Chair: Thank you very much indeed for coming to give evidence to us today. As you know, we are the Joint Committee on Human Rights. Half of us are from the House of Commons and half of us are from the House of Lords. Our concern is with human rights. To that end, we are looking at detention. We are looking at a whole range of aspects of detention, but for the purposes of this afternoon we are looking at detention of children and young people.

Our particular focus is, as I said, on human rights. The issues we are concerned with are: Article 3, the prohibition of inhuman or degrading treatment; Article 5, the right to liberty and security—obviously segregation within detention is an issue there; and Article
We have already heard evidence, as you will have seen, from a number of witnesses about the issue, particularly, the solitary confinement of young people in mental health institutions and young offender institutions, and the use of forcible restraint. One thing that all those witnesses have been very keen to impress upon us is that we are talking about children and young people who are extremely vulnerable, with many, many issues and problems, so we know that we are dealing with a very vulnerable cohort of young people here. Thank you very much for bringing your expertise and your answers to us.

Q59 Joanna Cherry: Good afternoon, ladies and gentlemen. Minister, I want to ask my questions of you, but first I should perhaps congratulate you on your recent appointment to the ministerial post and wish you all the best.

Edward Argar: Thank you.

Joanna Cherry: We have had a number of witnesses tell us that children in young offender institutions are sometimes kept alone in their cells for over 22 hours a day, that being the definition of solitary confinement. When Phillip Lee was the Minister, he said, “I have been assured that young people are never subject to solitary confinement in this country”. But our impression from the evidence we have heard is that solitary confinement is fairly routine, and we have had examples from the Children’s Commissioner and Her Majesty’s Chief Inspector of Prisons. We have also heard about examples of solitary confinement lasting for several weeks. We have heard of it being used to manage situations, but also as a punishment.

What do you think is happening in young offender institutions? Do you recognise the picture that we have been given in evidence? Do you think that this kind of solitary confinement is taking place?

Edward Argar: Thank you, Ms Cherry, for the question. I have read carefully the transcript of your recent evidence session with Her Majesty’s Chief Inspector of Prisons and the Children’s Commissioner, but I have also read the evidence that I believe you took from others before the Summer Recess, and the written evidence that has been submitted. The safety and welfare of the young people in our care remains and always is the core priority for the Youth Custody Service, and it is core priority for me as the Minister responsible for that service. That is why
there are very strict safeguards on segregation, which we are clear is used only as a last resort when someone is likely to cause harm to themselves or others. It is not used as a punishment; it is used purely on the basis of safety and managing safety of the individuals and officers in that context.

In that context, more broadly, I would reiterate the comments made by my predecessor that children are not subject to solitary confinement or segregation, as you phrased it, or removal from association, as I would phrase it. At some point—obviously, it is subject to you—we may want to come to rule 49 and rule 36 on STCs and YOIs, and how they operate.

When a young person is segregated or removed from association, first, it is done only for safety reasons. Secondly, that is not necessarily to a segregation unit; it can be to their own cell. Throughout that process, they have regular contact with staff. When it is for a longer period, they have contact with education specialists. We heard in some of the written evidence about the packs. The packs are the homework that comes with the teacher actually going to the cell and teaching the individual who is in segregation, and sometimes with others who are in segregation, where that can be managed safely.

While I read very carefully what Anne Longfield said, to me it did not paint a full or entirely accurate picture of what happens in that situation. Obviously, it is up to you, Ms Cherry, but, as appropriate, at some point I may invite Mr Gormley to comment, from his experience as a former governor, on what exactly happens at each step along the way.

Joanna Cherry: I suppose this would be my question: are you confident that you are describing practice as opposed to what should be the practice? We have heard evidence of children in solitary confinement, as understood, for significant periods of time and as a punishment, not as a safety measure.

Edward Argar: I have read the transcripts. That was asserted, and I accept that. I did not see it substantiated. It was anecdotal, rather than saying, “Here are X, Y and Z examples”. I appreciate that in the context of these hearings it may not be possible to provide specific individual examples because of confidentiality and other factors, but I am confident that, yes, the rules are followed and there are strong processes in place. The Committee may want to come on to redress and what action is taken against staff where those rules are contravened, but there are very strong processes in place to ensure that staff adhere to those rules and do not use it as punishment.

Joanna Cherry: It was suggested to us that somebody had been put in solitary confinement for having a phone. Would you recognise that? That sounds to me like a punishment, rather than for safety reasons.

Edward Argar: I saw that was suggested. I am very clear that the rules are explicit that it should be used only as a last resort, for the shortest possible period and for the safety of staff, other prisoners or, indeed, the
individual themselves. It is not a case I have any details on. If it is appropriate, if the Committee wants to write to me with the details of that specific case, I am very happy to write back to the Chair responding to it, if we can look into that. That is up to you.

**Joanna Cherry:** I think we will do that, Chair. Our impression from what we have heard is that it is perhaps a bit too easy to put children in solitary confinement, maybe as a response to difficult situations on the wing, if I am using that phrase correctly, and that it needs more senior-level sign-off in order for it to replicate what you understand to be the proper practice. Do you agree with that?

**Edward Argar:** I saw that suggestion made by Anne Longfield and picked up by some members of the Committee. As I say, there are a number of factors behind segregation or removal from association, as I have referred to it. It is not always done by staff. In some cases, individuals who are detained will self-segregate, for a range of reasons: either because they feel unsafe or because they have a particular concern. I just want to put that on the record, as there is also that factor.

The processes for sign-off are robust and effective, I believe. Officers will make a judgment, when a situation is arising, to minimise the risk to safety. When any force, restraint or segregation is used, that will be reported to the senior officer on duty. There is oversight from the independent monitoring board. After 72 hours, the governor or acting governor will have to authorise that. I did see the suggestion about ministerial sign-off for any segregation or removal from association of over 72 hours. I have to say that, while I will of course reflect carefully on anything the Committee says, and indeed the final report of the Committee, I am not convinced by that at this point, for a number of reasons. I hope I can say that.

First, I believe that the current system is robust and that after 21 days, in the name of the Secretary of State, a senior director or the director of the Prison Service will review that and make a decision on it. As a Minister, I have oversight of and responsibility for the system, but I am not professionally qualified to make the judgments that are required in these situations. It is not the case that junior members of staff are making these decisions. Governors, acting governors and similar are extremely experienced members of staff who have often been in the Prison Service or Youth Custody Service for 10, 20 years. I believe they have the professional judgment and experience to make those decisions. They know the rules and are committed to adhering to them. Crucially, they also know quite a lot about the individuals concerned, their background, their circumstances and the nature of the case. So I am not convinced that, as a Minister, I would be able to bring that level of expertise.

You may want to come on to it. However, I will say very briefly that I believe it is important that, as a Minister, I have the data and the information to be able to judge how that system is being used. I get that from visits. Thus far, I have visited six of the eight YOIs or STCs since I
was made a Minister four months ago. The other two are in the diary, one for next week and the other one for early December. I will speak to young people and children; I will speak to the staff and the governor. I read every IMB, inspectorate and Ofsted report myself. I will often write back, in cases where a recommendation is made specifically to Ministers.

I have instituted a quarterly round table—the first was this week—where all the governors and directors come to my office in the department, and they are entirely able to raise with me anything they feel I should know about the operation of the Youth Custody Service. I will question them, as I did about segregation, removal from association and restraint. I have a fortnightly meeting with the director of the Youth Custody Service, where we delve into not just strategic matters but operational matters, institution by institution. I have, as I have here, a quantity of data on the use of restraint, the prison population, et cetera, all of which I believe gives me a good overall picture of what is happening on the ground.

