about being soft on crime'.

The Justice Minister also addressed the question of Brexit, which presented 'particular challenges' for Northern Ireland. These included the shared border with the Republic, with whom Northern Ireland has a 'particular historic cultural and social ties'. Also at risk, she said, were justice collaborations across Ireland, EU instruments like the European Arrest Warrant, and mutual recognition of court orders.

Scotland does things differently

Early on in his March 2017 speech to the Scottish Police Federation, Michael Matheson, the Scottish Justice Secretary, sought to draw a number of dividing lines between his government's approach and that of the UK government south of the border. In a speech devoid of a strong or compelling narrative, Scotland does things differently was one of the few unifying themes.

As in England and Wales, he noted, police officers in Scotland could not take industrial action. Unlike in England and Wales, he added, nor can police officers in Scotland be made redundant.

Speeches

Direct entry into Inspector and Superintendent ranks, introduced in England and Wales, would not be introduced in Scotland. It ‘may be true’, he said, that direct entry ‘breathes new life into the police and provides a fresh perspective’. But ‘there is something bigger at stake’, he argued. For a senior officer to lead and command more junior ranks, ‘a police officer must first have walked in their boots’.

The College of Policing had announced that a degree level qualification would be required for all new entrants to forces in England and Wales. This would not be a requirement in Scotland, Matheson said. Finally, on the question of collective pay bargaining, which had so poisoned relations between the police and government in England and Wales, Matheson committed the government to the principle of negotiated settlements, rather than the imposition of terms and conditions.

Police funding and police officer numbers had been another major bone of contention in England and Wales. In Scotland, Matheson expected ‘police officer recruitment to continue’ and welcomed Police Scotland’s commitment ‘to maintain officer numbers at the current levels’. The Scottish Government, he said, was ‘protecting the police resource budget in real terms in every year of this parliament’. The only other part of the public sector whose budgets had been protected in this way, he added, was the National Health Service.

The additional demands on police time responding to those in mental health crisis had been a preoccupation in the England and Wales

jurisdiction for some years (see UKJPR6). It was a challenge that Scotland also faced, Matheson argued. To address this, the Scottish Government would be spending £35 million over five years to support the recruitment of an additional 800 mental health workers.

Vote Conservative

In her May 2017 speech to the Police Federation for England and Wales, just a few weeks before the General Election, the Home Secretary Amber Rudd devoted much of her time to explaining why the police should vote Conservative. She was not doing this, she assured them, ‘for petty, party political reasons’, but because important principles were at stake. ‘You’re not choosing between Tony Blair and John Major; Gordon Brown and David Cameron; even David Cameron and Ed Miliband’, she told her audience. Rather, the choice was between ‘a party that have always stood for law order (*sic*)’ and a party whose ‘three most senior politicians... sound like a group of Marxists in a sixth form debating society’. Presenting Blair, Brown and Miliband as the respectable face of the Labour party spoke volumes about the way the Corbyn-led insurgency had overturned so many of the political certainties of recent decades.

Building on themes Rudd had developed in earlier speeches (see [Key speeches](#), p. 11), she highlighted changes in crime that required ongoing changes in policing. Criminals were using ‘the internet and technology to prey on vulnerable victims’. The ‘uncomfortable truths... about the extent of child abuse’ required better police

responses. Modern slavery needed to be treated 'like the heinous crime that it is'. The job of police reform could not finish because 'as crime is changing, you will need to keep changing too'.

In contrast to Matheson's speech a few months before, much of the rest of Rudd's speech was devoted to rehearsing the many differences between the Conservatives and the police. For sure, the government had responded to calls 'to stop police officers doing the work of a doctor or nurse, caring for mentally ill members of the public'. But compared with the Scottish Government's £35 million spending pledge, Rudd's '£15 million invested in health based alternatives' appeared somewhat paltry.

As for the areas of disagreement, she acknowledged police anger about pay and pensions, budgets, culture change and direct entry. The police may have disagreed, she said, but in each case, the changes had been 'right for the country and the public'. The Conservatives would 'always back the police', she said, 'but we also won't shy away from taking the difficult decisions for the long-term good of policing and the public'.

The police might not much like the look of Conservative policies, was the message. The alternative they faced, however, was a Labour party led by politicians who wanted to 'dismantle the police. Disband MI5. Disarm the police'. Given that the recruitment of 10,000 more police officers was a key General Election pledge for Labour (see UKJPR Focus 1), it was unclear whether Rudd's version of 'project fear' was either accurate, or would have the desired effect.

Key speeches



Legislation

Various Private Members' Bills, covering topics as diverse as the age of criminal responsibility, animal cruelty and stalking, were introduced into UK parliament during this period. Only one, on violence against women, made it onto the statute book. The *Policing and Crime Bill* (see the [Policing section, p. 18](#)) gained Royal Assent in January 2017. No relevant legislation completed its passage through the Scottish Parliament during the period under review. The Northern Ireland Assembly was not sitting for much of this period and no relevant legislation was passed.

Criminal Finances Act

The leak of the so-called 'Panama Papers' in April 2016 raised the political temperature on tax avoidance. It was revealed that the father of the Prime Minister, David Cameron, had run an offshore fund. In September 2016, *The Guardian* revealed that the Home Secretary, Amber Rudd, had been a director of offshore companies. Prior to the Panama Papers leak, the National Crime Agency, the Treasury, the Home Office and HM Revenue and Customs had all published reports recommending further action on money laundering, tax evasion and terrorist financing. The *Criminal Finances Act* introduced 'Unexplained Wealth Orders', which required individuals suspected of serious criminality to explain the origin of their assets. Other provisions included greater information sharing between banks and law enforcement agencies, and new offences under which companies could be prosecuted for failure to prevent tax evasion.

Investigatory Powers Act

Legislation had previously been introduced on a temporary basis after a critical European Court of Justice judgement. With its expiry due, new arrangements were proposed to consolidate powers to obtain communications data and update them for an internet world. During its parliamentary passage, the government made amendments to ensure protections for legally privileged material and journalists' sources. A Technology Advisory Panel was created to advise on the impact of new developments. The Opposition successfully sought amendments to limit data collection to investigations of offences carrying a maximum sentence of at least 12 months, and to protect legitimate trade union activity.

Violence Against Women Act

In June 2012 the UK signed the so-called 'Istanbul Convention' on preventing and combating violence against women and domestic violence. In February 2015 the Joint Committee on Human Rights called on the then government 'to prioritise ratification of the Istanbul Convention'. The *Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Bill*, to give it its full name, sought to enshrine the convention in UK law. It was one of those relatively rare pieces of legislation: a Private Member's Bill that became law. Introduced by the SNP MP Eilidh Whiteford, the Bill gained momentum when the Government Minister, Brandon Lewis, told the House of Commons in December 2016 that 'the Government support the Bill in principle'. It gained Royal Assent in April 2017.

Prisons and Courts Bill

Most of the government's planned changes to prisons did not require legislation (see [Prisons, p. 26](#)), which meant there was very little in the *Prisons and Courts Bill* on prisons. The courts-

related aspect was more extensive, seeking to give legislative effect to the September 2016 *Transforming Our Justice System* programme (see [Courts, p. 22](#)). The Bill failed to complete its parliamentary progress before the 2017 General Election.

Legislation

Type of legislation

Private Members' Government



Legislation

UK Parliament

Legislation	Date introduced	Status on 8 June 2017
<i>Age of Criminal Responsibility Bill</i>	9 Jun 16	Did not progress
<i>Animal Cruelty (Sentencing) Bill</i>	4 Jul 16	Did not progress
<i>Animal Fighting (Sentencing) Bill</i>	4 Jul 16	Did not progress
<i>Counter-Terrorism and Security Act 2015 (Amendment) Bill</i>	29 Jun 16	Did not progress
<i>Crime (Aggravated Murder of and Violence Against Women) Bill</i>	31 Jan 17	Did not progress
<i>Crime (Assaults on Emergency Services Staff) Bill</i>	7 Feb 17	Did not progress
Criminal Finances Act	13 Oct 16	Royal Assent (27 Apr 17)
<i>Genocide Determination Bill</i>	13 Jun 16	Did not progress
Investigatory Powers Act	1 Mar 16	Royal Assent (29 Nov 16)
<i>Malicious Communications (Social Media) Bill</i>	4 Jul 16	Did not progress
Policing and Crime Act	10 Feb 16	Royal Assent (31 Jan 17)
<i>Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act</i>	29 Jun 16	Royal Assent (27 Apr 17)
Prisons and Courts Bill	23 Feb 17	Did not progress
<i>Public Authority (Accountability) Bill</i>	29 Mar 17	Did not progress
<i>Rehabilitation of Offenders (Amendment) Bill</i>	26 May 16	Did not progress
<i>Sexual Offences (Amendment) Bill</i>	8 Feb 17	Did not progress
<i>Sexual Offences (Pardons Etc.) Bill</i>	29 Jun 16	Did not progress
<i>Stalking (Sentencing) Bill</i>	12 Oct 16	Did not progress
<i>Unlawful Killing (Recovery of Remains) Bill</i>	11 Oct 16	Did not progress
<i>Violent Crime (Sentences) Bill</i>	22 Mar 17	Did not progress

Scottish Parliament

Domestic Abuse (Scotland) Bill	17 Mar 17	In progress
Limitation (Childhood Abuse) (Scotland) Bill	16 Nov 16	In progress
Railway Policing (Scotland) Bill	8 Dec 16	In progress

Police

Introduction

The divisive images of migrants deployed in some EU referendum propaganda were not easy to forget, but it is sometimes hard to recognise that public events have consequences for private experiences. So it was still possible to feel a shock when official sources confirmed that the EU referendum – and the Westminster Bridge attack in March 2017 – had contributed to increases in police-recorded hate crime, much of it racist in intent.

