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Justice Committee

Prisons: planning and policies

Ninth Report of Session 2014–15

Report, together with formal minutes

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The Justice Committee

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Summary

This is our first major inquiry on prisons planning and policies in this Parliament, and it has provided an opportunity to consider the impact of the Government's programme of reforms and efficiency savings across the prison estate. In particular we have examined two measures that have been employed by the Ministry of Justice to reduce the operational costs of the system: benchmarking; and structural reforms replacing inefficient prisons with new prisons and extra house blocks in existing prisons, the "new programme.

These policies have been implemented alongside the creation of working prisons and resettlement prisons, designed to improve the effectiveness of the prison estate in increasing employability and reducing re-offending, as well as the tightening of operational policies on earned privileges and temporary release in order to improve their public credibility. They have also come at a time when the total prison population has returned to very high levels. We express concern that despite the Government's efforts to supply sufficient prison places to meet demand, the proportion of prisons that are overcrowded is growing, and the proportion of prisoners held in crowded conditions remains at almost a quarter, with consequent effects on the ability to maintain constructive regimes. We welcome the reduction which has taken place in the cost of a prison place, although we note that it remains high, and is unlikely to fall significantly while the pressures on estate capacity remain at current levels.

We say that the new-for-old programme is a good one in principle, providing opportunity to improve the physical infrastructure of the estate, remove structural inefficiencies, and employ new technologies. But we point out that the policy of replacing older establishments with newer ones is being implemented in a way which results in the creation of large, multi-purpose prisons, while questions arising from available evidence on the relationship between the size and effectiveness of institutions do not appear to have been addressed by the Government, and we argue that reconfiguration of the estate provides an opportunity to build smaller, more specialised, establishments, for young offenders and female offenders, in line with recommendations we have made in previous reports.

The benchmarking process seeks to ensure that public prisons are run in the most efficient way possible, while maintaining safety, decency, security and order. The rationale of benchmarking as a means of reducing public expenditure was widely supported, and we conclude that it is in principle an effective way of reducing expenditure more rapidly than would be possible through prison-by-prison competition.

Evidence from HM Inspectorate of Prisons, the Government's own performance data, Independent Monitoring Boards, and the Prisons and Probation Ombudsman all indicate a deterioration in standards of safety and performance across the prison estate over the last two years, with fewer opportunities for prisoners to undertake purposeful work or educational activities. The decrease in safety is particularly troubling, with an increase in assaults and self-inflicted deaths. We considered it improbable that there is no link between estate reconfiguration, benchmarking, and changes in operational policy, including the

Incentives and Earned Privileges scheme, and the shift in safety across the prison estate. In particular, we conclude that the fall in staffing levels stemming from redundancies and increased turnover, which at their most acute have resulted in severely restricted regimes, are bound to have reduced the consistency of relationships between officers and prisoners, and in turn affected safety.

In previous Reports we have commended the Government's creation of a nationwide network of resettlement prisons. It should not, however, confuse the priorities of multiple purpose establishments, and dilute the priority accorded to resettlement needs elsewhere in the estate. Prison industries are becoming more common but it remains the case that most prisons do not have the facilities for workshops on a scale that would enable the majority of prisoners to do work which will equip them for employment on release. If support for offenders in moving from custody into the community is to work to best effect, staffing shortages and clearing the backlog of risk assessments must be resolved urgently. Both issues are likely to hamper considerably the efforts of the new providers of Community Rehabilitation Companies as they seek to implement their through -the-gate

Prison governors in public sector prisons and some private sector prisons are no longer responsible for the sum total of everything that happens within their prison walls. There is a risk that the proliferation of partner organisations providing services to prisons could distract prison management teams from their core role. They are also constrained in their operational decisions when decisions are taken from the centre on such matters as the Incentives and Earned Privileges scheme, the 'lights out' policy and release on temporary licence. This potential effect is all the more important when resources are such that reduced staffing levels are impinging on the safety of prisoners and staff for which Governors have ultimate responsibility. We also note that prisoners themselves have an important role to play in creating effective regimes, including through prison councils.