**Joanna Cherry:** You make a very good point about needing data to establish what is happening on the ground. If I can summarise, there seems to be a disconnect between some of the evidence we have heard and what you understand to be the position. Perhaps the easiest way to resolve that would be to look at the data. We know that the Children’s Commissioner has used her powers to gather data about segregation in young offender institutions. Would your department be prepared to publish those statistics annually?

**Edward Argar:** I read that transcript and the suggestion. I believe that data, and accurate data, is extremely important in all aspects of running an organisation to understand what is actually happening. In advance of this Committee, I have been given a lot of data providing a snapshot of where the estate was a couple of weeks ago, the numbers of young people who are segregated and similar things. I believe it is possible to do that. Following your last evidence session, I have already asked the director of the Youth Custody Service to look into how data can be better collected in a consistent format, because it is often reported by different institutions in different ways. If we come up with a consistent public data reporting framework, she can report back to me on how we can make use of that to help inform broader debate.

**Joanna Cherry:** Your answer is that, provided you can be satisfied that there is a consistent methodology for collecting the data that the Children’s Commissioner has been collecting, your department would be prepared to publish it annually.

**Edward Argar:** I have asked the director of the Youth Custody Service to look into collection, how that would be presented and the practicalities around that. When she reports back to me—that was a week or so ago, after the evidence session—I am very happy to write to you, care of the Chair of the Committee.

**Joanna Cherry:** Do you know when that is likely to be?
**Edward Argar:** I do not know at this stage. She has been spending a lot of time, funnily enough, working with me in advance of your hearing today, and I endeavour to give you as full a picture as possible. As a QC, I appreciate that you may ask, “How long is a piece of string?”, but I will endeavour for that to be as swift as possible.

**Joanna Cherry:** I was not going to be that rude, Minister, because you genuinely have tried to give us very full answers.

Q60 **Chair:** In relation to the statutory instrument, it says, “The governor must obtain leave from the Secretary of State in writing to authorise removal … where the period in total amounts to more than 42 days”. Are we to understand that this is delegated?

**Edward Argar:** Chair, are you looking at rule 49 or rule 36? You will be aware that there are different rules for YOIs and STCs.

**Chair:** I am looking at the young offender institution rules from 2015.

**Edward Argar:** You are referring to rule 49 about removal from association. You will see at (2) that 72 hours upwards can be authorised by the governor: “(2B) But the governor must obtain leave from the Secretary of State in writing to authorise removal under paragraph (2A) where the period in total amounts to more than 42 days”. Is that what you are referring to, Chair?

**Chair:** Yes.

**Edward Argar:** In my understanding, and officials will correct this, that power is entitled to be delegated to the director of the relevant part of the custodial estate as a senior civil servant. The governor has certain authority, and then it will go up to—

**Chair:** The governor obtains leave from the Secretary of State, but the Secretary of State has delegated that to the director.

**Edward Argar:** Yes, to the relevant director in the ministry.

**Chair:** Can I just pursue that and make a suggestion?

**Edward Argar:** Yes, of course you can.

**Chair:** We—I should say “we”, because it is a statutory instrument—have not put the Secretary of State in there because we think the Secretary of State has expertise. It is not about whether they are familiar with all the individual cases or whether they have the technical expertise of working with young offenders. It is about accountability at a high level and it is about asking questions.

I appreciate that you have mentioned all sorts of other ways in which you ask questions: round tables, looking at data, et cetera. But might I suggest to you that you could just try it? I do not mean the Secretary of State doing it, but the Secretary of State delegating it to you after 42 days, which is an incredibly long time for a young person. Could you try for a couple of months to do the
authorisations of more than 42 days yourself, instead of delegating it to somebody who is, after all, within the system?
I can appreciate that you might not want to abandon the delegation system, which has been working, in a root and branch fashion. But against the background of a big increase in the use of solitary confinement, and the length of time it is used for, it might be very worth your while to bring it in-house again and to do the signing off yourself for a pilot period. If it totally wastes your time and does not tell you anything you did not already know, you can issue a complaint to us and say, “We told you so. We knew what was going on. I have learned nothing. It has wasted my time when I could be doing other things”. Could I ask you to think about that?

Edward Argar: I would never dream of doing that, Chair, but I will of course reflect very carefully on what you say.

Chair: My reflection on this, having been a Minister, is that you will find out a whole load of things that you did not know. It will be revelatory and eye opening. Since you are at the start of your ministerial work, I think you will be saying, “What a good idea that was”. Your officials will not think it is a good idea. Can I just anticipate that? From me to you, it is a good idea. I would just say, “Try it”.

Edward Argar: Your extensive and successful ministerial career means that I will reflect ever more carefully on what you say.

Chair: Thank you.

Q61 Jeremy Lefroy: I apologise for being late; there was a clash of meetings. I apologise if this shows my ignorance, but I was on the IMB for a YOI for some time myself 10 to 15 years ago. At the time, it seemed to me that this segregation of 15, 16 or 17 year-olds was commonplace. I wondered whether the rules have changed since. Have they been tightened up? I wonder whether what I saw 15 years ago is pretty much what we are seeing now, or whether things have moved on or moved backwards.

Edward Argar: Operationally, we are still under the two rules we mentioned: rules 36 and 49. The Committee may want to move on to the data, numbers and statistics, but you see a number of things. As well as the pure numbers, you see a greater percentage of incidents. A factor behind that—it is not the only one—is the reduction in the number of young people in custody from around 3,000 down to about 950 if you include 18 year-olds, and 750 or so if you take the 18 year-olds out of the equation. That means that the presumption is ever stronger that you have to have committed a pretty serious offence to be sentenced to custody. We are dealing, as the Chair said, with a very vulnerable but very complex group of young people. In many ways, the cohort in custody is more challenging
than before, as individuals. That does not mean that we do not do everything we can to support those young people through rehabilitation and reduce their prospect of reoffending. That is exactly what the Youth Custody Service and the youth justice system should be about: reducing reoffending and giving those young people an opportunity. In terms of those numbers, we also see a change, which dates back to about two years ago, resulting from a legal challenge, in the way the data is reported and recorded. It was briefly alluded to in Anne Longfield’s report in the part about data reporting. I will be corrected if I am misremembering this. Previously, a young person who was segregated in a segregation unit would have been counted in the figures, but if they were placed in non-association in their own cell they would not have been, although in effect the consequence was not dissimilar. You have that bit of it.

In terms of the use of restraint, if I recall, it was recorded previously as a use of restraint if over three officers were involved in administering it. Now the data captures it very clearly: even if just one officer uses restraint or places a hand on an individual, that will be recorded. I am not saying that is the only reason, but it is important that I put that on record. I am conscious that the Committee will say, “Do not just say it is all about data reporting”, but there is an element there, which is why you are seeing higher incidences of it, as well as the nature of the cohort.

Q62 Joanna Cherry: We would now like to move on to look at the overall picture of the situation in youth custody. You have spoken in some detail about segregation. As we understand it, rising levels of segregation are one of the challenges in the youth custody estate in England and Wales, but alongside rising levels of violence by children, gang violence, and restraint, which we have just talked about and have heard quite a bit of evidence on. I realise that it is very early on in your ministerial career, Minister, but how confident are you that you have a full picture of what is happening in the youth custody estate and that you have the correct plans and structures in place to make improvements?