Victims were putting their faith in the police to intervene on their behalf, and the Government sought to remedy defects in the service they had been receiving. The fate of vulnerable groups more generally occupied the attention of legislators, who voiced their own concerns.

In addition, the police were the subject of inquiry and scrutiny during the period under review,

as controversial practices slowly emerged into daylight, putting the integrity of officers and forces into question.

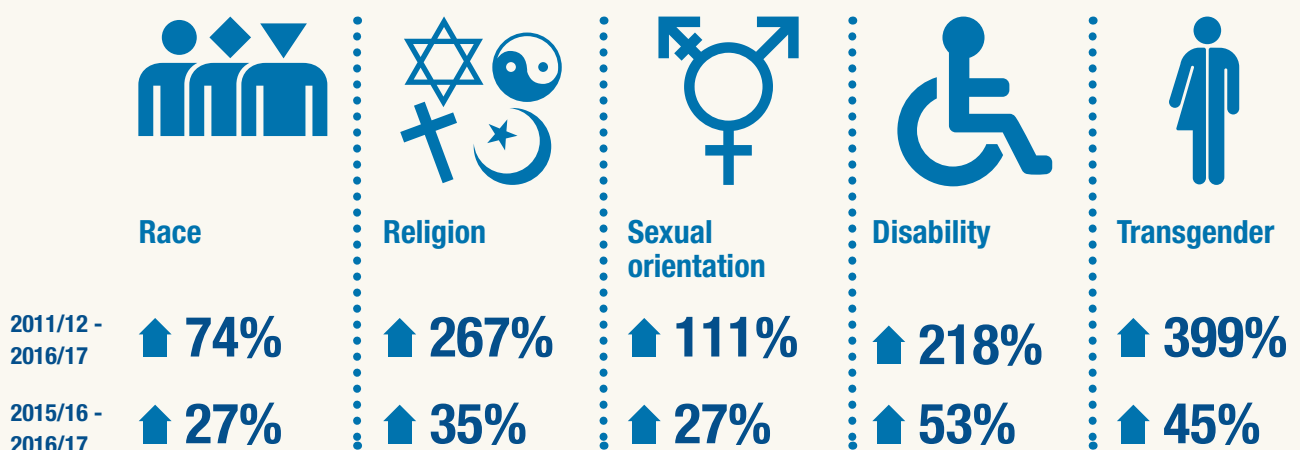
The accountability of police continued to be a theme in public discussions but it was the General Election and the incidents surrounding it which were to place police numbers, after years of cuts, in the front line of party political exchanges.

Hate crime

While the EU referendum and the Westminster Bridge attack in March 2017 were found to have been associated with recorded increases in hate crime, the annual statistical trend was just as concerning.

The threats became more evident as all classifications of hate crime continued to rise (see [Hate crime](#)).

Hate crime



The police-recorded figures rose partly as a result of changes in crime recording procedures. According to the October 2017 Home Office statistical bulletin, *Hate Crime, England and Wales*:

The increase over the last year is thought to reflect both a genuine rise in hate crime around the time of the EU referendum and also due to ongoing improvements in crime recording by the police.

Increases also followed the explosion in Greater Manchester in May and the London Bridge and Borough Market attacks in June. The statistical rises point to the implementation of policy aimed at addressing such problems, giving greater recognition to victim complainants. They also suggest there should be concern about the role of prejudiced representations across many media in affecting public awareness and in securing the attention of racist and xenophobic elements responsible for attacks on community members.

As the General Election approached, the role of social media was the focus of a Home Affairs Committee report: *Hate crime: abuse, hate and extremism online*.

The biggest and richest social media companies are shamefully far from taking sufficient action to tackle illegal and dangerous content, to implement proper community standards or to keep their users safe. Given their immense size, resources and global reach, it is completely irresponsible of them to fail to abide by the law, and to keep their users and others safe.

Responses to hate and vulnerability

In July 2016 the government had published an action plan, *Action against Hate*. It acknowledged that:

- victims of hate crime were less likely to think the police had treated them fairly or with respect, compared with victims of crime overall
- victims of hate crime were less satisfied by the response they receive from criminal justice agencies when compared with other forms of crime

The plan focused on challenging attitudes, supporting security measures to protect places of worship, transport, and the night-time economy, encouraging reporting of hate crime, improving support to victims and impacted communities, and making better use of data. It also included attention to representations of diversity in conventional media as well as online hate crime. The patterns of hate crime in Wales and Scotland were described as similar to those in England.

The Home Affairs Committee continued to address issues of vulnerability, producing reports on female genital mutilation and the work of the Independent Inquiry into Child Sexual Abuse.

The Work and Pensions Committee took up the cause of slavery victims, criticising the police in an April 2017 report, *Victims of modern slavery*:

The police are not as active as they should be on this front. There are thousands of victims that have not come forward, potentially because they know that they will face limited support.

Concerns about vulnerability had been reflected in the government's *Ending violence against women*

Police

and girls strategy, published in March 2016, and were acknowledged by the Home Office Minister, Karen Bradley. However in the case of the police the distance still to be travelled was highlighted by inspection evidence.

Having noted the spike in hate crime associated with the referendum, the Chief Inspector made it clear, in his April 2017 *State of Policing* report, that vulnerable groups including abuse victims, the elderly and others, should expect greater protection. Inspectors pointed out that the recording of vulnerability in victims varies widely among police forces, from 0.03 per cent to 34.3 per cent.

In the Welsh Assembly, the Equality, Local Government and Communities Committee reviewed the implementation of legislation to combat violence against women, domestic abuse and sexual violence, calling for greater urgency. In November 2016, Carl Sargeant, the Cabinet Secretary for Communities and Children in Wales, had also introduced a five-year strategy to combat violence against women, domestic abuse and sexual violence.

The needs of vulnerable people were also apparent in Scotland, as the Chief Inspector of Constabulary in Scotland observed in his December 2016 *Annual Report*:

Police Scotland currently assess that 80% of its demand is non-crime related, with a significant proportion of this relating to vulnerable people and mental health issues.

In a report published in August 2016 – *PEEL: Police effectiveness (vulnerability)* – inspectors judged that the Police Service of Northern Ireland needed to improve its response to vulnerable people, especially the multi-agency handling of domestic abuse.

South Yorkshire

In April 2016 the inquest into the 1989 Hillsborough disaster had delivered a verdict of unlawful killing. Investigations were launched into possible criminal offences committed by police officers and others, and attempts by police to cover-up their failures.

It was in the aftermath of the Hillsborough verdict that attention became focused on how the families' long fight for justice could have been avoided, had arrangements been in place to give families proper representation in public inquiries. Introduced by Andy Burnham MP, in March 2017, the 'Hillsborough Law', or the *Public Authority (Accountability) Bill*, would give families resources to make their case at inquests and make it illegal for people in public service to provide misleading information.

In October 2016 another historic controversy concerning South Yorkshire police returned to the public stage. A public inquiry into the clashes between police and striking miners at the Orgreave plant in 1984 was ruled out by the Home Secretary, Amber Rudd, despite pressure from campaigners and Labour MPs, including Andy Burnham, former Shadow Home Secretary. Questions about another police 'cover-up' were deemed by the Home Secretary to be irrelevant to the present, in the light of changes in policing since the events took place.

Spying

Meanwhile another attempt to shed light on problematic police practice was under way. A public inquiry into spying by undercover officers had been announced by the then Home Secretary, Theresa May, as long ago as 2014 (see UKJPR6).

As many as 180 people have been identified as participants in the inquiry.

To those expecting greater transparency, never mind justice, the slow progress of the inquiry has been remarkable, if not inexplicable. With its responsibility to examine spying from 1968 onwards, the inquiry noted the marked absence of documentation for the early years being reviewed, despite being furnished with over a million documents by the Metropolitan Police. The police have consistently defended the secrecy of their operations, even suggesting that the inquiry proceed in secret with the exception of a final report. Hence the inquiry has been preoccupied by procedural questions about the disclosure of undercover identities. Not surprisingly the original timeline for the final outcome which extended to 2018 will go further.

The issues raised by the inquiry have been echoed in other UK jurisdictions. In August 2016 Claire Sugden, the Northern Ireland Justice Minister, called for the extension of the inquiry to Northern Ireland, after revelations that undercover police had operated there without the knowledge of local police. In September, the Scottish Justice Secretary, Michael Matheson announced a review of undercover policing to be led by the Chief Inspector of Constabulary in Scotland.

Following evidence of illegal requests by police for communications data, a review by the Scottish Police Inspectorate took place. The subsequent recommendations led to the creation of two counter-corruption groups, one chaired by the Deputy Chief Constable and the other by a member of the Scottish Police Authority.

Stop and Search

Following the riots of 2011, there was notable concern about levels of stop and search and their effect on community relations. Long-term reductions in stop and search were a consequence of the review held after the 2011 riots. In a July 2016 report on the College of Policing, the Home Affairs Committee expressed concern that some forces were not complying with statutory Codes of Practice in relation to stop and search powers. This 'unacceptable' failure led the Committee 'to question whether there is an enforcement deficit in the oversight of policing in England and Wales'.

College of Policing

As a further means of implementing change, the question of applying national standards to all police forces engaged policymakers. The July 2016 Home Affairs Committee report, *College of Policing: three years on*, noted an 'alarming lack of consistency' across forces in England and Wales in relation to the implementation of national standards. Chief Constables and Police and Crime Commissioners were failing to implement the College's guidance and adopt best practice guidelines. The College also lacked legitimacy among the police rank and file.

The College had become 'a permanent and essential part of the new landscape of policing', and needed to become 'an integral part of the policing structure' across England and Wales. Looking ahead, the Committee floated the possibility of the College taking on 'a more central role in police procurement', including 'by specifying the standard equipment which forces should be purchasing'. This proposal came against what the Committee described as the 'astonishing' failure of the 43 territorial forces to 'agree common standards' for the procurement of police equipment.