The success of the Government's policy also depends crucially on the ability of NOMS to predict demand for places with sufficient accuracy, and to provide places accordingly. The aim of the new-for-old programme is for old and inefficient facilities to be closed as modern cheaper establishments open, yet the latest projections indicate that the prison population is predicted to continue to grow. There is a risk that as the building of new prisons inevitably takes place several years in advance of those places becoming available, by the time they are in operation it will not be possible to yield savings from further prison closures as there are insufficient places to meet demand. We conclude that the size of the prison budget, the fact that it completely dominates expenditure on crime, the importance of reducing crime, and other problems identified in this report all indicate that we need to re-evaluate how we use custody and alternatives to custody in a cost-effective way which best promotes the safety of the public and reduces future crime.

1 Introduction

1. On 20 November 2013 we announced an inquiry into planning and policies of the prison estate. This is our first major inquiry on prisons planning and policies in this Parliament, and provides an opportunity to consider the impact of the Government's programme of reforms and efficiency savings across the prison estate. This inquiry is set within the context of the historically high prison population in the prison estate of England and Wales: on 21 November 2014 the prison population reached 85,925.¹ The prison system in England and Wales has one of the highest incarceration levels in Europe, standing at 149 per 100,000 people.²

2. During the course of this inquiry we visited HMPs Featherstone, Oakwood, Belmarsh and Thameside to allow us to make comparative observations of the prison estate, across the public and private sector. From 3 to 5 November 2014 we visited prisons in Denmark and Germany to allow us to examine so-called "working prisons" and other innovations being introduced in comparable European nations.

3. We received a total of 65 written submissions and held seven oral evidence sessions with a variety of witnesses, listed at the end of this report. One of those evidence sessions was held at HMP Belmarsh as part of our visit there on 18 November 2014. We are grateful to all those who took the time to contribute to this inquiry.

The previous work of the Committee

4. Earlier in this Parliament we conducted several inquiries in which we considered elements of prison policy. In our *Interim report on the Government's Transforming Rehabilitation Programme*³ we made some early observations about the establishment of resettlement prisons, which we will consider in this Report in greater detail. We have also reported on the suitability of the prison estate for particular groups as part of our inquiries into Older Prisoners,⁴ Women Offenders⁵ and Youth Justice⁶. Our predecessor Committee's inquiry on the role of the Prison Officer⁷ in 2009 was also relevant, and it was referred to by some of our witnesses.

1 Ministry of Justice Statistics Bulletin, [Population in Custody Tables England and Wales, 21 November 2014](#).

2 [International Centre for Prison Studies Prison Brief](#), updated November 2014.

3 Twelfth Report from the Justice Committee of Session 2013–14, [Crime reduction policies: a co-ordinated approach? Interim report on the Government's Transforming Rehabilitation programme](#) HC 1004

4 Fifth Report from the Justice Committee of Session 2013–14, [Older Prisoners](#) HC 89

5 Second Report from the Justice Committee of Session 2013–14, [Women offenders: after the Corston Report](#) HC 92

6 Seventh Report from the Justice Committee of Session 2012–13, [Youth Justice](#), HC 339

7 Twelfth Report from the Justice Committee of Session 2008–09, [Role of the Prison Officer](#) HC 361

Terms of reference

5. Our terms of reference focused on these five specific areas:

- The Government’s approach to achieving efficiencies across the prison estate, including the public sector benchmarking programme and the use of competition;
- The impact of lower operational costs on prison regimes, access to education, training and other purposeful activity, the physical environment, safety and security;
- The costs and benefits of the new-for-old prison capacity programme and the Government’s intent to reduce overcrowding;
- The ongoing re-configuration of the prison estate, including the extent to which prisons are suitably located and accessible to visitors, and the implications of the Transforming Rehabilitation programme;
- The nature of support that public sector prisons require from the National Offender Management Service (NOMS) and its capacity to deliver it; and the extent to which the Government’s aspiration for “working prisons” has been achieved.