Edward Argar: On your first point, I will not repeat what I said, but I try to keep a very direct sense of what exactly is going on through those different means. That gives me a very good handle on what is going on, both at an operational level and at a strategic level, in what we are seeking to do with the youth justice system more broadly but also the youth custody estate. You and the Chair are absolutely right to highlight that the children in our care are some of society’s most vulnerable children and have particularly complex needs.

Going back to my response to Mr Lefroy, we are seeing a reduction, which I welcome, in the number of young people being sentenced to a custodial sentence. I went through a list of those young people by offence committed and what got them a custodial sentence. They are serious
crimes, and many of them are crimes of violence, be it with a bladed instrument, violence against the person or sexual assault. In many cases, they are a very complex group of young people, many but not all of whom have a history of violent crime and, in some cases, probably an acceptance of that. Therefore, incidents can escalate very rapidly, hence the use of restraint.

When I visited Feltham at the start of the summer, I was walking with the deputy governor along a corridor when the alarms went off and several of his staff ran past at speed. As I went into the unit, I saw the end of an incident, and it was on the face of it what would be a relative non-event in this place, in a pub or in a restaurant. Two young people were playing table tennis and one was watching. One slipped on a bit of water; the one watching thought that was very funny. The one who had slipped thought that was a slight to his loss of face and suchlike, and immediately went for the individual. We are working with very challenging individuals who will often jump to violence.

To go to your broader point about the strategy and what we are seeking to achieve, just because these individuals are challenging individuals it in no way means that we are not doing the best we can for them, trying to break that cycle of offending and giving them the support they need. That is why we are already undertaking a reform of youth custody.

I am conscious of front-line staffing pressures, which you may want to touch on at some point. We are committed to expanding staff capacity at public sector YOIs by 20%, which is around 120 new posts. I am pleased to say that over 200 front-line staff are now enrolled on a new youth justice foundation degree. Staffing is not the only factor, but it is important. As well as recruiting more staff, we are upskilling those staff and giving them the opportunity to develop. But we are also being innovative and implementing Charlie Taylor’s December 2016 review of the youth custody estate. We announced, as you will have seen, in October the establishment of the first secure school at Medway, in order to pilot a new approach to youth custody.

I am very conscious that I do not want to take too much time talking, rather than the Committee talking. I will stop there, unless you want to come back, Ms Cherry.

Joanna Cherry: No, I am happy with that.

Q63 Baroness Lawrence of Clarendon: My question is to Mr Gormley. You are the senior official in the Youth Custody Service, and previous to that you were a governor in young offender institutions. We have heard from a few witnesses who have been detained in custody, and there is a serious issue due to insufficient staff, as well as a high turnover of staff and a lack of visible senior staff. What was your experience of staffing issues as a governor? What is the Youth Custody Service doing to improve the situation?
**Peter Gormley:** Staffing certainly was an issue. Resources have definitely been an issue in the past. It is fair to say that we run three separate sectors: children’s homes, secure children’s centres and YOIs. Staffing ratios are very different in all three, so there is a difference between those. In the past, for young offender institutions in particular, especially in the harder-to-recruit areas such as the southern sites, that has been difficult. Recently, we have developed a new micro-site for recruitment. We have a bespoke site now where we target our recruitment and attraction campaign. We put them through a specific youth custody assessment centre, whereas before it was just a generic one. We are now looking to target the right people, who want to work in youth custody. We have developed and improved our training, so we give them additional training that is bespoke to the needs of a child in custody. As the Minister has alluded to, we do further development training. We are enrolling a number of staff in that. We currently have around 200 enrolled on the youth justice foundation degree, which is at level 4, with an opportunity to go to level 5, which will give them an academic foundation degree specialised in youth custody. The result of the changes in how we attract and recruit has been pretty impressive. Probably for the first time, our pipeline for the recruitment of staff, even in the southern areas, particularly Kent, where it was very difficult to recruit and retain, is looking very promising. I would have to caveat that by saying that they need to be trained. Once they are trained, they will need to continue to be trained and retained. It has given us a lot of new and very inexperienced staff, which we are aware of. We are giving them further development.

**Baroness Lawrence of Clarendon:** A young offender institution runs a five-day week, which leaves children locked up and frustrated for much of the weekend. That contributes to troubles on Monday when they are let out. What is being done to move to a seven-day week?

**Peter Gormley:** I would argue that we run a seven-day-a-week regime. We follow what a child might expect in a community. We run education and schooling Monday to Friday, with formal learning and then evening activities. At weekends, we do different activities. We run a full regime from, on average, 8 am to 6 pm, which includes many sporting activities, youth clubs, opportunities to exercise and associate. One of the most important things is family time. We do lots of family visits. Many family members work during the week and are unable to visit during the Monday to Friday period, so they come at weekends for family time. I think the Committee has heard a number of examples of what is considered to be best practice, where sites are running, for example, Parkrun. When I was governor at Werrington, they had an eight-a-side football team and we played in a local league on a Sunday morning. There are a number of activities.
In the past, at some sites, due to lack of resources and shortage of staff at weekends and in general, as I have just described, the regime at the weekend has been curtailed. Clearly, that is not acceptable. We hope the recruitment campaign and the reform to increase by 20% the number of staff will address that and make that right, so we can run a full and proper regime at weekends as well.

**Baroness Lawrence of Clarendon:** Is that moving forward? When we heard from witnesses, one of the main things they said was that they spend more time in their cells at the weekends, so by the time Monday morning comes they are frustrated, not having had that relationship with members of staff and other inmates. They feel like that as they come out, and that is where a lot of the offences could happen, because they have been locked up for 24 hours a day over the weekend.

**Peter Gormley:** I would dispute that they are locked up for 24 hours a day. I would say they have a lot of access to the regime. If the regime is curtailed for any reason due to lack of staffing resource—that was the case, but there is a much improving picture—those children will be locked up for longer than they should be. I would dispute that every Monday there is trouble caused from the weekend or, as you have probably heard, shouting out of windows and at each other. We take violence very seriously in these establishments. We have a diagnostic tool that analyses where violence takes place, and it tells us the hotspots—the areas and the times—where it is likely to take place. We will run a number of security meetings on behaviour management, and we will look at that.

I cannot talk on this occasion for all establishments, but it was certainly my experience when I governed Werrington that violence did not increase on a Monday. If anything, we tended to see hotspots at the end of the week, when children perhaps had had a lot of education and were getting a bit tired, and perhaps a bit tired of being with each other all the time, because of course we encourage them to mix all the time and get them into education as much as we can.

**Baroness Lawrence of Clarendon:** Could you tell us the statutory legal requirement for the ratio of staff to inmates?

**Peter Gormley:** I am not sure that it is a statutory requirement, but there are different variations among the three sectors. In young offender institutions, on average the ratio is 1:12—one member of staff to 12 young people. With the reform and the additional 20%, we are looking for that to move closer to a ratio of 1:10. There are different ratios in secure children centres, but they are effectively 2:5 or 3:8. In children’s homes, it is 2:4, so two members of staff to four children, although those are run by local authorities, and it is not within our remit to have oversight on that.

When you are talking about ratios of staff, you are talking about discipline staff. It is members of staff who work there as discipline officers. There are additional staff, including youth workers, teachers or healthcare
specialists. There is a whole range of other support and specialist staff, such as case workers or social workers, who are also around. The ratio is specifically for discipline staff.