From June onwards, Inspectors undertook visits to 32 forces, assessing how far a code of practice for stop and search, requiring greater transparency, community involvement and reliance on intelligence, was being implemented. In September, 13 forces that had failed inspection standards were readmitted by the Home Secretary to the scheme for upholding 'best use' of the

Police

powers. It was an illustration of the use of formal oversight powers within a complex system of accountability.

Complaints

Confidence in the complaints system had been undermined by failures documented in cases such as that of Sean Rigg's death in police custody, where the defects of investigation had been independently reviewed.

In the *Policing and Crime Act 2017*, reforms were legislated promoting greater independence in investigations. When the body, newly renamed as the Independent Office for Police Conduct, is aware of a complaint, it may consider the form of investigation – and commence it – without the need for a referral from the police. If the Office determines that it must be involved in an investigation, the expectation is that the investigation should be independent. There will be a duty to keep the complainant and interested parties informed about the handling of a complaint or matter, whether or not it is being investigated. Complainants' rights to challenge any decision taken were also strengthened.

Also as a result of the *Policing and Crime Act 2017*, all complaints and matters concerning the conduct of chief officers will go to the Office. The position of 'whistle-blowers' will be further protected.

There will be a power for designated bodies, such as charities or advocacy groups, to make 'super-complaints' about any aspect of policing in England and Wales that causes significant harm to the interests of the public. This is an important change, the scope of which is likely to be tested in practice in the coming period.

Governance

In Northern Ireland the collapse of power-sharing early in 2017 left a vacuum in policymaking but questions about future border arrangements were beginning to be posed. Under the Fresh Start Agreement of 2015 (see UKJPR6) a Joint Agency Taskforce was set up to implement cooperation between the police forces on either side of the border in Ireland.

In December 2016, the Chief Constable of the Police Service of Northern Ireland wrote about the Taskforce's strategy for cross-border policing in a letter to the chair of the Northern Ireland Affairs Committee:

The Strategy facilitates the co-ordination of joint policing activity in critical areas such as community policing, rural policing, intelligence sharing and emergency planning.

The Police Service of Northern Ireland remained an active participant in the European Arrest Warrant.

In Scotland a wide consultation on the ten-year police strategy, *Policing 2026*, took place from February to May 2017.

A crisis in governance erupted when a cross-party committee of the Scottish Parliament wrote to the Cabinet Secretary in May 2017, expressing very serious concerns about the Scottish Police Authority Chair, Andrew Flanagan. Within several days the Justice Subcommittee on policing had written to declare no confidence in Flanagan. Amid accusations of undue secrecy and controlling behaviour, Flanagan resigned.

The ousting of Flanagan was in contrast with the position of the Police and Crime Commissioners

in England and Wales. Elections had been held in May 2016, so the newly elected Commissioners were still in their first year of office. The two main parties had consolidated their grip, taking 35 out of the 40 offices contested. However, according to a study from Nuffield College, Oxford, the notable absence of politicised policy stances was expected to continue.

Police staffing

In the year from March 2016, there was a one per cent decrease in overall police officers in England and Wales: a small decline, bearing in mind that between 31 March 2010 and 2017, police officer strength had fallen by 17 per cent, or by 20,592.

The numbers suggest that Police Community Support Officers – supposedly the life-blood of community-based policing – were especially vulnerable to cuts. Indeed the Chief Inspector lamented the decline of neighbourhood policing more generally but seemed reluctant to engage in criticism of staff reductions. While police numbers had declined, it was observed that central government funding was to be sustained in real terms from 2015.

Controversy over funding provoked fears about the sustainability of Police Scotland and the Scottish Government was accused of hiding a fall in police numbers. In December 2016, Michael Matheson accepted that Police Scotland's budget was forecast to be overspent by at least £17 million, accusing the UK government of denying the force its due VAT income. Matheson's speech to the Scottish Police Federation in March 2017 offered a bullish response to his critics (see [Speeches](#), p. 9).

It took the Westminster Bridge attack in March,

and the Manchester explosion during the Election campaign itself, to stimulate renewed attention and debate on police numbers.

In May 2017 the Shadow Home Secretary, Diane Abbott, framed Labour's commitment to recruit 10,000 more police officers in terms of restoring community policing resources.

As the election date neared, Theresa May said the government had protected counter-terrorism policing budgets and funded an increase in the number of armed police officers. In contrast the Mayor of London, Sadiq Khan, foresaw thousands of community-based officers disappearing.

Tackling policing challenges: a snail's pace, or ahead of the curve?

Movements towards greater transparency and justice in policing were slow to progress. In calling for increased openness and for adequate support to families, the proposed 'Hillsborough law' marked a recognition of obstacles that were broad in their implications, as the spying inquiry also revealed. In this context the legislation on complaints against police may have seemed a belated response to concerns about accountability.

Vulnerable victims were a concerted topic of attention in policy discussion but rises in reported racist and xenophobic incidents raised the spectre that 'Brexit Britain' would not be necessarily a fairer or kinder place.

The series of attacks beginning in March with the Westminster Bridge attack fed into concerns about security that would surface strongly in the General Election of 2017 when, after years of relative silence, police numbers came to be an overtly contested campaign issue.

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 2012/13, 2015/16 and 2016/17 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.

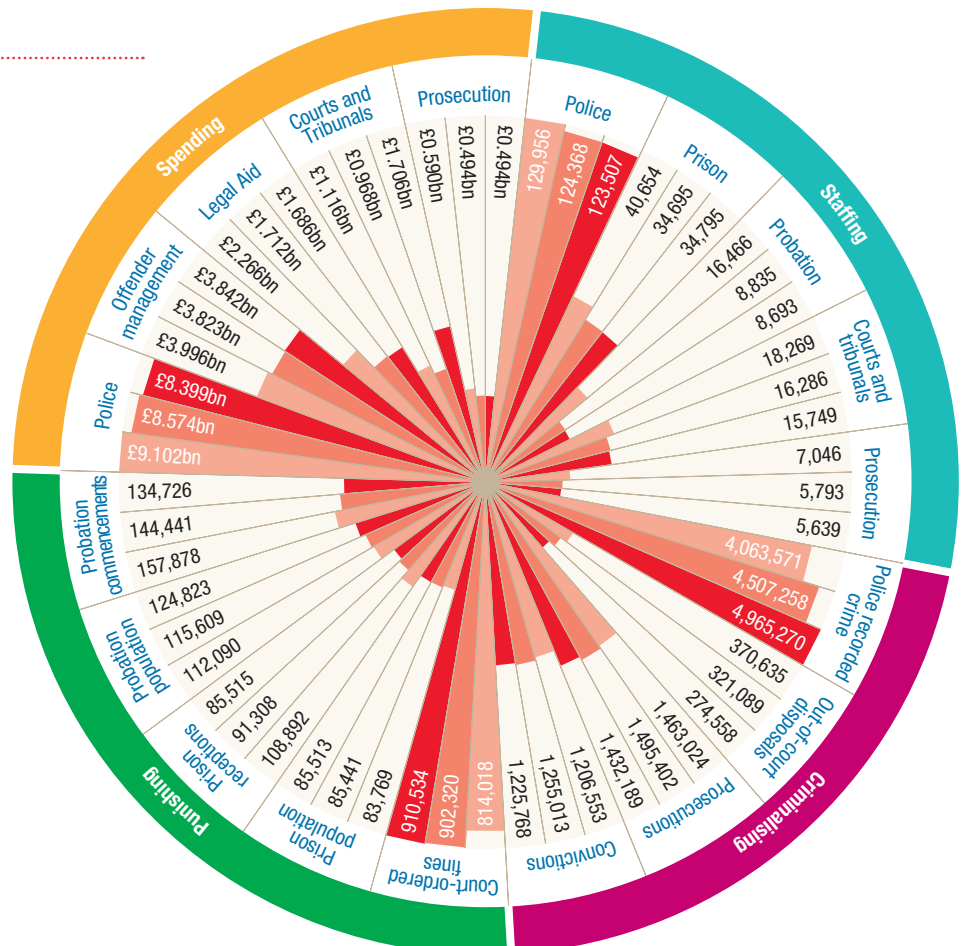
- Criminalising: the criminal justice caseload, from the point of an offence being recorded to the point of conviction.
- Punishing: the main outcomes from convictions: fines, community supervision and imprisonment.

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 court ordered fines in England and Wales in 2015/16 (902,320) is around ten times the size of the prison receptions slice (91,308). 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.