Overview of the Government’s prisons policies

6. The Government’s vision for future delivery of offender management in custody has three elements:

- i) There will remain a strong, viable public sector provision
- ii) The public sector will be smaller and will work alongside a more diverse provision of services by private, voluntary and third sector partners to drive innovation and transform rehabilitative outcomes (including “through-the-gate” provision); and
- iii) Unit costs will be reduced by implementing the most efficient operating models making effective use of the market and using “payment by results”, where appropriate, to incentivise a focus on outcomes.⁸

In relation to the final element, two measures have been employed to reduce the operational costs of the system: benchmarking; and replacing inefficient prisons with new prisons and extra house blocks in existing prisons, the “new-for-old” capacity programme.

7. In a Written Ministerial Statement on Prison Competition and Efficiency made on 8 November 2012,⁹ the Government announced its strategy for achieving efficiencies across the prison estate. This set out an intention to accelerate cost reduction to maximise savings, specifically through the public sector benchmarking programme and the use of competition. A separate benchmark is designated for each type of prison and for each prisoner type. During Phase 1 of the project, the public sector benchmark was applied in

8 [PPP33](#) [National Offender Management Service]

9 HC Deb 8 November 2012 [Col 45WS](#)

full to 50 prisons from October 2013. Phase 2, from March 2014 to April 2015, involves applying and then implementing benchmarks in 51 prisons including the high security estate, women's prisons, open prisons and prisons holding young adults. As well as the competition to run Community Rehabilitation Companies (CRCs), the successful bidders for which were announced on 5 December 2014, the Ministry has invited tenders for prison works and facilities management services currently costing approximately £110 million per annum.

8. The Transforming Rehabilitation programme, a package of reforms to probation and rehabilitative services, also involves reconfiguring the prison estate to support the establishment of a nationwide 'through-the-[prison]-gate' resettlement service, to give most offenders continuity of support from custody into the community. A network of resettlement prisons will seek to ensure that offenders are prepared for release by the same provider, or Community Rehabilitation Company, that will support them in the community. On 15 August 2014, the Government published a revised list of resettlement prisons, which comprises resettlement establishments for the adult male, women's and young adult estates.¹⁰

9. Prior to this the Ministry of Justice had made a commitment to create 'working prisons'. This would involve transforming prisons into industrious places and provide prisoners with productive work. This includes: education and training focused on equipping offenders to work; getting prisoners working up to 40 hours a week; focusing the daily routine around work; preventing prisoners being idle and ensuring prison work is sustainable and self-financing.¹¹

Savings in the estate

10. In its *Managing the Prison Estate* report¹² published in December 2013, the National Audit Office (NAO) noted that the main factor behind NOMS' estate strategy was the 2010 Spending Review requirement to find recurring savings from its budget of £894 million (24%) by the end of 2014–15.

Operational policies

11. The Government has reviewed and revised two operational schemes in the last two years. The Incentives and Earned Privileges (IEP) scheme encourages prisoners to move through the privilege levels in order to foster desired behaviours that are vital for rehabilitation and effective sentence planning. In April 2013, the Ministry of Justice completed a full review of this policy for adults, and then made changes to it which came into effect from 1 November 2013. Release on Temporary Licence (ROTL) is designed to allow the rehabilitation and reintegration of prisoners during the later stages of a prison sentence through their participation in rehabilitative activities in the community. Following some high-profile and widely-reported incidents which occurred while