**Baroness Lawrence of Clarendon:** We have heard things about relationship development between staff and inmates. If you have a large turnover of staff, you do not build up that relationship. The staff do not get to know the inmates and young people. Hence, if there is a difficulty and if an incident were to happen, the staff probably do not understand what that inmate would be like or their behaviour. We are talking about looking at the staff ratio. We understand that it is much higher with nursery children than it is within youth custody.

**Peter Gormley:** There are lots of dedicated professional staff who work in a complex, difficult and sometimes dangerous environment. Particularly as we recruit young members of staff, retention has been an issue for us in the past. It is an improving picture, that is for sure. But the relationship that you refer to is vital, in my eyes. I believe that all staff should be the agents of change; we should be the people who are trying to influence and help young people to turn their lives round and rehabilitate them. For that, as far as I can see, you need two things. First, you need dedicated staff who are there for a long period of time for the right reasons. We need to train them with the appropriate skills so that they can actually assist and help young people. Secondly, we need to give those staff time. If a regime is so tight, and the rules around education and making them attend are so tight, that does not allow staff to spend quality time with children. Some people would refer to what they are doing as "moving them around": they are moving them from A to B to get them to various venues. They need to spend time building up a relationship with those children, to effect the change that I hope you are referring to.

**Chair:** The issue of staffing is crucial, as you have explained and as we have heard from young people. There is a statutory requirement for the minimum ratio of children to staff in a nursery. Might there be a benefit to having a statutory ratio of children and young people to staff? Their vulnerability is not because they are under five, but because they are detained and very vulnerable. You have described the regime sometimes not operating how it needs to at weekends. Would there not be a benefit to having a legal and statutory minimum ratio?

**Peter Gormley:** I can certainly see a benefit to having a statutory requirement for a ratio for staff members to children, but it is not just about the numbers. It is no good giving me a lot of additional staff if we are not going to train them properly or give them the time. In part, that would help, but it is a much bigger picture than that. For me, it is about the quality of the staff we have, their ability to do the job we are training
them to do and, we hope, to effect a change in the children we are looking after in our care.

Q64  **Fiona Bruce:** Good afternoon. I have two questions. One is initially in relation to mental health services for detained children, and my second is about maintaining children’s family relationships. I am directing the first question to Mr Marron and Ms Fenech, with their responsibilities regarding children’s mental health, which is something I know the Government are increasingly aware needs to be properly resourced.

We have heard of pressure on provision for children detained who have mental health problems, including some kept in custody when they would be better off in a mental health unit. This is our question to both of you: what is being done to ensure there are sufficient mental health care resources and places for children, including those in custody who need greater mental health care?

**Jonathan Marron:** As the Minister has said, providing safe and compassionate care in the least restrictive environment is what we are all trying to do. As you understand, we are dealing with very vulnerable children and young people. Doing that in the least restrictive setting possible is important to us.

You very kindly recognise the efforts the Government are making to improve mental health services broadly for adults and specifically for children. There has been a significant increase in resources and a significant increase in this area. Teresa might talk in a little more detail about the increases in beds. We have made available an extra 90 beds in the CAMHS estate over the last year, with another 80 to come, to make sure we have both adequate resource and resource in the right place. We have brought on stream another 170 beds, but we have decommissioned some so that we have the right kind of care in the right place, following a review by NHS England. We have made significant investment in the resource.

In terms of transfers, last year we made about 15 transfers between the two. In the adult estate we have much more frequent conversations with the Ministry of Justice about this challenge: “Can we transfer adults with mental health conditions into the secure estate in health?” In children, we feel more confident that we are doing a better job.

**Teresa Fenech:** I would endorse the comments about increasing the number of beds in general in adolescent services. We are on target to deliver by the end of March an extra 179 general adolescent beds against a commitment of 150 to 180.

There has been a review of medium-secure capacity. We report every single week on available beds in all those services, to identify whether there are any specific hotspots. There were two key findings from the review of medium-secure capacity. First, we need to increase the number
of female beds; secondly, there are geographical issues in medium secure. For example, London has no female medium-secure beds. That is currently being addressed in terms of the intent to commission additional capacity in medium secure.

There was a remodelling some time ago to increase low-secure capacity. Again, that is monitored every week so we are aware of where available capacity is, and that is utilised on the national footprint.

**Jonathan Marron:** We are aware that there is a small number of highly complex cases where we have more difficulty securing transfers. There is work going on in NHS England’s Specialised Commissioning Oversight Group to look at whether there is a particular cohort of high-risk, high-vulnerability patients that we may need a different service for. The current medium-secure estate does not provide a suitable therapeutic environment. Of course, we do not place young people in any of the high-secure hospitals. There is a question around whether there is a service gap, which the team in NHS England is currently looking at. There are small numbers of people where we have had difficulty looking at what the appropriate transfer would be.

**Fiona Bruce:** That is what I am very interested in. It is now increasingly recognised that there are perhaps more young people needing mental health support. Although it is useful to have it, I am interested not so much in the capacity and the number of beds, but in the expertise you have available and whether you are looking at strengthening that.

**Teresa Fenech:** There are different types of beds and not all beds are equal, because they are all addressing different needs. Jonathan is right, in that there is a small handful of children who have very, very complex needs. Increasingly, there have to be really hard, focused efforts to identify exactly the right placement and what we call bespoke placements to model exactly what care and support children need. We are getting a number where we have to find bespoke places.

**Fiona Bruce:** The Minister might be able to help me on this. Bearing in mind the investment the Government are putting in through the Department for Education to help young people with mental health provision in mainstream schooling, I wonder whether your department, Minister, will be talking to the Department for Education about the need to ensure this happens in the institutions we are speaking about today.

**Edward Argar:** Mrs Bruce, I can assure you that those conversations have already taken place and will continue to take place.

**Fiona Bruce:** Thank you very much. We look forward to hearing more about that.

**Q65 Ms Karen Buck:** Can I just ask a supplementary question, prompted by what you have been asking? In Prime Minister’s Questions last week, I asked a question that was itself prompted by
a judgment by the judge in a case involving a young person in Bromley, who was unable to make a secure accommodation placement because no accommodation placement was available. In an extraordinarily unusual comment, the judge said that he feared there would be blood on the hands of judges who were unable to make these placements. The judgment—Teresa, you talked about there being a handful of cases—said that there were 31 children waiting for a placement in August, rising in September to 35 children for whom a placement in secure accommodation was being sought. It goes on to say that social workers are going through an assiduous and thankless task of trawling for secure placements and are unable to fund them.

I just wonder whether 35 is a handful. It is really a ministerial question. Why are judges making such damning critiques of the inability to find placements, which includes children with very high levels of mental health needs?

**Edward Argar:** My answer to your first point, Ms Buck, is that “a handful” is not the right term. One is too many. As you say, each case is very challenging and potentially has serious consequences. You were right to highlight this at Prime Minister’s Questions. It is one of the things I am discussing with my opposite number Jackie Doyle-Price, who has sent her apologies because, for personal reasons, she cannot be here today. It is exactly the sort of thing we are discussing. But there is also a crossover on accommodation, not just secure accommodation but accommodation more broadly, with local authorities and MHCLG. We talk to them as well. The reality of this system, as I know you will be aware, is that no one bit of the system alone, or no one ministry or Minister, has all the levers. Therefore, one of the keys here is joint working, in seeking to address this. In this context, some of my discussions and the Secretary of State’s discussions with the Department of Health and Social Care, the DHSC—I was about to say DH—are about mental health, secure accommodation and what can be done to significantly improve both availability of the right placements and things such as turnaround times and wait times before, for example, going into a secure mental health hospital. This is across the entire custodial population; it is not just a point about young people. This is about what we can do more broadly to bring down those wait times.