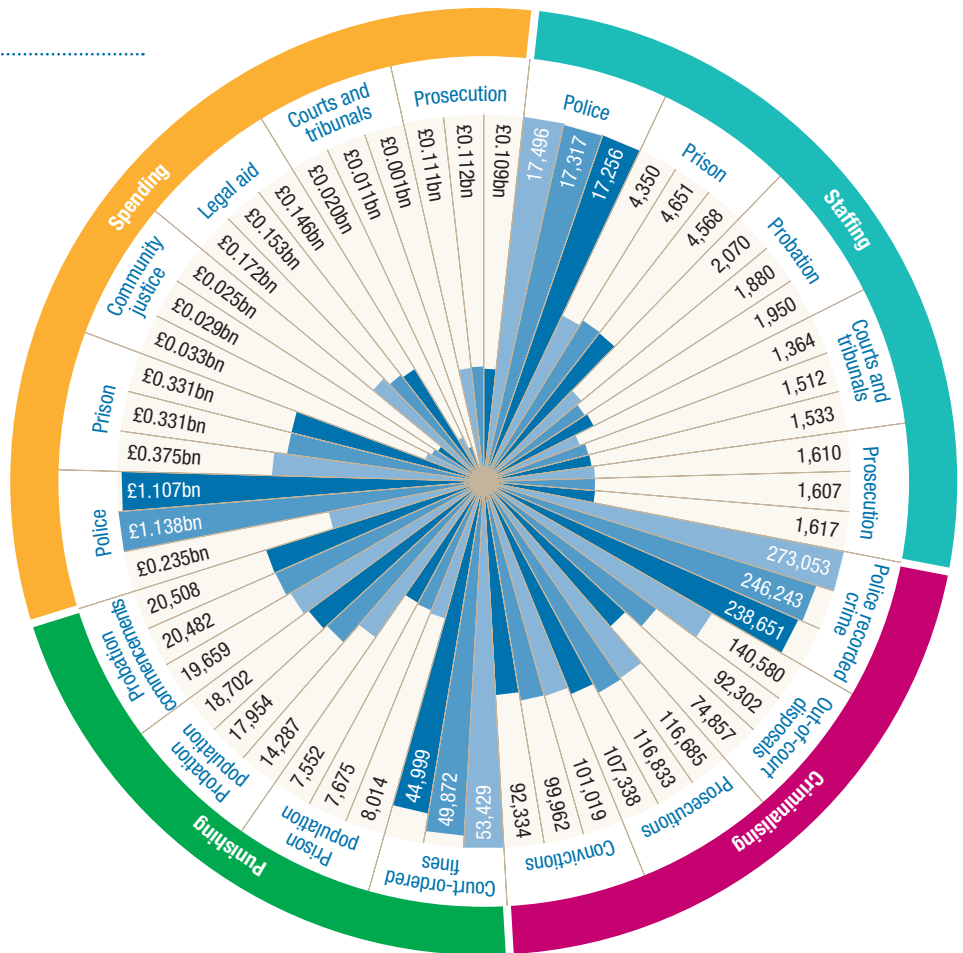
England and Wales

- 2012/13
- 2015/16
- 2016/17



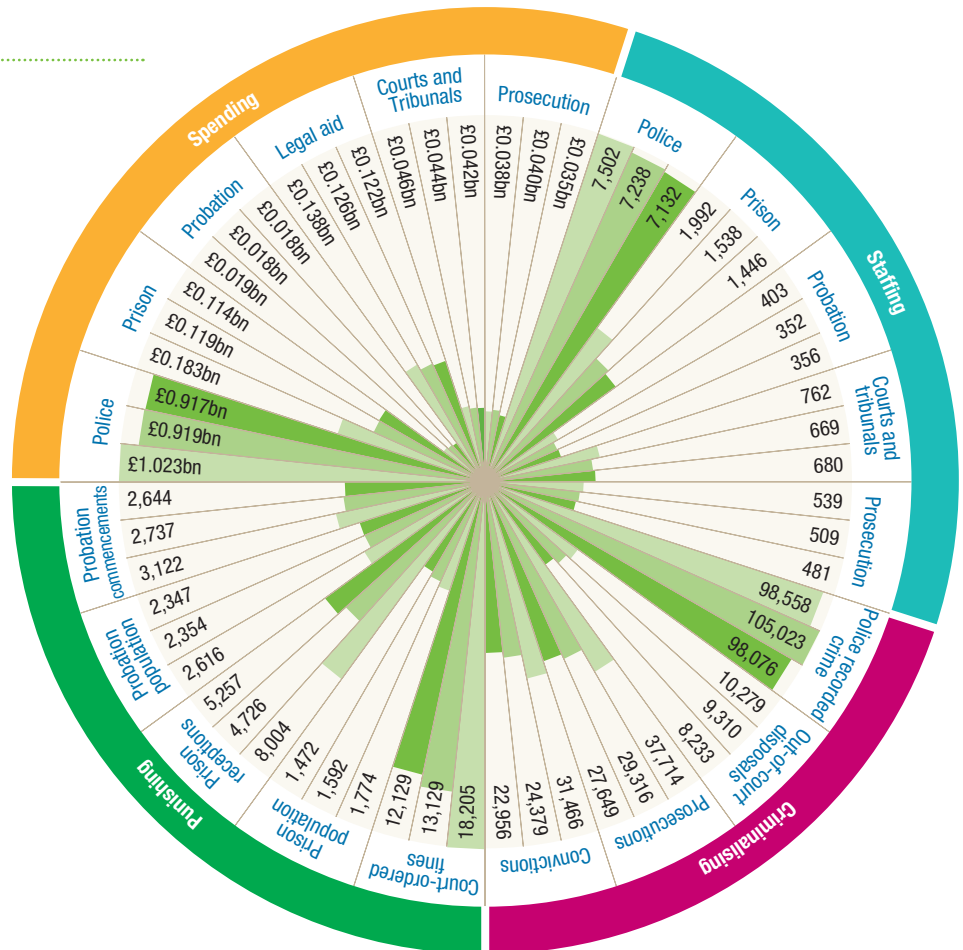
Scotland

- 2012/13
- 2015/16
- 2016/17



Northern Ireland

- 2012/13
- 2015/16
- 2016/17



Courts

A week after Liz Truss was appointed as Lord Chancellor and Justice Secretary in July 2016, one of her ministerial colleagues, Lord Faulks, resigned in protest. While having ‘nothing against Ms Truss personally’, he told *The Times*, he doubted that she would have ‘the clout... to stand up, come the moment... for the rule of law and for the judiciary... without fear of damaging her career’. A few months later, his concerns appeared justified, following a damaging row involving a tabloid attack on senior judges (see [Enemies of the people](#)).

Enemies of the people

On 4 November 2016 *The Daily Mail* front page denounced three senior judges as ‘enemies of the people’, after they ruled that the government needed parliamentary approval prior to issuing formal notification of the UK’s intention to leave the European Union.

The Conservative former Attorney General, Dominic Grieve, described the piece as ‘chilling and outrageous’, and ‘smacking of the fascist state’. The Labour former Lord Chancellor, Charles Falconer, called it a ‘vicious assault’. A belated and bland statement on judicial independence by the serving Lord Chancellor, Liz Truss, the following day did little to damp down the controversy. Truss reportedly faced angry questioning by Conservative MPs at a private meeting a few days later.

In March 2017, Truss explained to the House of Lords Constitution Committee that while she was ‘a huge believer in the independence of the judiciary’, she was also ‘a very strong believer in a free press’. It was for the judiciary, she suggested, ‘to respond to criticism and scrutiny’ and ‘make the positive case’, rather than a government minister. Appearing before the same Committee a few weeks later, the Lord Chief Justice, Lord Thomas – one of the three judges denounced in *The Daily Mail* – said that Truss had ‘taken a position that is constitutionally absolutely wrong’ and that he was ‘very disappointed’ that she had done so. It was ‘the Lord Chancellor’s duty’, he said, to defend the judiciary ‘from political interference, unwarranted and unsubstantiated attacks and criticism in the exercise of their public responsibilities’.

The previous month, the author of *The Daily Mail* article, James Slack, had joined the Civil Service, as the Prime Minister’s official spokesperson.

This dispute was but the most high profile of a series of controversies and gaffes that bedevilled Truss’ term as Lord Chancellor. In September 2016, she put in a mediocre performance in her first appearance before the House of Commons Justice Committee. Three months later, she told MPs that prison dogs could be used to deter drones. In February 2017, a new rule on the maximum age of the Lord Chief Justice, agreed by Truss, barred the front-runner, Sir Brian Leveson, from applying. Critics labelled it a political, rather than judicial, decision. The following month the Lord Chief Justice, Lord Thomas, accused the Ministry of Justice of ‘a complete failure to understand’ new rules being introduced in relation to pre-recorded evidence in criminal trials.

From physical to virtual courts

Over several years, hundreds of court buildings were closed (see [Court closures](#)), as part of a programme intended to update facilities and introduce greater digitisation.

In Scotland, an *Evidence and Procedure Review*, published in February 2017, set out a new model for digital summary justice. This included proposals for digital pleas and, in the case of a guilty plea, sentencing also to be conducted digitally, and without the defendants being required to attend court. The report outlined proposals for improved digital case management, to speed up contested trials and reduce the number of delays and cancellations. A further *Evidence and Procedure Review*, published in June, recommended an extension of the visual recording of investigative interviews and witness statements in relation to child and vulnerable adult witnesses.

In England and Wales, a strategy and consultation,

Transforming Our Justice System, was launched in September 2016. It called for a shift away from a default approach of ‘advocacy before a judge in a physical courtroom’ to a mixed economy of ‘online, virtual and traditional hearings as best meets the circumstances of the case’. For some minor offences, it should be possible for defendants to ‘resolve their cases immediately using an entirely automated system’. More ‘old, small, inefficient, yet expensive to maintain’ court and tribunal buildings would ‘be closed over the next four years to fund investment in fewer, more modern buildings’.