10 Ministry of Justice, [List of Resettlement Prisons](#), 15 August 2014

11 National Offenders Management Service, [Working Prisons](#), 17 December 2012

12 Report by the Comptroller and Auditor General, [Managing the prison estate](#), Ministry of Justice and the National Offender Management Service, HC 735 of Session 2013–14, December 2013

prisoners were on temporary release, the Secretary of State for Justice made a Written Statement in March 2014, announcing some changes to tighten the scheme.¹³

Prison population projections

12. The Ministry of Justice publishes annually a bulletin which gives projections of the prison population in England and Wales. The latest bulletin, published on 27 November 2014,¹⁴ makes projections for the period from November 2014 to December 2020. The projections are based on assumptions about future custodial convictions and incorporate the anticipated impacts of agreed policy and procedural initiatives. They also use a model of flows of offenders into and out of prison which counts the resulting prison population each month. The projections include three scenarios. The “central scenario”—the Ministry’s best estimate—predicts that the prison population will increase from the current population of 85,925 to 87,700 by June 2015. By the end of June 2020 the prison population is projected to be 90,200. The other two scenarios indicate that the population could fall to 81,400 or rise to 98,900 by the end of June 2020.

13 HC Deb 10 March 2014 [Col 4-5WS](#)

14 Ministry of Justice, [Prison population projections 2014-2020 England and Wales](#), 27 November 2014

2 Modernising the prison estate

13. Shortly after he took office as Secretary of State for Justice in 2012, Rt Hon Chris Grayling MP outlined to us his desire to develop a penal system that was cheaper, not smaller. Pointing to the huge variation in cost of keeping people in different prisons, he said he wished quickly to bring down the costs of the prison estate in two ways: a new-for-old programme and the development of lower cost regimes.¹⁵ In this chapter we consider the first element of his cost reduction policy.

The costs and benefits of the new-for-old policy

Replacing old, structurally inefficient prisons

14. The prison estate consists of a hotchpotch of establishments to cater for a range of types of prisoner, including under 18s, young adults, females and males, requiring different levels of security related to their risk. The extent to which prisons are suitable for modern purposes also varies widely. For example, HMP Dartmoor is a 200 year old listed building, whereas HMP Oakwood opened in 2013. The aim of the new-for-old programme is for old and inefficient facilities to be closed whilst maintaining sufficient places to meet demand. Under the programme 16 prisons have been closed, two have opened, and four have been extended.¹⁶ The NAO calculated that both new houseblocks and new build prisons deliver lower running costs than existing establishments, and noted that the latter now have much longer lifespans than they did ten years ago.¹⁷

15. The new-for-old policy provides the opportunity to improve the physical infrastructure of the estate, remove structural inefficiencies, and employ new technologies. The benefits of modern prison design include reduced costs on heating, lighting, maintenance, safety, and security. Savings also result from the need for fewer staff: for every prison custody officer¹⁸ saved through better design, an estimated £750,000 is saved over the lifetime of a 25 year contract.¹⁹ Serco noted that in newer prisons, which include in-cell showers, self-service and learning facilities, efficiencies can be realised when prisoners are in their cells. For example, ordering meals, arranging visits, and making healthcare appointments can be done electronically. Intelligent design of newly commissioned prison buildings can help minimise the potential for negative impacts of necessary savings.²⁰ Mr Andrew Selous MP, Minister for Prisons, Probation and Rehabilitation, acknowledged there was a higher degree of capital investment in the private sector than was possible in the public sector.²¹

15 Q 11; Justice Committee, [The work of the Secretary of State](#), Session 2012–2013, HC 741–i. He said Oakwood, the newest prison, costs about £14,000 per year per place; some of the older prisons are nearer £40,000.

16 Report by the Comptroller and Auditor General, [Managing the Prison Estate](#), HC 735, Session 2013–14, 12 December 2013. According to the NAO, since the 2010 Spending Review, NOMS closed 16 prisons in three tranches, subsequently receiving savings of some £104 million annually. In September 2013, it announced a further four closures, at HMPs Blundeston, Dorchester, Northallerton and Reading, and the reclassification of HMP The Verne as an immigration removal centre; it also proposed closing HMP Dartmoor. In 2012, two new prisons were opened: HMP Thameside, in London, and HMP Oakwood, near Wolverhampton.