**Ms Karen Buck:** Should it ever be the case that a judge is unable to place a young person in secure accommodation or to make an order to that effect because no accommodation is available?

**Edward Argar:** No, I would hope not. As you would acknowledge, under Governments of all parties, under the last Government and under this Government, this has been a problem. There will be those exceptions and those cases. It is not something we would ever wish to see. I am sure it is not something any Government would wish to see, and it is something we work on, as previous Governments have done.
Chair: There has been a lot of media coverage—and there is going to be more media coverage tomorrow morning—about the case of a girl who is called Bethany, who has been effectively in solitary confinement because of the inappropriateness, it is argued by her parents, of where she is. Bearing in mind that this is an issue that is under public discussion at the moment, has been over the last week and will be again tomorrow, do you have any reflections on that?

Teresa Fenech: I do, although I do not know the detail of the case you are talking about. First, on the terminology of solitary confinement, we do not actually use solitary confinement, in that people are devoid of input and interaction. We use seclusion, sometimes for therapeutic purposes. However, if there is a dispute with the family, that needs to be properly understood and investigated.

Chair: So you are not aware, any more than I am, about this actual case that has been all over the television and radio.

Teresa Fenech: No, not about that actual case, in terms of the detail.

Chair: Is anybody, bearing in mind that it is very topical and that you are here today?

Teresa Fenech: We have local commissioning teams involved and we have case managers who work at a local level. That individual will have an assigned case manager, who is responsible for ensuring that the placement is appropriate, that any additional needs are met and that the quality standards are being met.

Chair: Do you have any reflections on this, Jonathan? Is this something you are talking about back at the office? Everybody else seems to be talking about it.

Jonathan Marron: I do not have any reflections on this case or any details of it. I am happy to say that we will go back and confirm the local arrangements are in place as you would expect.

Fiona Bruce: The Farmer review, published just about a year ago, made around 20 recommendations on strengthening prisoners’ family lives. In fact, it was enthusiastically taken up by the Ministry of Justice. I know the Ministry of Justice has been looking at implementing all those recommendations over time. Obviously, this is particularly important in relation to children’s family relationships.

I have a question again to Mr Marron and Ms Fenech about how at present you are protecting children’s right to a family life and their relationships, perhaps doing a little more than just keeping children near their homes so family visits are easier. What is being done to help them have a meaningful relationship with their families and, if possible, even strengthen it? Then, to the Minister, how does the implementation of the Farmer review affect young people?
**Teresa Fenech:** The obvious starting point is care close to home, which is something we are striving towards. However, even if we had all the capacity in the world, some children might have to travel because of the specific expertise and care needs they have. We have additional levels of support and safeguards in place. As part of our commissioning arrangements, we require those providers, to the extent that a child wishes and has capacity to make a determination about parental involvement, to positively support that. That can mean different things. We have providers that pay for a family to travel to visit so they can be part of their care. We have standards on the ability to use IT so, if it is a significant distance and there are problems with travel, they can have that direct correspondence, conversation and involvement. There are mechanisms there. It is in the service specification to make sure the provider focuses on ensuring that relationship can continue and children do not feel cut off from their family.

**Fiona Bruce:** Is there any way in which you are monitoring this? I know that one of the recommendations was that governors would have more performance indicators so they could look at how family relationships could be strengthened. Do you ensure that there is a way of providing a certain level of communication and relationship?

**Teresa Fenech:** Yes. Most of our providers have a requirement to be signed up to what are known as the QNIC standards, which are the quality standards set by the Royal Society. There are also our quality indicators, which are formed from the service specifications. There are specific standards within the QNIC standards. As we undertake reviews of services, we will ascertain that those things are actually happening in practice.

There are a number of ways in which this would be monitored. First, it would be monitored by the case managers. As I say, every patient has an assigned case manager. One of their responsibilities is to alert if there are any issues in relation to the placement failing as a therapeutic environment. The support of the family would be one of those areas. As a second level of assurance, commissioners have routine and regular quality assurance meetings with providers. Part of that is understanding the therapeutic environment and the exposure children can have to those sorts of interactions.

**Fiona Bruce:** Very briefly, before I ask the Minister to close on this area of questioning, have you noticed any increase in the attention to this particular issue over the last year?

**Teresa Fenech:** Yes, particularly in consideration of the longer distances, for example for children who were placed in Scotland. There was a real focus on ensuring that they were delivering to those standards. The example of the provider who was paying for a family to travel to ensure they could maintain that therapeutic environment was a provider in Scotland.
Edward Argar: Mrs Bruce, you are absolutely right to highlight the importance of maintaining family ties, not only because of the benefits for the behaviour of the young person or child within custody but the key role it can play in breaking the cycle of reoffending and sustaining the relationships that give the young person a reason not to reoffend and to put their life back together.

In that context, Lord Farmer’s review was hugely important. That focused on familial relationships mainly between adult male prisoners and their families. As you will be aware, we commissioned Lord Farmer—we are very grateful to him—to undertake essentially a follow-up review focused more on the relationships of female offenders with their children. On my visits to the female estate over the summer, it was a fairly regular occurrence that he was leaving one of the establishments as I was arriving or vice versa. Our tours criss-crossed each other. Alongside this, I know others in this House, including you—I am due to meet you about it—have done a lot of work on the family manifesto, which touches on the importance of this.

There are a range of things we can do to sustain those relationships, including the facilitation of visits. With appropriate safeguards, such as limited lists of numbers, there is more scope around the use of telephony to keep those relationships going. There are some challenges in this context that arise from a positive, which is that youth prison population going down from 3,000 to 750 or 950, which is a smaller estate. That means sometimes longer distances from home. That is a challenge. Technology can help tackle that. For me, the real key to harnessing familial relationships to help break the cycle of reoffending is, unless the offence is so serious that it requires a custodial sentence, to try to move towards other opportunities, which is the Secretary of State’s direction of travel, utilising, for example, community sentences and organisations such as YOTs.

I went to visit the Hackney YOT in the summer. They do fantastic work, a large part of which is trying to build and maintain not just familial relationships but supportive peer relationships. In some particular circumstances the family may not be the best influence, but there might be others. It is about broadening it out a little. That is a slightly long way, Mrs Bruce, of saying that I entirely agree with you and that we are making good progress.

Q68 Baroness Lawrence of Clarendon: I just wanted to follow up on what you said, Minister, about technology in cases where young people are moved far from home. I am not sure how technology would help there. If their parents and family cannot visit because they are so far away, how does technology come into that?

Edward Argar: There are two bits there, Baroness. First, the shrinking of the estate is a reflection of a positive trend, which is fewer young people being sentenced to custody, but it comes with that challenge. We may
Edward Argar: We are looking at all sorts of ways to facilitate that contact, in the context of ensuring that it is secure and using approved lists of numbers rather than allowing communication in an uncontrolled way. That would not be acceptable. It has to be controlled and secure. Inevitably, as I am sure you will appreciate, we cannot make the same use of the internet as other institutions can, because we need restrictions, given the nature of the institute, to protection victims and to have control. We are exploring this. I am due to go to Rainsbrook next week. They have some quite innovative technological solutions in education, and I will look with them at where we might utilise those in a safe and controlled way to further increase the opportunities to maintain those links and use technology.

Baroness Hamwee: As technology develops, I gather—I know nothing about it—that the security is developing as well. Zoom, for instance, is quite different from Skype.