Legal aid

Two consultations, published in January and February 2017, proposed changes to legal aid fees for advocates and litigators defending clients in Crown Court trials. In its response to the proposals on advocates, the Criminal Bar Association of England and Wales acknowledged that the underlying principles of the proposed reforms were ‘rational’, but it had concerns that it could result in further cuts to barristers’ incomes. It also referred to the ‘already meagre’ budget for criminal legal aid work, which was threatening

Court closures

England and Wales

2010: **605**

2017: **350**



Scotland

2010: **60**

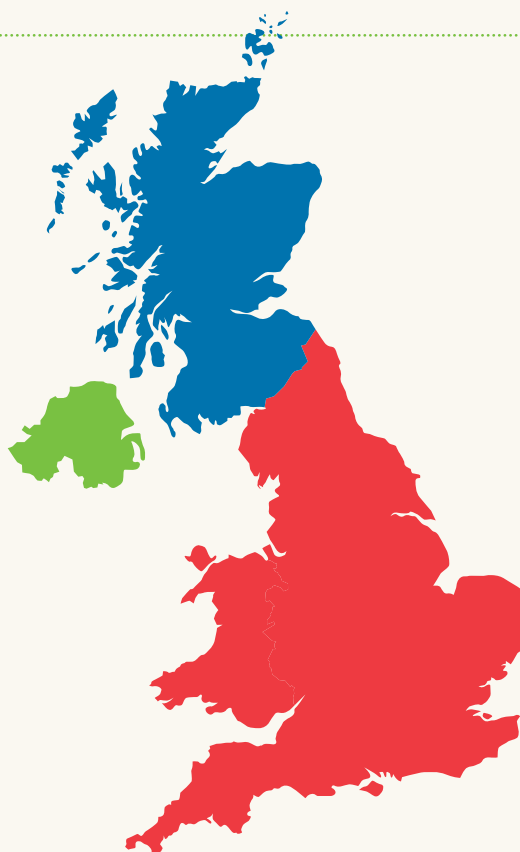
2017: **43**



Northern Ireland

2010: **20**

2017: **17**



Courts

the 'financial viability' of criminal defence work. The proposals on litigator fees were even more controversial. In its response the Law Society claimed that the 'relatively small savings' that might come from proposed cuts to litigator's fees would undermine the 'future sustainability of the criminal legal aid market'.

In April 2017, the Howard League for Penal Reform and the Prisoners' Advice Service won a legal challenge against the decision by the former Justice Secretary, Chris Grayling, to restrict legal aid to prisoners participating in internal prison hearings.

In Scotland, an independent review of legal aid was established in February 2017, under the chairmanship of the Carnegie Trust Chief Executive, Martyn Evans. Its report was published in February 2018 and will be covered in UKJPR8.

When the Northern Ireland Audit Office examined criminal legal aid in 2011, it concluded that expenditure was 'out of control'. Criminal legal aid, it claimed, had 'almost trebled from £22 million in 2000-01 to £60 million in 2009-10'. Its June 2016 report, *Managing legal aid*, stated that total expenditure on legal aid since 2011 had been 'around £100 million per year'. Criminal legal aid expenditure has 'stabilised' while civil legal aid had increased.

In recounting recent efforts by the Northern Ireland Department of Justice to control legal aid expenditure, the Audit Office report highlighted some of the inherent limitations of seeking to cut costs in the absence of anything approaching a more fundamental programme of reform and reorganisation. New rules introduced in 2011, for instance, 'were intended to deliver significant savings' by reducing legal aid fees for a range of Crown Court cases. 'It was anticipated', the

report stated, 'that this would reduce Crown Court expenditure by £17 million by 2013-14. However, Crown Court expenditure has actually increased from £26 million in 2011-12 to £30 million in 2014-15'.

The attempted cuts had been pursued by the then Justice Minister, David Ford, in the face of strong opposition from the legal profession and in a way that damaged him politically. Despite all this effort, there was at least one thing he could not control without more fundamental reform: 'One of the key factors has been a significant increase in the volume of cases in the Crown Court, which reflects the demand-led nature of legal aid spending'. Unsurprisingly, the Legal Services Agency, which administers legal aid payments in Northern Ireland, 'does not have an effective method to predict future legal aid expenditure'.

The role of the magistracy

The office of magistrate goes back over 650 years. Unpaid volunteers, they dealt with some 1.6 million defendants in 2015. This caseload, however, has declined. It was 1.9 million in 2005. The number of magistrates has also fallen, from around 30,000 in 2006 to 17,552 in 2016. Over several years, the number of Magistrates' Courts has also declined. Under the Court Estate Reform Programme of 2010-2014, 93 Magistrates' Courts were closed. A further 43 were identified for closure in February 2016.

In its October 2016 report, *The role of the magistracy*, the House of Commons Justice Committee found evidence of low morale among magistrates and concluded that the magistracy faced 'a range of unresolved issues relating to its role and its workload, together with serious problems with recruitment and training'.

Knife sentencing

In 1986, some 220 homicides were recorded as committed by a sharp instrument, such as a knife in England and Wales. In 1996 the figure was 197. It was 226 in 2006 and 213 in 2016. Over a shorter timescale, the number of violent and sexual offences involving a knife have fluctuated up and down: 36,300 in 2008/2009; 25,600 in 2013/2014; and 28,859 in 2015/2016. Average custodial sentence lengths for possession of a knife or offensive weapons have risen markedly: from under two months in 1995 to over six months in 2016. These figures, taken from a June 2017 House of Commons Library briefing paper, *Knife crime in England and Wales*, highlight the contrast between longer and longer sentences on the one hand, and a generally unchanged picture in relation to knife-related offences on the other.

In March 2017, the House of Commons Justice Committee published its assessment of draft sentencing guidelines on bladed articles and offensive weapons, issued by the Sentencing Council. The Council's own analysis, the report noted, had identified 'a steady increase in the use and length of custodial sentences... over the last decade'. The average term for possession of knives and other bladed articles was 6.1 months in 2015, compared with 3.5 months in 2005. The proposed guidelines, the report noted, were 'expected to increase the proportion of offences which result in custodial sentences... up to 1,800 additional custodial sentences per year'.

The Committee acknowledged the difficulties involved in predicting the impact of revised sentencing guidelines. It also expressed concern about the possibility of the guidelines being 'introduced in their present form without a better understanding of their impact'.

Sentencing powers

Magistrates' Courts have four main sentence types at their disposal. They can order a discharge, with or without conditions attached. They can impose a fine with a maximum of £5,000 for most single offences. They can also impose community and prison sentences. In the case of prison, magistrates can impose a sentence of up to six months in custody for a single offence, and up to

12 months for two or more separate offences.

A yet-to-be commenced provision in the *Criminal Justice Act 2003* provided for the maximum custodial sentence to be raised to 12 months, for a single offence, and 15 months for two or more offences. 'Successive governments', the Committee noted in its report had appeared reluctant to enact this provision. The former minister for policing and criminal justice, Damian Green, had acknowledged in a 2013 speech that such a change 'could cause additional pressure on the prison population, because sentencing practices could change'.

A 'minority of witnesses expressed doubts about the wisdom of increasing magistrates' custodial sentencing powers', the report stated. These included the Howard League and the Prison Reform Trust, both of whom 'argued that the magistracy should only be able to impose community penalties'. However, most argued that increasing powers would be seen as 'signalling trust in the magistracy and providing a boost to its morale'. It might also deliver savings from 'not utilising the more expensive Crown Court for lower level crime'.

Despite the rather spurious arguments in favour of increasing sentencing powers – trust, morale and savings on Crown Court time – as well as the fact, that 'no modelling had yet taken place' on the impact of such an extension, the Committee stated that 'we support increasing magistrates' sentencing powers to 12 months' custody... and we recommend that the Ministry of Justice provide a timetable for implementation'. The Committee also called for magistrates to play an enhanced role in so-called 'problem-solving' courts, as well as for restrictions to be lifted on other, non-judicial, roles within the criminal justice system.

Prisons

England and Wales

Prisons are ‘often miserable, painful environments’, the then Prime Minister, David Cameron, observed in a keynote speech in February 2016. ‘These aren’t happy places... These establishments are full of damaged individuals.’

Cameron’s speech inaugurated a change agenda, the centrepiece of which were to be ‘reform prisons’. Taken forward by Michael Gove, the former Education Secretary and, by then, the Justice Secretary, reform prisons were to be modelled on ‘the academies model that has revolutionised our schools’, according to Cameron. Governors of reform prisons would have greater discretion over spending and management of regimes. Performance data and league tables would allow for comparisons between institutions and hold prison governors to account.

Imprisonment for public protection

On 30 June 2017, there were 3,353 prisoners serving an indeterminate ‘imprisonment for public protection’ (IPP) sentence in England and Wales. Eighty five per cent of these prisoners - some 2,862 - were still in prison despite having served the minimum term (the ‘tariff’) set by the judge at their trial.

A prisons inspectorate report published in November 2016 - *Unintended consequences* - described a ‘clearly unjust’ situation in which ‘failures in the criminal justice and parole system’ had left IPP prisoners languishing in prison. The uncertainty about when they might be released left a greater proportion of these prisoners reporting suicidal feelings and other mental health problems. The inspectorate called on the Ministry of Justice to ‘take immediate action to ensure adequate resources and timely support’ was made available to IPP prisoners to help them secure their release.

These are the broad outlines of the prison reform plans, covered in more detail in UKJPR6, up to the June 2016 Brexit referendum. The story of the period from then to the 2017 General Election is of their stuttering progress.

Deteriorating prison conditions

In July 2016, shortly after Theresa May’s appointment as Prime Minister, the Chief Inspector of Prisons for England and Wales, Peter Clarke, warned that prisons had ‘become unacceptably violent and dangerous places’ with a ‘surge in violence’ and ‘shocking’ rises in suicide and self-harm incidents. A year on, in July 2017, he stated, ‘Last year I reported that too many of our prisons had become unacceptably violent and dangerous places. The situation has not improved – in fact, it has become worse.’ He had ‘often been appalled by the conditions in which we hold many prisoners’. This was not a new problem. A May 2016 report on prison safety by the House of Commons Justice Committee had referred to ‘the ongoing and rapid deterioration in prison safety in England and Wales which began in 2012’.

Government plans

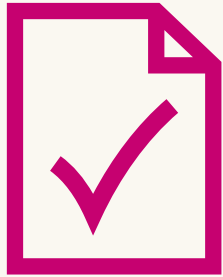
The main lines of the government’s agenda were set out in its November 2016 White Paper: *Prison Safety and Reform*. The paper covered six areas (see [Prison Safety and Reform](#)). Three aspects in particular were notable.