17 *Ibid.*

18 Private sector prison staff.

19 [PPP45](#) [G4S]

20 [PPP15](#) [Serco]

The use of in-cell technology was being trialled in the public sector, but the level of capital investment required to implement it across the estate was unlikely to be found at present.²²

16. The Government anticipates a gross cost reduction of nearly £125 million from prison closures between 2013/14 and 2015/16.²³ Closing prisons is itself challenging. For example, when we visited HMP Dartmoor during our inquiry into older prisoners it was clear to us that the facilities were unsuitable for current purposes, and modernisation was not feasible, not least because it is a listed building. The Government has now announced that it has commenced negotiations with the Duchy of Cornwall, which owns the prison, about its closure. However, given that there is a notice period of 10 years it is likely to continue to operate for some years to come. We are concerned that this should be the case and we are concerned that during that time investment to improve conditions is unlikely. Savings have also been generated through the merger of prisons, for example, HMYOI Castington and HMP Acklington merged to become HMP Northumberland.

17. Re-configuring the estate also potentially provides the opportunity to ensure that the location of prison places corresponds with the areas that prisoners come from. In relation to this, Kevin Lockyer, a former regional manager for NOMS, observed that “broadly speaking, prisons are not in the right places”.²⁴ This affects both the costs of running the estate, and efforts to rehabilitate prisoners, with many prisons being in rural areas, for example. He explained:

That sort of dislocation of people does not help resettlement in the community or to reduce reoffending. It leads to massive structural costs in shipping people around the system and is not how you would design it. What works well is that some prisons are fantastically well run, with engaged staff doing their best in difficult circumstances. The human element of a lot of what the Prison Service does is really good, but hampered by the structural problems inherent in an estate that has grown like Topsy over the last 150 years.²⁵

This can undermine another objective of ensuring that prisoners are held close to home to optimise the maintenance of family links, which can be valuable in supporting resettlement.²⁶

New prison building

18. There are long-standing challenges inherent in improving the prison estate by building new prisons. Phil Wheatley CB, former Director General of NOMS, explained that

21 [Q 383](#)

22 [Q 391](#) [Mr Spurr]

23 [PPP33](#) [Ministry of Justice]

24 [Q 67](#)

25 *Ibid.*

26 [PPP05](#) [Mission And Public Affairs Council, Church of England]; [PPP13](#) [Prison Officers Association]; [PPP14](#) [Children’s Rights Alliance For England]; [PPP15](#) [Serco]; [PPP17](#) [British Psychological Society]

decisions about where and when to build new prisons were constrained by several factors, including the imprecise nature of forecasting, the time taken to build new places, securing the necessary finance from the Treasury, and getting planning permission. The Prison Officers' Association characterised NOMS' approach as building where it was cheapest and moving the prisoners accordingly. The new prison that is being built at Wrexham to provide 2,100 places was cited as an example of this. The Ministry estimates that this prison will cost around £250m to construct and have a lifespan of a minimum of 60 years. Our colleagues on the Welsh Affairs Committee have conducted an inquiry which includes more detailed consideration of this issue.