Edward Argar: I am quietly confident that, with technological advances, there will be greater scope for us, in a safe way, to harness that.

Q69 Ms Karen Buck: Very quickly, returning to the point about secure accommodation, I take your point that it is not an entirely new problem; I understand that. But how often do you get told how many children are waiting for a secure accommodation place?

Edward Argar: In which context do you mean? Are we talking about secure children’s homes in this context?

Ms Karen Buck: Yes. You make the point quite rightly that this is an interdepartmental issue, but it has implications for everybody, including the court system.

Edward Argar: The oversight I have is over YOIs and STCs directly in the custodial estate. Each of them has capacity and headroom. The estate is operating a little way below its operational capacity, so we are not short; there are places in those. The number of beds in secure children’s homes—this is justice beds, not welfare beds—if I recall, is 120 at the moment across eight different secure children’s homes. They are run and
operated by local authorities, and we purchase those bed places. They are the only bits of the system that come within my bailiwick.

**Ms Karen Buck:** If judges are raising concerns about their ability to find secure accommodation, would that not cross your desk?

**Edward Argar:** It would in the context of those, but were it a mental health placement, for example, in another context, no, it would not necessarily cross my desk. I would look at those three bits of the system, the two bits of the custodial estate and secure children’s homes. But it would depend on the nature of what the judge was wishing to sentence.

**Ms Karen Buck:** This slightly worries me.

**Edward Argar:** From a health perspective, in respect of the Mental Health Act and so on, my instinct is that it would cross the desk of my opposite number, as in Jackie Doyle-Price. I see those three bits directly and I get weekly population and capacity updates for each of those. If I am missing the detail of your point, Ms Buck, I am very happy to write back to you.

**Ms Karen Buck:** The detail of the point is this: if there is an issue about secure accommodation in different destinations but none the less going through the justice system, where judges are raising concerns about this, it worries me that there is no single person responsible for it.

**Edward Argar:** I take your point. The judiciary and sentencing sit with my colleague Lucy Frazer, health settings sit with Jackie Doyle-Price, and I have those three bits. I take your point about how we can better—

**Ms Karen Buck:** Therefore, we cannot get a proper trend analysis of the whole problem across all of the sectors.

**Edward Argar:** On that specific case, if it is helpful—I may be limited in what I can say—if I can get a bit more detail on that via the Committee Clerk, I am happy that I or the appropriate Minister will write to you, responding to that.

**Ms Karen Buck:** It is on BAILII, but I will make sure that you do.

**Edward Argar:** It may be an individual case, but it may well shine a light on something else, so I am happy to look at it.

**Q70** **Ms Karen Buck:** It is telling us something quite important about a wider problem. In a way, it segues into the other questions that I want to ask. Starting, if I may, with Peter Gormley, we discussed earlier the nature of the population in the estate and the fact that total numbers have come down. But, almost by definition, the young people who are still detained will be those serving the longest sentences for the most violent crimes and probably with the most challenging behaviour. But I am still not sure why that explains the rising trend of restraint and isolation. Those young people were in the estate anyway, or their equivalents were. Can you help us explain why, if the overall population has fallen but the core of challenging young people remains within it, that has led to
an increase in the incidence of segregation and restraint?

**Peter Gormley:** Yes, certainly. We operate in a very complex environment, and a number of factors come into play here. Clearly, it is really good news that the population has reduced so drastically over the last 10 or so years. It is often referred to as a condensing to what we now have. You will have heard on a number of occasions that the children we look after are more vulnerable or appear to be more vulnerable, more volatile and have multiple complex needs. One of the differences is that they were among other children before; they are now all together. Therefore, if there are a lot of people who have a propensity for violence and they are in for violent crimes, violence is what they are used to and violence is what they use. When violence is used, it is almost a chain reaction.

**Ms Karen Buck:** I do not want to put words into your mouth, but are you implying that there was a diluting effect, in a sense, by having those more challenging young people mixing with less challenging young people.

**Peter Gormley:** I believe that is one factor. Another factor, as the Minister has referred to, is that clearly we have had to decommission spaces. Because of that, we decommissioned actual sites. Now there are fewer sites to hold children in, whereas before, if there were particular gang issues in the community or if they had come into violence, we could perhaps put them in separate locations, which would keep them safe. We are less able to do that now with fewer and smaller sites. That is certainly one issue.

There is also a recording issue. Again, I would not just blame this on data. The Minister referred to how we used to run what we call control and restraint, which is an adult use-of-force restraint method. To be classed as a use-of-force incident, three members of staff had to be restraining one child. That was the definition of that. We have moved away from that. We now have a specific use-of-force policy for children, which is minimising and managing physical restraint, MMPR.

**Chair:** When did the change in numbers happen?

**Peter Gormley:** It rolled out in 2015, and it was a rolling programme.

**Chair:** The trend has happened since then. The change in categorisation is not affecting what we have heard about.

**Peter Gormley:** No, it started to roll out in 2015 and the complete rollout finished at the end of 2016. But how we record it now makes a difference. If a single member of staff lays hands on someone in what we would call a guiding hold and ushers them away perhaps from an incident, that is classed as a use-of-force incident and we record that.

**Chair:** But the increase in numbers has happened since the change in recording, so the change in recording cannot be the reason for the increase in numbers.

**Peter Gormley:** I am sorry, no.
Chair: It is interesting and reassuring to know that, but it does not account for the increase in the use of restraint.

Ms Karen Buck: No, it is an important point. Are you able to confirm that?

Peter Gormley: I would have to check the data.

Ms Karen Buck: Our figures imply that the trend rose significantly after the end of the year in which you are saying those changes came in.

Peter Gormley: Yes.

Ms Karen Buck: It is helpful that you have set it out in the way that you have, but do you monitor information from issues such as not being able to separate out gang members? Is there data that says that gang affiliation is a factor in these cases?

Peter Gormley: There is not so much data, but we will be aware, through intelligence from the police or via self-declaration, if children are members of gangs or if they have a particular issue with a gang member. When we induct people in reception, we do not sit them down and say, “What gang are you affiliated to, if any?”, because that just creates an issue that we do not want. There is intelligence on gang affiliations and gangs, but it is not just gangs. There are lots of different issues. The postcode effect that we see in the community is often repeated in establishments.

Ms Karen Buck: It has been said that segregation is not used as punishment but because of safety. Would it be fair to say that what you are describing to us is a concentration of the estate that increases the risk that people will need to be removed for their safety?

Peter Gormley: Yes.

Ms Karen Buck: That would be right.

Peter Gormley: That is correct.

Ms Karen Buck: When people are put into segregation for their safety, how is that judgment made and how quickly is it reviewed? As a layperson, it would seem that if there is an immediate conflict, taking someone out for a few hours, for example, should be enough. In that case, we would need to understand why that segregation would last for longer than that.

Peter Gormley: If there is a volatile situation, a decision has to be made. A dynamic risk assessment has to be made there and then, quite often by the manager who attends the scene. Now, through the new MMPR syllabus, if there is an incident and restraint is used or assistance is called, a co-ordinator at management level who is specially trained in MMPR will attend the scene and try to manage the situation. The preference is to return that child back to their own room and, as you rightly say, give them a period of time to cool down, but sometimes that is not possible due to the nature of it. The decision will be made initially by the manager on the scene or by seeking advice from a duty governor,
for example. That person will either be placed back in their own room under rule 49 or in single separation under rule 36, or they will be placed into what we call a care and separation unit, which is referred to as a segregation unit.