First, the government proposed making changes to prison governance and operations, to reconfigure them into business units. The centrepiece of this was to be ‘empowered governors’, with greater discretion in relation to budgets, staffing, operational policies and

Prison Safety and Reform

Prison Safety and Reform White Paper

3 November 2017



The right framework for improvement

'... a clear set of purposes that the prison system must deliver and make sure that the roles of commissioning, providing and performance assessment are clearly defined and brought in line with these purposes...'



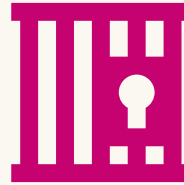
Raising standards

'... prison governors and staff are absolutely clear about the purpose of prisons and how their roles support that, and have clear standards that they are expected to achieve...'



Empowered governors

'... governors to have the power and budget to determine how their prisons are run, including how to prioritise and deliver services within their prisons...'



Safe and secure prisons

'... the right levels of properly-supported staff in place, with the right experience and skills to build effective relationships with prisoners...'



Developing our leaders and staff

'... build the capability of our prison workforce and provide them with the right kind of training so they are equipped with the skills to... meet the challenges of a modern prison environment...'



Building the right estate for reform

'... a fundamental shift in the way that the prison estate is organised and operates and a significant improvement in the overall quality of the buildings across the prison estate...'

the commissioning of services. As part of this, governors would be encouraged to develop commercial relationships with local businesses and be allowed 'to reinvest the income they generate to deliver additional services or grow their employment offer'. Governors would be held accountable through a 'performance agreement' with the Ministry of Justice, which would set out 'the prison's population, funding and performance expectations' against a series of national standards. Governors would also be furnished with a 'robust evidence base' on what works, to help them commission approaches that 'deliver the biggest "bang for their buck"'.
Second, the respective roles of the Ministry of Justice and Prison Service were to be rethought. The former would set strategy and standards, commission prisons and hold them to account. The Prison Service would be responsible for

operational matters. A new statutory purpose for prisons – 'public protection, safety and order, reform, and preparing prisoners for release' – would provide the high-level framework for these relationships.

Third, the White Paper reaffirmed previous commitments to build 10,000 new adult prison places at the cost of £1.3 billion, and to close 'prisons that are in poor condition and those that do not have a long-term future in the estate'. The overall estate would also be reorganised, so that 'prisoners are placed at the right level of security in prisons with regimes that are able to effectively fulfil their function'.

These were controversial changes for some. The Prison Governors Association stated that its support for the government's plans was contingent 'on safety and decency being restored'. A range of problems, including overcrowding,

Prisons

drugs, outsourcing and ‘constant tinkering’ had caused deep damage that would ‘take years to put right’. In February 2017, the Association advised governors not to sign the planned performance agreements. In a press statement, it pointed to a ‘lack of detail’ in the proposed agreements and a concern that prison governors could be ‘scapegoated’ for failures resulting from a lack of autonomy or limited budgets.

The House of Commons Justice Committee also raised concerns, in a March 2017 *Prison Reform* report. While ‘generally supportive of the principle of greater governor empowerment’, the Committee reported that ‘we have not seen any evidence that it will necessarily lead to better outcomes for prisoners’. It also noted the view expressed by some that the crisis in prisons ‘was not caused by the role governors play in prisons, or by central involvement in prison operations, and is therefore unlikely to be resolved by giving governors greater autonomy’.

Many of these proposed changes did not require legislation. From April 2017, for instance, prison governors were given additional authority over routine regime staffing matters. As the then Justice Secretary, Liz Truss, told parliament on 23 February, 2017, prison governors were to be given greater decision-making over such matters as regime design, workforce strategy, budgets and commissioning. Further powers in relation to prison education, family services, and commissioning were due to be handed over later that year.

Earlier that month, on 8 February, Truss announced a reorganisation of the Ministry of Justice, to give institutional expression to the rethought roles of the Ministry of Justice and the Prison Service. A new executive agency – Her Majesty’s Prison and Probation Service – would

replace the National Offender Management Service from 1 April 2017.

The legislative changes required to implement the White Paper were relatively limited, and were contained in the *Prison and Courts Bill*, published in February 2017 (see [Legislation](#), p. 13). The Bill failed to complete its parliamentary passage before the June General Election. This meant, among other things, that the proposed statutory purpose for prisons did not become law.

Scotland

In contrast to the grim prospect offered by the Prison Inspectorate in England and Wales, the Scottish Prisons Inspector, David Strang, offered an upbeat assessment in his 2016-2017 annual report, published in November 2017. ‘The general conditions in prisons’, he wrote in his introduction, ‘have improved in recent years... Across the 15 prisons in Scotland, prisoners have generally told me that they feel safe’. The ageing prison population, a development that Scotland shared with the other UK jurisdictions (see [Older prisoners](#)), was a strategic challenge for the Scottish Prison Service, the report argued. It also raised concerns about the state of healthcare in Scottish prisons.

Healthcare

Healthcare in Scottish prisons was the subject of a report by the Scottish Parliament Health and Sport Committee, published in May 2017. It expressed concerns about the number of missed appointments in prison – up to 50 per cent – which, in part, it put down to ‘lack of understanding’ between health staff and prison staff and a clash of cultures ‘between care and custody’. The Committee raised a number of more

Older prisoners

In 2002, there were just under 5,000 prisoners over the age of 50 in England and Wales: some seven per cent of the total prison population. By 2017 this number had grown to over 13,000, or 16 per cent of the total prison population. Indeed, across this period, prisoners over 50 were the fastest growing age group across the prison estate. The overall prison population grew by around 20 per cent between 2002 and 2017. The over 50 prison population grew by close to 200 per cent.

A July 2016 report by the Prison Reform Trust - *Social care or systematic neglect?* - found that the physical health of older prisoners was typically 'ten years greater than their contemporaries in the community'. As a result, their health and social care needs were generally more complex than younger prisoners. The Trust called for a 'national strategy for older offenders...to offset the risk of unjust disparities in the way they are managed'.

A social care needs assessment by the Scottish Prison Service, published in May 2017, found that prisoners over 50 were 'twice as likely to report disability and long-term illness compared to younger prisoners'. It also highlighted the rise in the older prisoner population: up 60 per cent between 2010 and 2016, from 603 to 988. 'Over 13% of the current prison population is now aged over 50', the report noted, 'in 2010 this figure was 8%'. A Scottish Prisons Inspectorate report, published in July 2017, identified numerous examples of 'degrading treatment' of older prisoners, from not being given timely access to toilets to being handcuffed during heart surgery. 'Older prisoners are too often isolated and receive inadequate healthcare', the report stated. 'There is an urgent need for change'. The greatest fear of older prisoners, the Inspectorate found, was dying in prison. One prisoner, who had been brought back to Scotland to serve a sentence committed decades earlier, told the Inspectorate:

I have been in hospital for major surgery and haven't seen my family now for quite some time. The worst thing though is that my wife has died and I will never get the chance to see her again. I don't even know if I get released if I will be able to go back to my family.

In Northern Ireland, the Independent Monitoring Board raised concerns in a report on Maghaberry Prison in February 2017. A surge in the number of older prisoners posed a challenge to the Northern Ireland Prison Service that was not currently being met. Prison staff, the Board argued, are 'trying to care for increasing numbers with reduced staffing levels and less experienced staff'. Indeed, they found that prisoners themselves were sometimes acting as carers for older prisoners.

specific concerns, including over access of prison-based health staff to medical records:

Virtually every person we spoke to and many submissions highlighted concerns about the lack of a comprehensive clinical information system providing access to records. Current provision was described as being 'not fit for purpose'.

The Prisons Inspectorate had told the Committee that, 'from the prisoner's perspective, the way that they experience health care services is often poor'. The Committee itself concluded that prison health care was underperforming. Leadership from senior management has been 'conspicuous by its absence'. Promised improvements to health care

have failed to materialise.

Regardless of improvements in healthcare and living conditions, imprisonment itself extracts a heavy toll on the health and life expectancy of prisoners (see [Deaths during and after prison](#)).

Women prisoners

In July 2017, the demolition of Cornton Vale women's prison began. This formed part of ambitious plans in Scotland to reshape the women's custodial estate into a smaller, more localised configuration (see UKJPR6). 'There is no turning back on our plans for a smarter, more progressive approach to managing women in custody', the Scottish Justice Secretary Michael Matheson said.

Prisons

Deaths during and after prison

Scotland

Understanding extreme mortality among prisoners: a national cohort study in Scotland using data linkage



Compared to the general population prisoners and ex-prisoners more likely to die from:



England and Wales

2016-2017:



The Scottish Prisons Inspectorate, however, injected a note of caution, pointing out in its annual report that the number of women in prison had increased from 316 in January 2017 to nearly 380 three months later. 'Given that the new configuration of the female custodial estate will provide only 230 places,' the Inspectorate observed, 'much work is still required to reduce the numbers in custody'.

Northern Ireland

In a four day period between 2 and 5 June, 2014, a mentally distressed prisoner in Maghaberry Prison, Sean Lynch, subjected himself to escalating and extreme self-harm. This included inflicting serious injuries to his groin and blinding himself in both eyes. An investigation report by the Northern Ireland Prisoner Ombudsman, published in September 2016, criticised the staff on duty for failing to intervene.

This dreadful incident was but one of a number of concerning events in Northern Ireland's small prison system. In the 12 months to November 2016, there were five deaths in custody, four of them relating to mental health issues. Seventy five per cent of the prison population were deemed to have a mental health or addiction problem. On 21 November 2016, the Justice Minister, Claire Sugden, announced a joint review with the Department for Health of vulnerable people in custody. Prisons, she said, are not 'designed to deal with those experiencing severe, chronic mental health issues', but it was important to 'identify and support those potentially at risk through timely and coordinated support'.