19. Another challenge is that planning for the building of new prisons inevitably takes place several years in advance of those places becoming available. The Ministry's forecasts rely on its prison population projections.²⁷ Of the three scenarios which are regularly produced—resulting in upper, lower and median projections—NOMS bases its planning for prison places on the central forecast.²⁸ The latest projections indicate that capacity is going to continue to be an issue for the foreseeable future. By the end of June 2020 the prison population is projected to be 90,200, but could be as low as 81,400 or as high as 98,900.²⁹ With existing useable capacity at 88,000, and a further 2,160 places (in new houseblocks and re-roled former young offender institutions and women's prisons, all due to be opened by spring 2015), followed by Wrexham's 2,100 places in 2017, there would be sufficient capacity to accommodate the middle range predicted population.³⁰ On the other hand, the savings to the public purse from Wrexham, estimated at £17 million per year with payback in around 23 years, are dependent on the closure of an equivalent 2,100 inefficient prison places.³¹

20. Capacity in the adult estate has benefited from the fall in the youth custodial population; the Youth Justice Board (YJB) has saved £317 million in this Spending Review period by decommissioning places for young people, some of which are to become adult establishments from spring 2015.³² The Standing Committee on Youth Justice (SCYJ) believed that the Government had missed the opportunity presented by the declining youth custody population to reconfigure the secure estate to meet the needs of children better. For example, it was concerned that custodial provision for young people had been decommissioned in a haphazard manner, pointing out, for example, that there were no secure children's home places in London and the South East.³³ The YJB did not accept that decisions were haphazard. Lin Hinnigan, Chief Executive of the YJB advised us that she could commission places only from custodial facilities that were already in existence, and there were no secure children's homes in London. She did acknowledge that the needs of the adult estate were one element in the decisions that had been taken about which establishments to decommission. She pointed out that one desirable outcome of reconfiguration had been that it had been able to withdraw from split sites—such as HMP

27 See paragraph 12 above.

28 [Q 389](#) Mr Spurr ;[Q 379](#) Mr Andrew Selous

29 [Q 309](#) [Mr Spurr]

30 [Q 379](#) [Mr Selous]

31 [PPP33](#) [Ministry of Justice]

32 [Q 301](#); [Q 379](#) [Mr Selous] Glen Parva, Hindley and Feltham will provide adult male capacity from spring 2015.

33 [PPP26](#) [Standing Committee for Youth Justice]; [Q 305](#) [Ms Gibbs]

Hindley, where under and over 18s are held separately in the same prison—which it did not favour.³⁴ The SCYJ observed that occupancy rates of secure children’s homes appeared to have fallen relative to those in young offender institutions this year; their Chair, Penelope Gibbs, was concerned that this might be motivated by a desire further to decommission these places, which were the most expensive form of custodial provision for children.³⁵ The YJB did not agree that placement decisions were driven by resources and believed that annual occupancy figures were a more reliable indicator than the figures quoted by the SCYJ.³⁶

New for old and prison performance

21. The NAO concluded that the Ministry’s plans represented value for money but suggested that NOMS’ decisions about closing smaller prisons related more to their costs than how they had been performing.³⁷ This is important as levels of performance of new establishments which replace older capacity are characteristically low in their early days of operation. We visited the two most recently built prisons—HMP Oakwood and HMP Thameside—as part of this inquiry; both had received very poor inspection reports during their first year of operation.³⁸ We heard from witnesses, including HM Chief Inspector of Prisons, private prison providers and senior prison staff, that it can take some time for a new prison to function effectively.³⁹ For example, whilst some experienced staff can be brought in from other establishments, new staff must be trained and gain on-the-job experience.⁴⁰ The impact of this on outcomes for prisoners is unknown. When we visited HMP Oakwood, the newest and largest prison, we were told by the operator G4S Custodial and Detention Services that opening a prison was a complex process. HMP Parc, also run by G4S, is a large high-performing prison, but it grew to its current size over time.⁴¹ Jerry Petherick, Managing Director of this division of G4S, said that despite the early operational difficulties which affect new prisons, the result was more efficient establishments than those which expanded gradually through the building of new houseblocks.⁴² Since our visit HM Inspectorate of Prisons has published a further report which indicated some improvement.