Once they are in that segregation unit or if they are in their room under rule 49, they must be seen within two hours by a medical professional, a trained nurse, to sign up a safety algorithm to make sure that they are physically and mentally fit to be on removal from association. They will also need to be seen by the duty manager, the senior operational manager on duty at that time, to ensure that the decision-making is appropriate and that it is in the interests of the child’s wellbeing and safety that the segregation is continued. That can go on for 72 hours.

Before that, there will be what we call a rule 49 review in YOIs. That is a multidisciplinary review. If a decision is made to continue to remove that child from association because the risk has not diminished or for other reasons, a multidisciplinary meeting and review will be held, which includes the child and a child advocate, if the child wants an advocate. At Werrington, where I governed, Bernardo’s would sit with the child and speak for them or advise them. But the IMB, the independent monitoring board, would also be there to challenge the governor. There would also be a medical person there and certain other people, depending on the nature of that incident. There would be a case worker, like the legal YOT, and there would be psychological input on the child. If they are already working with the child, they will have an input into that review and have a discussion about target-setting to get that child back and reintegrated as soon as possible.

If the child is to be removed from association for more than seven days, there will be a psychological process called the short-term analysis of risk and need—STARN—during which a senior psychologist will write a report that includes targets for the child to achieve and the staff to achieve for that child to get them reintegrated into the normal regime as soon as possible.

Ms Karen Buck: That was very helpfully set out, but it seems to me that anything that has been gained on reducing the estate’s wings has been heavily lost on the extra staff roundabout by having, rightly, to go through such a comprehensive process of assessment so regularly.

Edward Argar: Can I briefly respond with a little more of a snapshot around this? You were talking about the length of time and how long that would be. Obviously, the STCs are different to the YOIs, in the nature of who is in them. But I got a snapshot of this from 12 October, which is the most recent data I have on it. There are three STCs, two of which had at that point no young people separated under rule 36; one had three, at that time. On the amount of time the separations were for, two were 80 minutes, one was 242 minutes. I will not go into too many details, but that was following quite a serious assault on an officer.
In the two where there were none, they gave me their most recent lengths of time. One was a separation for 12 minutes; the others were 20 minutes and 35 minutes. I hasten to add that it is a snapshot. That was the latest data I had at a particular time.

**Ms Karen Buck:** Yes, because the data clearly implies an upward trend.

**Edward Argar:** That is data that they did not know I was going to request on that particular day. I just asked for it, conscious that I was coming here. That is a random snapshot. I would suggest that that is probably more typical than some of the other examples. That is for the STCs.

YOIs are a little more complex when it comes to the nature of who goes there. Again, on that date when I got that data, there were a total of 39 young people on some form of removal from association or separation under rule 49, but around two-thirds of those were for less than 14 days.

**Ms Karen Buck:** Let us hope that turns into a trend, but a snapshot is not terribly helpful, in a way, because what is going to matter is whether the fairly significant increase in both segregation and restraint over years goes into reverse.

**Edward Argar:** You are right, but I flag it up also because I was conscious that I wanted to put a little more context perhaps around what the media and others have understandably picked up on, which are not unique but very particular examples in the Children’s Commissioner’s report, of 100 days and so on. These are very atypical. That is the only reason why I say it.

Q71  **Ms Karen Buck:** Can I very quickly ask Ms Fenech a broadly similar question—I will not give a long preamble—about the learning disabilities and the mental health of young people? I have two questions. First, the trend appears to be upwards. Perhaps you could help us to understand why. Secondly, the data is broken down into over and under-20s, but does not separate out children and 18 to 20 year-olds. Is that done? If it is not done, can it be done?

**Teresa Fenech:** On the second of your questions first, yes, it is done and it will be done increasingly. I say that, because since the publication of *Positive and Proactive Care* from the department in 2014, there has been an increasing focus on the use of restrictive interventions and getting the information right. The CQC reviewed this two years about and concluded that there was too much variation in the interpretation of current guidance. Providers were making their own policies for what they would record and report. We still have a lag and a difference in interpretation. We have been running a focus on reducing restrictive interventions. The priority for me is to understand the commissioning levers that we can bring into play and, working with the other arm’s-length bodies such as
Health Education England and the CQC, the levels that we can collectively bring into play to reduce restrictive interventions. We have an expert reference group with very broad membership, which is guiding that work. One of the starting points for them, and one of the most significant things, was in relation to getting the definitions for data recording and reporting correct. We have worked over the last six months to create a new method for data collection through the Mental Health Services Data Set from April next year.

All this discussion and focus means that there has been an increasing focus on getting recording and reporting right. We believe there is an element of increased reporting, because we are making sure that people report. I think that trend will continue. We also have a quality improvement arm to focus efforts with providers and support them to reduce restrictive interventions. There will be a bit of trade-off, but we still expect the overall numbers to increase for a period of time, because we will be getting the data right and we will understand it better.

Jonathan Marron: Mental health data has traditionally not been the health service’s strength. We have made great strides in the last few years to get the Mental Health Services Data Set, which we are collecting on a consistent basis. As you know, we only included the children’s and young people’s services in 2016-17; we have one year’s annual data published. The next publication will be November, when we will get 2017-18. It will be really interesting to see what that shows us.

Teresa is right: as we introduce new collections, there is a time period when people get used to being part of that collection and the numbers go up just from capturing things that our collection was not capturing previously. That is important. That will probably still go on, certainly in the 2017-18 data. Then the challenge is about how we work with the 54 units around the country to reduce the use of restrictive practice. There is significant work there.

Are we all recording this in the same way? There is the training and accreditation work that Teresa is leading. NHS Improvement is doing work with 45 units to look at whether they can get to an understanding of how to use de-escalation and significantly reduce this. Their aim is to reduce it by 20% in all the units they work with. It is really important for us to get behind this.

To circle back on the numbers, these come from the Mental Health Services Data Set. They are experimental statistics. These will be published knowing that they are not absolutely accurate, because we think transparency gets us better engagement from people in the field and it improves them quicker. In 2016-17, seclusion was used on 357 different individuals in our under-20s. Segregation, so a longer period, was used on only 12. In the mental health estate, we really are trying to focus on de-escalation and seclusion for short periods of time to contain and reducing the amount of time we are using restraint. But segregation, a long-term separation, is used much less.
Q72 **Lord Woolf:** We have heard evidence from young people that they have no confidence whatever in their ability to complain or appeal. Are you surprised that we should hear evidence to that effect?

**Edward Argar:** Thank you for the question, my Lord. If I can start, Pete may want to follow up on some of the practical applications. I believe we have robust and independent systems in place for young people and others to lodge complaints, seek redress and challenge. The independent monitoring board can become involved. There is an independent advocate in each of these institutions, who is there to speak for them and does so, whom they can approach to put their case where they wish to complain. They can complain through the internal processes via the governor. Of course, ultimately they can appeal to the Prisons and Probation Ombudsman if they feel the process has not been properly followed. There are safeguards at each stage and they are made aware of their opportunity to complain.

There is a broader challenge here. The system is in place, and it is a good and effective system. The challenge—you are absolutely right to highlight this—is perhaps less about faith and more about trust. Given the nature of some of the young people who are sentenced to custody, there is often a fairly high probability that they will have limited faith in the system or any system by virtue of their experiences going through it. Two things can help address that. One is the independent advocate, who will visit them in the first week of their being in custody or sentenced to that institution. The second is the relationships that are built, not just with staff but with a broader range of professionals, not necessarily those focused on discipline but organisations within the establishment, such as—I met some of them—the chaplaincy, who can often build very strong relationships with those young people, as a route to acting as their advocate.