Maghaberry was the subject of a short assessment visit in April 2017. The report of the visit was published in August 2017. The 'lack of a safer custody strategy was a major concern', it noted.

There were also 'major shortcomings' in relation to vulnerable male prisoners. The inspectors were 'not confident that lessons were being learned from previous self-inflicted deaths'.

A detailed inspection of Magilligan Prison, conducted in June 2017, was 'immensely encouraging', the report published in December 2017 stated. A number of concerns previously raised has been addressed. 'Rehabilitation was now truly at the heart of what the prison was delivering', the report stated. The inspectors did find, however, that more prisoners reported feeling unsafe and there was 'evidence of the under-reporting of bullying'.

Northern Ireland's only female prison, Ash House, is located within the grounds of the Hydebank Wood Secure College for young male prisoners. It is an arrangement described as 'wholly unsuitable' by the 2011 *Review of the Northern Ireland Prison Service* by Dame Anne Owers. An inspection report on Ash House, published in October 2016, concluded that the staff were making the best of this arrangement. Inspectors also urged the prison service 'to expedite plans for a separate women's prison'. While outcomes for women in Ash House had 'improved significantly' since the last inspection in 2013, the 'mixing of the women and the young men on the single site remained deeply problematic'.

An inspection report on Hydebank Wood, also published in October 2016, found an 'unusually complex' population, with high levels of mental health and substance misuse issues. Since the last inspection in 2013, more young men told inspectors they felt unsafe. Drugs were increasingly available. The inspectors also found that 'concentrations of young men with very challenging behaviour were leading to bullying and intimidation'.

Probation

Some of the sharpest differences in criminal justice policy and practice across the UK's three jurisdictions are to be found in probation. In England and Wales, problems continued to pile up for the struggling and unstable probation system, following the problematic 'Transforming Rehabilitation' changes (see *The coalition years*). In Scotland and Northern Ireland, by contrast, policymakers and practitioners were more able to focus on improving probation delivery, rather than managing the chaos of poorly thought-through reforms.

England and Wales

A National Audit Office report published in April 2016 (see UKJPR6) had raised significant concerns over the financial sustainability of the new arrangements. This formed the backdrop to the September 2016 Public Accounts Committee report: *Transforming Rehabilitation*.

The process of setting up the new structures, it found, had 'required a huge effort' which 'diverted attention and resources from other areas'. Yet over three years into the changes initiated in 2014, it was at best unclear whether they had achieved the intended outcomes. The Committee also found 'wide variation in the quality of arrangements' between the different Community Rehabilitation Companies. The promised investment and transformation promised by the companies had also not materialised. Lower than expected income has resulted in 'excessive caseloads and a bias towards group activities rather than services focused on individuals'.

At the time of the Public Accounts Committee report, the Ministry of Justice and the companies were locked in protracted contract renegotiations. The Ministry of Justice had claimed that the restructuring would create additional opportunities for small and third

Key Inspectorate reports (England and Wales)

Published	Title
Aug 16	The effectiveness of probation work in Durham
Aug 16	The effectiveness of probation work in York and North Yorkshire
Sep 16	The effectiveness of probation work in Derbyshire
Sep 16	A thematic inspection of the provision and quality of services in the community for women who offend
Oct 16	An Inspection of Through the Gate Resettlement Services for Short-Term Prisoners
Oct 16	The effectiveness of probation work in Kent
Dec 16	The effectiveness of probation work in the north of London
Jan 17	The effectiveness of probation work in Staffordshire and Stoke
Feb 17	The effectiveness of probation work in Greater Manchester
Feb 17	The Implementation and Delivery of Rehabilitation Activity Requirements
Apr 17	The effectiveness of probation work in Gwent
Apr 17	The effectiveness of probation work in Northamptonshire
Jun 17	An Inspection of Through the Gate Resettlement Services for Prisoners Serving 12 Months or More

sector organisations. The Committee found little evidence of this being the case, instead pointing to a tendency towards consolidation around a few, bigger players:

In other sectors, the Committee has repeatedly seen a narrowing of the private contractors bidding for, and running, services over time. Despite the Ministry's professed intention to avoid this we are concerned about the trajectory which appears to mirror other sectors where smaller expert providers are squeezed out.

In a series of 'Quality and Impact' reports (see [Key Inspectorate reports](#)), the Probation Inspectorate found consistent evidence of high workloads and under-performance by almost all the Community Rehabilitation Companies it inspected.

Two joint reports with the Prisons Inspectorate on so-called 'Through the Gate' provision (see [Through the Gate](#)) found little evidence of the promised innovation and creativity in interventions. Indeed, the second report, published in June 2017, noted a large 'gap between aspiration and reality' and stated that if Through the Gate services 'were removed tomorrow... the impact on the resettlement of prisoners would be negligible'.

A thematic review published in September 2016, found that provision for criminalised women in the community was 'mixed and uncertain' and that reliable funding for women's community services had disappeared since implementation of the Transforming Rehabilitation programme. Another thematic review, published in February 2017, found that the publicly-run National Probation Service was, by and large, enforcing the so-called 'rehabilitation activity requirement' element of a sentence. By contrast, the

Through the Gate

'Through the Gate' arrangements are intended to offer seamless and consistent support and supervision for prisoners prior to, and following, release. The Community Rehabilitation Company or probation service in effect step through the prison gate while the prisoner is still in custody, preparing him or her for release and ensuring they have an individualised package of support on release. That, at least, is the theory.

Community Rehabilitation Companies were 'struggling to deliver quality work consistently well'.

In more than one case, evidence of tensions between commercial pressures on the one hand, and desirable reforms and effective practice on the other, also emerged. The August 2016 report on Durham probation area found that the 'commendable attempt to reduce high reoffending rates' by diverting some first time lawbreakers from the criminal justice system had contributed to a lower than anticipated workload, and therefore income, for the Community Rehabilitation Company. The 'financial pressures' facing Gwent Community Rehabilitation Company, an April 2017 report found, meant that meeting 'contractual reporting requirements and performance targets' had taken precedence over public protection work.

These cumulative findings came together in a highly critical Annual Report by the Chief Inspector, Dame Glenys Stacey, published in December 2017. The probation service her office now inspected was 'a two-tier and fragmented service', with most of the private Community Rehabilitation Companies struggling to reconfigure services in line with their plans. 'Delivering probation services', she noted, 'is more difficult than first appears'. Changes in

Probation

sentencing and work levels had also affected the Companies' income and commercial viability, causing them to reduce staff numbers and programmes.

So serious were the problems facing, particularly, the Community Rehabilitation Company that Dame Glenys questioned whether 'the current model for probation can deliver sufficiently well'. Indeed, she did not pull her punches:

I find it inexplicable that, under the banner of innovation, these developments were allowed. And I regret that the current national delivery model does not have at its heart the effective, joined-up local partnership work and other specialist services so much needed.

Scotland

In contrast to England and Wales, probation-type work in Scotland is integrated within social work departments, with 'criminal justice social work' being the responsibility of the 32 Scottish Local Authorities. Unlike in England, all criminal justice social workers are still required to obtain a qualification in social work. The structural and institutional turmoil that has affected probation work in England and Wales has been largely absent in Scotland.

As in England and Wales, the Scottish Government has also sought to develop integrated and seamless interventions for those under a criminal sanction, through multi-agency partnership arrangements known as 'community justice'. A reorganisation in 2016 (see UKJPR6 and *The Coalition Years*) gave a greater role to Scotland's Local Authorities in coordinating and delivering community justice work and

established a new national coordinating body - Community Justice Scotland - which formally began operations in April 2017.

A November 2016 *National Strategy for Community Justice* set out the government's vision for joined up partnership working, involving a 'broad range of stakeholders': national and local government, statutory agencies (both criminal justice and others), third sector and community groups, private sector, academia and criminal justice service users. In England and Wales, it was the private sector that was supposed to drive change through the system. In Scotland, the *Strategy* identified the third sector as 'a source of innovation, responsiveness and flexibility'.

Key elements of the *Strategy* included greater community participation 'in the planning, delivery and evaluation of community justice services' and collaborative working between statutory and non-statutory partners. Effective reintegration support for those leaving prison included being 'aware of the power of language to facilitate or inhibit this process'. Partners were encouraged to use terms such as 'person with convictions' or 'person with an offending history', rather than 'offenders'. It was also more inclusive in its overall tone than equivalent materials coming from the England and Wales jurisdiction:

... people who have committed offences and their families should have equal access to services that will help them desist from offending. Whether at the point of arrest, in receipt of a community or custodial sentence, or during transition back to the community, we must ensure we get the basics right so that people's needs are addressed.

Northern Ireland

Reconviction rates in Northern Ireland are significantly lower than England and Wales, and Scotland (see [Reconviction in the UK](#)). The imprisonment rate in Northern Ireland is likewise much lower than the other UK jurisdictions (see UKJPR6).

A report on the impact of prisoner recalls, published in June 2016 by Criminal Justice Inspection Northern Ireland, found evidence of upwards pressure on the prison population as a result of lack of support for released prisoners in the community. The 'choice to engage with probation in a meaningful manner remains the cornerstone in reducing recall to custody', the report noted. However, 'pressure on resources, difficulty in entering employment, accessing medical care and getting suitable residential accommodation' were all seen as 'barriers' to prisoners avoiding recall to prison.

The report also found evidence of greater risk aversion over the decision to re-release recalled prisoners. In August 2015, recalled prisoners were on average serving 336 days in custody, up from 220 days in 2014.

An evaluation report on the Enhanced Combination Order pilot (see UKJPR6), published in June 2017 by the Probation Board for Northern Ireland, concluded that the initiative had been successful in reducing the number of prison sentences of under a year. The number of prison sentences of under 12 months in the pilot areas had decreased by 10.5 per cent between 2015 and 2016, compared with a 2.4 per cent decrease across the Northern Ireland jurisdiction as a whole.

