Ministry of Justice Supplementary Estimate 2018-19

Further to my letter of 2 April, I am now writing to respond to the remaining questions in your letter of 25 March 2019.

Sustainability of the Ministry’s financial position

You asked several questions in this area, including one on demand-led legal aid which I covered in my earlier reply.

You wanted to know about the steps we were taking to ensure that we received a sustainable settlement as part of the next Spending Review. Over the past year we have been working as a department to develop a clear understanding of the outcomes we want to achieve over the next five years, and the activities that we will need to prioritise to do this. As we move towards the Spending Review, we are beginning to build a detailed and evidenced understanding of the costs and benefits involved in undertaking each of those activities. This work will allow us to target our funding into the activities that provide the best opportunity to improve our departmental outcomes, and in due course will allow us to work with HM Treasury (HMT) to agree a sustainable settlement which ensures we are able to deliver our services as effectively and as efficiently as possible. The work that we are undertaking here also addresses your sixth question on capital funding.

You noted that Mike Driver had talked to the Committee in June about the size of the gap in our finances across 2018-19 and 2019-20. I am pleased to be able to say that the additional funding we received in the Supplementary Estimate and action taken to manage our financial position means that we are on track to meet our control totals for 2018-19. With regard to 2019-20 we have been in intensive negotiations with HMT since the Supplementary Estimate and will be able to provide full details about our position in the Main Estimate Memorandum which will be with you later this month.

Your third question asked about how the Ministry had factored changes in police funding into demand forecasts. As I noted in my previous reply on legal aid, changes in police funding, capability and priorities affect the criminal justice system as a whole. When investments are made upstream in the criminal justice system it is crucial that the impact on demand for courts and prison places is considered and that the system is appropriately resourced to manage any increase or fluctuations in demand. The
Ministry has been working with the Home Office, Crown Prosecution Service and Attorney General’s Office to develop a collective picture of how demand flows through our systems. This work is currently still in progress but it aims to model the potential impacts of the increased police funding on the courts system and prison population numbers.

You also asked about any assessment of the costs of alternatives to custody. This is an area on which we are currently working and I will provide more information as soon as it is available.

Finally in this section, you asked about the additional spending on prisons announced last year. The £30m and £10m investment in prisons announced in July and August 2018 respectively formed part of the HMPPS 2018-19 change programme budget, and was not new funding from the Exchequer.

Capital investment and reform

You noted that we have significant capital programmes underway in courts and prisons and asked whether we had sufficient funding to complete them. I can confirm that we do for 2019-20 but, as you will recognise, our funding beyond that is subject to the Spending Review.

You also wanted to know how much had been spent on the Prison Estates Transformation Programme since the beginning of Spending Review 2015 and asked for an update on progress on the new prisons at Glen Parva and Wellingborough, including estimated costs.

Gross capital spend (i.e. excluding revenues from site disposals such as the former HMP Holloway) on the Prison Estate Transformation Programme since the last SR is £121m. This includes spend on the new prisons at Wellingborough and Glen Parva of £39m and £22m respectively. These figures include the cost of demolishing the former prisons and undertaking thorough research and stakeholder engagement to understand how the design of a new prison can address the needs of the Category C Resettlement prisons cohort.

The programme is making good progress and we are on track to sign a contract with Kier plc to undertake the building of the new prison at the site of the former HMP Wellingborough, which will hold 1,680 men, later this month. This is the first prison of an innovative design which will introduce new concepts aimed at providing a more normative environment such as bar-less windows in cells and smaller communities of 20 men per wings with closed floors rather than galleries. This new prison is designed to provide safe, secure and decent accommodation which will help reduce noise levels and create an atmosphere conducive to rehabilitation. Demolition has already been progressed and we expect the main construction to start on this site as soon as summer this year, with completion in autumn 2021.

HMT has approved the outline business case for the publicly financed new prison at the former HMP Glen Parva site. We will now take this forward into the detailed design phase using Wellingborough as our baseline design before moving to full business case later this year. Subject to negotiations and the usual approvals we are looking to open the prison in late 2022.
As the programme is in the final stages of negotiations with the contractor for Wellingborough and is also negotiating with the contractor for Glen Parva we are not in a position to provide the final costs for these prisons at this time. We will however write to the Committee with the information once the contracts are completed.

In addition to the two new prisons, construction of the new 206 place houseblock at HMP Stocken has been completed, with the houseblock due to accept men from May 2019. This important milestone within our programme has provided much needed prison places to help ease crowding in our prisons and provide modern, decent and secure accommodation for men in our care.

**Fee refund schemes**

You asked for information about our existing fee refund schemes (Employment Tribunals and Office of the Public Guardian). The Employment Tribunal (ET) fee refund scheme was announced on 20 October 2017 through an article on the gov.uk website, letters to parliamentarians, and disseminated information through organisations such as trades unions, the Law Society and the Citizens Advice Bureau. From launch in 2017 to 31 December 2018, 21,800 applications for refunds have been received and 21,300 refund payments made, with a total monetary value of around £17m. We estimate that the value of ET fees that have yet to be reimbursed is c£16m as of 31 December 2018.

Details of the number and value of refunds paid are included in the MoJ’s regular quarterly statistical bulletin ‘Tribunals (and gender recognition certificate) statistics quarterly’. The most recent bulletin was published on 14 March 2019. The next bulletin is due to be published in June 2019 and will provide information up to 31 March 2019.