But you are right: given the nature of the young people and their backgrounds, it will, for some of them, be something of a leap of faith and they may decide not to do it. I believe the processes are effective, and we are doing what we can to give them third parties they can trust to help support them through that process. But, yes, you are right: we must not lose sight of the fact that some may not have faith in the process.

**Lord Woolf:** I wonder whether Mr Gormley will give me the benefit of his very great experience.

**Peter Gormley:** Yes, certainly. It is true that young people often state that they have no trust or confidence in the complaints procedure. It is probably important to note, as the Minister has alluded to, that the formal complaints procedure is one of many ways that a child can raise a concern, some of which the Minister has just described. But my experience of the complaints procedure is that it is well used. I know I have certainly had to respond to a number of complaints. They are twofold, as you are aware. There are the formal complaints that a child
may make in writing or get an advocate to write for him or her, but if it is a confidential matter they can put a sealed envelope in a sealed box and it can come directly to the governor. The governor will open that and deal with it if it is a confidential matter. Often it is not a confidential matter, but there is that process in place to address the confidentiality of a child’s concerns.

Through reform, we are looking to improve what you may know traditionally as the personal officer scheme. We are rolling out CuSP, the custody support plan, in which an individual officer would have a dedicated young person to look after. You would hope that relationship would build up the trust that the young person wants and give them the confidence to talk to that member of staff and raise any issues prior to going to a formal complaint, but of course the formal complaints procedure is still there.

Chair: Can I just butt in on the point you made about the sealed envelope in a box? Is there any provision for anonymous complaints? I appreciate that anonymous complaints cannot be investigated in the same way, but this is one of the concerns: “It will make things worse for me. If I protest, I will be identified even more as a troublemaker”. That restricts our ability to see into the sense of whether young people feel there is real unfairness in the system or worse. Is there an anonymous whistleblowing process where people do not call for an investigation but they want the system to be told that something, in their view, has gone badly wrong?

Peter Gormley: Essentially, it is the same process. Children do not have to put their name to that. They can do it anonymously. They do not have to hand it to a member of staff. There are sealed boxes on the units where they can just go and put them in whenever they are out and about. They do not have to request formally to put it in; the complaints forms are readily available. They can take them back to their rooms, write them and put them in anonymously if they want to. They frequently do, actually. Senior management teams, as part of their management information, will often have a performance meeting, of which complaints figure as a very big part. We all observe trends and themes, discuss them and put action in place if there is something there. For example, if there is a particular issue on a particular unit, we will address that.

In order to give the child a voice, we take that to a young person’s committee, which has selected representatives from various units within each establishment. We will discuss those trends and issues, and give them another forum either to report back on what they think or ask what we think we should be doing with them. That is often a very useful forum.

Chair: I am sorry, Harry. I cut in.

Lord Woolf: No, that has been really helpful. Are satisfactory statistics kept so you can see and monitor what is happening? In
one way, of course, if you had no complaints you might say that is very positive, but that would be in fact extraordinarily worrying, especially if there was nothing said about the food.

**Peter Gormley:** My experience is that the complaints are used frequently. There are a number of complaints. Whether the children trust the system or whether they like the answers they get is a different issue, but they are collated. They are collated for a number of reasons. First, the response is time-bound. We monitor the timeliness of the response, and we monitor its appropriateness, particularly as we are dealing with children. We collate that information to make sure that what children are telling us is, we think, procedurally just, so we try to portray that to the child in our response.

**Lord Woolf:** I was interested to hear mention by the Minister of personal officers. Perhaps it was you, Mr Gormley. I do not know if you said that based on my background. But is it not a fact that the best situation you can get is where the inmate, if I can use the general term, has confidence in an officer?

**Edward Argar:** Yes, that is absolutely right. The ideal is a trusting and respectful relationship between someone who is detained and an officer or officers more broadly, but it is also important that alongside that there are other relationships, which may not have the same complications for some young people, because they are with people who are not officers responsible for discipline, such as the chaplaincy. Those relationships can also be extremely helpful as a route for seeking redress and making complaints, but also, in some cases, those individuals can be very helpful, going back to what we were saying earlier about segregation and restraint, in de-escalating a situation before it comes to that stage.

**Lord Woolf:** With regard to that relationship, the number of inmates has been going down. Does that mean there is more movement of the inmates who remain so as to use the accommodation to best effect?

**Edward Argar:** Do you mean in the context of the overall estate?

**Lord Woolf:** Yes.

**Edward Argar:** We believe that at the moment we have the estate at roughly the right size and configuration, notwithstanding—this is a key part of the future planning—our proposals to repurpose Medway as a secure school as part of a pilot. As the number of those sentenced to custody has gone down, we have shrunk the estate. But, as has been alluded to a number of times, we have had increases in the number of officers, alongside other staff.

**Lord Woolf:** These are officers of less experience.

**Edward Argar:** It is a mixture, but you are absolutely right. At Werrington, I think it was, I met officers who were very young. Maybe this is a sign of me getting old. But, from talking to the governor, who is a very experienced governor, they are some of his best officers and they
have built very strong relationships. They are very good at judging situations. It is not a perfect correlation, but you are right, of course: experience matters, and the ability to call upon more senior and more experienced officers to learn from them is important.

**Chair:** We are going to have a vote at 4.45 pm. You have already given us an hour and a half of your time. It might be a good idea for me to take Chair’s action once the vote is called to thank you and let you go, but we have two further substantive issues we would like to follow up in writing, if that is acceptable, for you to reply on. I do not want you to have to wait while we vote and then come back for a small section. Is that agreeable to the Committee? Okay.

**Lord Woolf:** With regard to what has been said so far, Teresa—forgive me for using your first name—is there any comment you would make differentiating the situation with the hospital position?

**Teresa Fenech:** The same safeguards are in place. I would particularly reference the case manager role, which is independent of the placement. A patient who may not feel confident in making a complaint to the actual staff who are caring for them may feel confident in talking that through with the case manager. The other element I would raise is, as you mentioned, monitoring the number of complaints and of upheld complaints. We do that routinely. We get quarterly data from providers on their complaint numbers and the numbers they have upheld. Low reporting is as important a trigger as high numbers. Again, that is a feature of the routine and regular quality assurance meetings the local commissioners will have with the providers, so they can look at the nature of the complaints, which is not something we can do on routine reporting.

**Lord Woolf:** As for the matter we are discussing at the moment, am I right in taking your evidence as being that you do not see it as an area where particular action is needed at the present time?

**Teresa Fenech:** No, I am not sure we are necessarily making that assumption. We recognise that there needs to be a focus on reducing the use of restrictive interventions. We have two issues. We have the programme to support organisations to develop the culture whereby restrictive interventions are only used in an appropriate therapeutic manner and a last resort.

**Lord Woolf:** It is proportionate.

**Teresa Fenech:** Absolutely, yes. In response to your question, where patients feel they have been subject to an unnecessary use of restrictive intervention, one of the cultural changes we want to see is that patients are involved in a debrief as part of the review into any episode of use of force, for example, and that the patient’s views are captured as part of that reporting.

**Chair:** You are hearing the bells going on behind you. Can I very genuinely and warmly thank you for your evidence, which has been
enormously helpful to us? Thank you very much indeed. We will come back as a Committee, but you do not need to at this point. Thank you.

Edward Argar: I look forward to appearing before you again in the future.

Chair: Yes, you will be again shortly.