22. HMP Thameside is also a good example of the challenges facing prison planners. The prison opened in March 2012, and when we visited in November 2014 it was holding 300 prisoners more than it was built for and was subject already to plans for a £120 million

34 [Q 301](#) [Ms Hinnigan]

35 [Q 306](#) [Ms Gibbs]; [PPP57](#) Standing Committee for Youth Justice. Between April and September 2014, the youth custodial population has fallen 5% and the use of secure children’s homes has declined by 29%

36 [PPP55](#) [Youth Justice Board]

37 National Audit Office, [Managing the prison estate](#), December 2013

38 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP Thameside 14–17 January](#), May 2013; HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP Oakwood 10–21 June 2013](#), March 2013; HM Inspectorate of Prisons, [Report on an announced inspection of HMP Oakwood 1–5 December 2014](#), February 2015

39 Q 395, Justice Committee, Twelfth Report of session 2013-2014, [Crime reduction policies: a coordinated approach](#), HC 1004; Qq [177–180](#) [Grahame Hawkings; Simon Cartwright; John Biggin]; [Q 338](#) [Jerry Petherick; Mike Conway; James Thorburn]; [PPP50](#) [Dr Geoffrey Penzer]

40 *Ibid*; [Q 188](#) [Mr Hawkings]

41 [Q 78](#)

42 [Q 339](#)

expansion to hold a further 332 prisoners. In addition, the prison had initially anticipated that 75 per cent of prisoners held there would be on remand, with less requirement for provision of education, work, assessment and sentence planning than sentenced prisoners; in fact between 55 and 60 per cent were sentenced prisoners, and the expansion scheme would make available more workshops and industries.⁴³

23. As the prison estate has evolved, the roles of establishments have changed and prisons are being used for populations for which they were not originally designed. Some young offender institutions have become adult establishments. In addition, the dispersal of prisoners when prisons have closed or changed purpose has resulted in some disruption.⁴⁴ For example, following a decision to reduce the use of HMP Feltham for remand prisoners, the experiences of prison governors and others from HMPs Belmarsh, Thameside, Pentonville, and Isis indicate that in some cases the integration of younger prisoners into other parts of the prison estate has had a destabilising impact on the prisons concerned, including through increased violence.⁴⁵ At HMP Belmarsh this had subsequently settled down but this did not appear to be the case at HMP Isis.⁴⁶ HMP Northumberland and HMP Birmingham which were taken over by private sector providers, also experienced some initial de-stabilisation as contractual changes bedded in.⁴⁷

24. The Secretary of State told us that he wished to see the costs of prison places fall, citing the variation between the cost per place at Oakwood of £14,000, and the comparable figure of £40,000 at some older prisons.⁴⁸ The cost per prison place fell by 18 per cent between 2009–10 and 2013–14; there was a 17 per cent fall per prisoner. Nevertheless, there is still an average cost of £36,000 per prison place, £34,000 per prisoner, and costs continue to vary considerably across the estate.⁴⁹

Overcrowding

25. An important principle of prisons policy is maintaining decency in the standard of residential accommodation provided. Measures of decency in terms of the capacity of the prison estate are explained in the box below:

Measures of prison estate capacity

There are two measures of prison estate capacity: **certified normal accommodation** (CNA) is uncrowded capacity; and **operational capacity** is the maximum capacity based on published accommodation standards, as well as the provision and operation of appropriate regime facilities and the needs of order and control.

Operational capacity is set by senior operational prison managers, taking all of the above

43 [Q 180](#) [Mr Biggin]; [Q 345](#) [Mr Thornburn]; [PPP50](#) [Dr Penzer]

44 [Q 227](#) [Steve Gillan]; [PPP24](#) [HMIP]; [PPP50](#) [Dr Penzer]

45 [Q 227](#) [Mr Gillan]; [Q 253](#) [Mr Pinchin]; [PPP54](#) [Carole Homan];

46 [PPP54](#) [Independent Monitoring Board, HMP Belmarsh]; [Q 207](#) [Mr Bailey]; see also [Q 343](#) [Mr Thornburn]; [Q 345](#) [Mr Petherick]

47 [Q 335](#) [Mr Conway]. [Q 341](#) [Mr Petherick]

48 Q 11, [HC \[Session 2012–13\] 741–i](#)

49 Ministry of Justice, [Cost per place and cost per prisoner 2013–14 summary](#), 28 October 2014

into account. Those prisons whose operational capacity is higher than certified normal accommodation are operating with crowded conditions.