In April 2018, we wrote to everyone entitled to a refund and who had not yet applied, as well as interested MPs, to ensure they were aware of the scheme and how to apply. This was completed in July 2018. We will continue to monitor the progress of the refund scheme going forward.

The estimated cost of refunding Lasting Power of Attorney (LPA) fees with interest, is around £69m, plus administration costs. From the launch of the LPA fee refund scheme in February 2018 (including the pilot stage) to 2 April 2019, 223,094 applications for refunds payments were made, with a total monetary value of around £12m. The estimated value of LPA fee refunds that have yet to be reimbursed is in the order of £56m as of 2 April 2019 and equivalent to an estimated 800,000 refunds. The scheme will remain open until 1 February 2021.

The refund scheme was formally launched in February 2018 through an article on the gov.uk website and through MoJ social media channels. Given the disproportionate cost that would be incurred to write to all individuals entitled to a refund, we continue to work with stakeholders and partners (including the media) to communicate the scheme using their channels, to help reach as many of those affected as possible. The most recent round of communications came in February 2019 via The Martin Lewis Money show and other national news publications.
You also asked for an update on progress made with regard to Lucy Frazer’s announcement in July 2018 of further refund schemes for court fees that were charged above full cost recovery levels. The Ministry is preparing for the launch of further refund schemes, including processes, form design and resource requirements, in the summer. We are, of course mindful of the need to refund those who paid charges above the full cost recovery levels while also obtaining value for money for the taxpayer by administering these schemes as efficiently as possible.

**Community Rehabilitation Companies (CRCs)**

You asked about the financial implications of Working Links entering administration and how this is being funded in 2018-19. The financial implications of transferring ownership of the three CRCs previously managed by Working Links fall into two broad categories – transition costs to allow the new provider (Seetec) to bring in their operating model to the CRCs and an increase in Fee For Service (FFS) costs as a result of using Seetec contractual rates for service. The total costs for transition to the Seetec operating model and any increase in FFS have not yet been finalised. Any costs which fall in 2018-19 have been funded from the budget received at the Supplementary Estimate.

You also asked for a breakdown of costs for the financial year to date for each Community Rehabilitation Company. We are still finalising our year end position so are not yet in a position to provide this data. We will provide you with an update as soon as we are able.

Your letter goes on to ask about the financial and operational implications of the problems at Interserve and the steps we have taken to ensure continuity in the services that Interserve provide. We continue to work with Cabinet Office, who provide a Crown Representative for Interserve as a strategic government supplier, to carefully monitor the position and longer term outlook for Interserve.

Specifically for our contracts with Purple Futures (the subsidiary company of Interserve with whom we have a number of Community Rehabilitation Centre contracts), and as a part of good industry practice, the Ministry has contingency plans for all CRC providers and has significant learning and experience from the recent administration of Working Links to manage any financial distress events relating to Interserve/Purple Futures or any other CRC.

**Facilities management**

You asked about the additional costs to the Ministry of the creation of GFSL compared to the contracts signed with Carillion. We do not yet have final figures for 2018-19 but we estimate that the Ministry incurred costs of around £5m on setting up GFSL. In addition to that, we estimate that we will have incurred around £10-15m more in relation to the fixed cost element of the contract in 2018-19 than we spent with Carillion on the equivalent element of the contract in 2017-18. This is largely explained by the losses that Carillion were making on this contract, as validated by PWC (official receiver), and by picking up a backlog of work from Carillion.

You were also interested to know what we were doing to improve the standard of services provided in the prisons where Carillion was previously providing facilities management. GFSL has only been operational for just over a year. Given the poor
legacy inherited following Carillion’s collapse, GFSL is still in a transitional phase of stabilising and improving the service, resulting in current performance not yet at the levels either the Ministry or GFSL would like to see. We have taken steps to strengthen our contract management team over the past year, and are working closely with GFSL to support them in improving the quality of service delivery in the prisons for which they are responsible, with a focus on getting the basics right in terms of statutory compliance and reactive maintenance. We are expecting to see significant improvement as the organisation matures.

**Judicial pension litigation**

You wanted to know what steps we have taken to prepare for the effect of the ruling made by the Court of Justice of the European Union with regard to the O’Brien case.

The Government is considering how to implement the Court of Justice of the European Union’s judgment (7 November 2018). In particular, MoJ is currently considering how remedy in respect of the relevant service for eligible claimants should be credited. To provide a pension remedy to these claimants our intention is to seek legislative changes to pension regulations to recognise their pre-7 April 2000 fee-paid service. We are, however, mindful of the delay that a legislative remedy will entail. As was the practice in response to the Supreme Court judgment in O’Brien v MoJ in 2013, we therefore intend to offer eligible retired claimants a voluntary interim payment in lieu of pension, subject to the necessary approvals.

As part of our response, we have established a Judicial Pensions Reform Programme Board whose remit includes managing the resolution of the O’Brien litigation. The Board is chaired by the Director of Judicial and Legal Services Policy, as Senior Responsible Owner. We are also establishing a Judicial Claims Team to handle the claims of eligible claimants. The purpose of the Team is help claimants to establish their pre-7 April 2000 service history, to calculate the consequent pension entitlement and to make voluntary interim payments in lieu of pension. We are planning for the Team to be operational from May 2019.

Richard Heaton