Reconviction in the UK

'Proven reoffending' within one year of prior conviction (2014-2015 cohort)

England and Wales

25%



Scotland

28%



Northern Ireland

18%



Data from the Ministry of Justice, Scottish Government and Northern Ireland Justice Department.

Coming up: after the General Election

The General Election of 2017 produced a parliament in which no party gained a majority. How would such a parliament deliver a government capable of grasping the steering wheel of policy, especially with the looming tasks of negotiating an exit from the EU? In this final section we sketch the main elements that will be covered in the next edition of UKJPR.

Few changes at the top

After calling the Election held in June 2017 Theresa May remained Prime Minister despite losing the Conservatives' majority and having to negotiate a deal with the DUP in order to win parliamentary votes. Following the Election, David Lidington was appointed as Minister of Justice and Lord Chancellor.

A reshuffle in February 2018 meant that David Gauke succeeded David Lidington at the Ministry of Justice. Amber Rudd was forced to resign in April 2018, following a scandal over the forced deportation of 'Windrush generation' migrants. She was replaced as Home Secretary by the Communities Secretary, Sajid Javid.

In Scotland Michael Matheson continued as Cabinet Secretary for Justice. In February 2018 the Chief Constable Phil Gormley resigned, facing allegations of misconduct. Deputy Chief Constable Iain Livingstone stepped up to become the interim Chief. George Hamilton remained Chief Constable of the Police Service of Northern Ireland.

Legislation largely on hold

With the decision to hold the Election, the passage of the *Prisons and Courts Bill* was suspended and not revived.

Bills were subsequently brought forward on international sanctions and money laundering, and on secure tenancies in domestic abuse cases; otherwise the government was proving slow to introduce new criminal justice legislation. It would seem that resources were being reserved for the legislative demands of Brexit, at which point the status of all EU-derived legislation would need to be settled.

In Northern Ireland there was to be no return to power-sharing, sustaining a vacuum in locally generated criminal justice proposals and discussions. The border in Ireland was emerging as a controversial element in negotiations on Brexit. However no such hiatus supervened in Scotland where a Bill redefining domestic abuse was to be passed.

Delivering change

The coming period will see the first outcomes of a formally united Her Majesty's Prison and Probation Service, created in April 2017. It has adopted a number of business objectives from government policy statements, including empowering key prison and probation managers and recruiting an extra 2,500 prison staff by the end of 2018.

Despite strategic commitments, further Inspection reports began to appear, marking not progress but 'more of the same', as in the case of Liverpool prison, described as 'appalling', and Gloucestershire probation, where caseloads in the Community Rehabilitation Company were 'unreasonable' and staff 'over-burdened'.

By the end of the summer, the rising number of prisoners was threatening to outstrip and undermine the significance of the new recruitment target,

according to Phil Wheatley, the former Director-General of the Prison and Probation Service.

The viability of the probation reorganisation came under severe scrutiny after it emerged in July 2017 that some £277m had been provided to bail out the struggling probation companies. In December the Chief Inspector of Probation Glenys Stacey gave a withering assessment of the reforms: 'I question whether the current model for probation can deliver sufficiently well.'

Accountability

The Independent Office for Police Conduct was set to inaugurate a new phase in accountability. In the year ahead it was due to review the cases of South Yorkshire officers implicated in the Hillsborough disaster.

In its report on 2016-2017, published in 2018, The UK National Preventive Mechanism – a body set up to implement provisions of the UN Convention against torture and ill-treatment in custody – expressed disappointment at the lack of progress in establishing its independence in legislation.

In 2018 Michael Matheson controversially refused to extend the spying inquiry to Scotland, citing a report by Her Majesty's Inspectorate of Constabulary in Scotland which judged such practice had been legitimate.

Managing austerity

Following the controversy over police spending during the General Election, the government sought to protect the value of grants in cash terms and allow Police and Crime Commissioners to raise local precepts. Efficiency measures and savings were to be encouraged by accessing

a 'transformation' fund and rationalising the purchasing of equipment. Pointed reference was made to the existence of forces' valuable reserves which it was implied they could draw upon.

In October 2017 a report from the National Audit Office gave an overview of past and future spending by the Ministry of Justice. Having reduced its net spending by 13 per cent between 2011-2012 and 2016-2017, the Ministry of Justice 'intends to reduce its planned spend (DEL) by a further 11% between 2016-17 and 2019-20'. The Office expressed doubt about the ability of the ministry to reduce spending and effect transformation at the same time.

The Brexit outlook

There has been much discussion of the implications for justice of Brexit, the majority of it extolling the merits of EU-wide cooperation. For a foreseeable period, lasting till the end of 2020, the government has put an emphasis on a transitional 'deal' with the EU, preserving current institutional arrangements after the lapse of formal membership.

In March 2017 the Home Affairs Select Committee took evidence on EU justice and security issues. After being quizzed on the possible outcomes of negotiation the current Director-General of Europol, Rob Wainwright, argued that pragmatic adjustments would carry the day:

.. in the end, because of the prevailing interest in maintaining collective security, the grown-ups in the room will probably ensure that those interests are maintained.

As the day of final exit approaches, it will be important to discover whether or not the 'grown-ups' do indeed rise to the occasion.

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, most are at 31 March each year, but some 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.

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.

Discrepancies

Some indicators register very large changes that represent institutional reconfigurations rather than real changes in quantity. The political implications of such changes should not be overlooked.

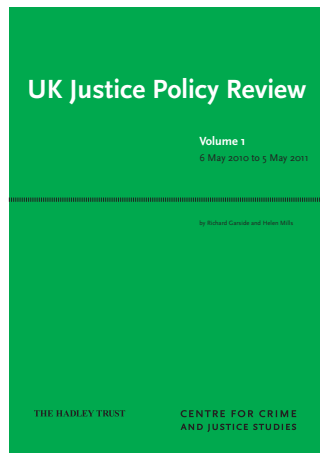
The establishment of Police Scotland in 2013/14 brought together a range of funding from across the justice and local government portfolios. The jump in police spending refers to this change, rather than a notable increase.

In February 2015, a large proportion of the probation service in England and Wales transferred to private ownership. As a result, the Ministry of Justice is no longer responsible for managing their staffing. Only information on staffing in the National Probation Service is available for the years 2015/16 and 2016/17. The huge reduction in probation staffing does not indicate a huge reduction in the actual number of staff available to perform this function, although there is anecdotal evidence that the private probation companies have laid off staff.

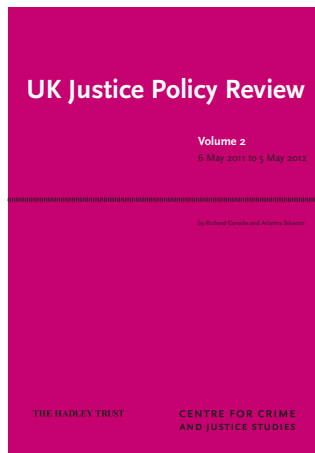
More detailed footnotes to the data and a full list of original sources is available in data files from our website: www.crimeandjustice.org.uk/project/uk-justice-policy-review

UK Justice Policy Review

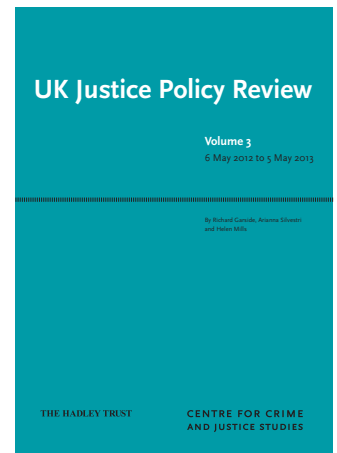
Publications in the series



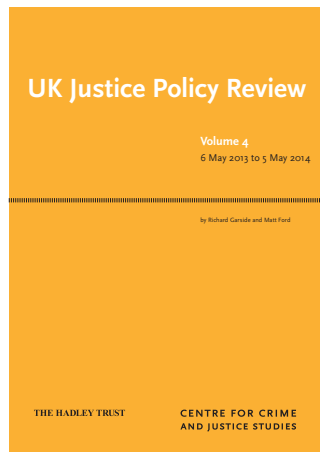
UK Justice Policy Review 1
May 2010 – May 2011



UK Justice Policy Review 2
May 2011 – May 2012



UK Justice Policy Review 3
May 2012 – May 2013



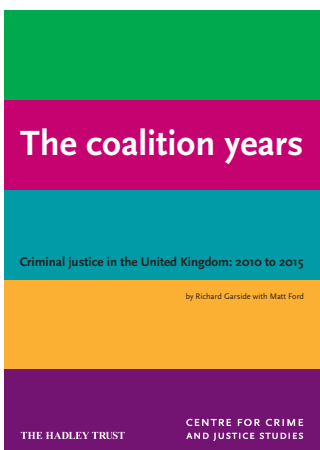
UK Justice Policy Review 4
May 2013 – May 2014



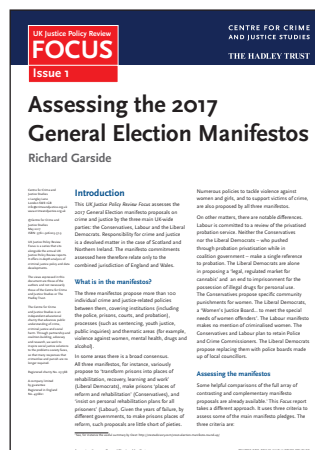
UK Justice Policy Review 5
May 2014 – May 2015



UK Justice Policy Review 6
May 2015 – June 2016



The coalition years
Criminal justice in the
United Kingdom: 2010
to 2015



UK Justice Policy Focus 1
Assessing the 2017 General
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