Useable operational capacity of the estate is the sum of all establishments' operational capacity less 2,000 places. This is known as the operating margin and reflects the constraints imposed by the need to provide separate accommodation for different classes of prisoner i.e. by sex, age, security category, conviction status, single cell risk assessment and also due to geographical distribution.

The extent to which the population has exceeded certified normal accommodation has fluctuated between about 10 and 12 per cent over the four years to October 2014, with a peak of 12.8 percent in March 2013.⁵⁰ A growing number and proportion of prisons are operating well over their baseline capacity. At the end of March 2014, 77 of the 119 prisons in England and Wales were classified as overcrowded; by December 2014 this had risen to 83 of 117 prisons.⁵¹ On the other hand, by the Government's assessment there has been a small fall in the proportion of prisoners held in crowded conditions: in 2013–14, this decreased to 22.9 per cent compared to 23.3% in 2012–13.⁵² This proportion is at the lowest level since 2001–02 and has come down from a high of 25.3 per cent in 2007–08.

26. The prison population has skirted very close to the useable operational capacity of the estate as a whole over the last year or so. For example, it was operating at 98 per cent of its total capacity (of 88,500) on 7 November 2014.⁵³ Operational capacity has fluctuated over the last two years. In December 2012 it was 91,574 but by December 2013 it had fallen to 87,111, despite the size of the prison population at these times being broadly similar. Prisons have been under pressure to accommodate the recent rise in the prison population: 40 public sector prisons reportedly were asked to accommodate between them 440 additional prisoners over the summer of 2014.⁵⁴ Mr Spurr described the situation as “tight but manageable”, pointing out that overall operational capacity was actually 90,000 places.⁵⁵ The NAO estimated that to end overcrowding without reducing the prison population would cost over £900 million, which was unlikely to be found given the constraints on public expenditure.⁵⁶

50 [PPP24](#) [HMIP]; Ministry of Justice [Monthly Population Bulletin October 2014](#); Ministry of Justice [Monthly Population Bulletin October 2013](#); Ministry of Justice [Monthly Population Bulletin October 2012](#); Ministry of Justice; [Monthly Population Bulletin October 2011](#); Ministry of Justice, Monthly Population Bulletin October 2010.

51 Ministry of Justice [Monthly Population Bulletin March 2014](#), London: Ministry of Justice; Ministry of Justice [Monthly Population Bulletin December 2014](#). London: Ministry of Justice.

52 HC Deb 21 July 2014: [C823W](#)

53 [Q 112](#) [Mr Hardwick]; [Q 377](#) [Mr Selous]

54 BBC News, [Prisons inspector accuses ministers of prisons 'failure'](#), 14 June 2014

55 [Q 378](#)

56 National Audit Office, [Managing the prison estate](#), page 26. Based on building 6,000 new places at an average capital cost for a new prison place of £158,000.

Implications of overcrowding

27. The Secretary of State himself was relatively untroubled by prison overcrowding. He said “It means prisoners sharing a cell. It remains my view that, if prisoners have to share a cell in order to make sure they can go to prison, this is not a great problem.”⁵⁷ On the other hand, HM Chief Inspector of Prisons saw it as a “real problem”. He said there were two areas where overcrowding had negative effects: the physical conditions in which prisoners were held, and the availability of sufficient training, activity and rehabilitation programmes. In relation to the former he observed: “In some places, two men are in what is essentially a large toilet designed for one, and often in very squalid conditions.”⁵⁸ In relation to the latter, there are more prisoners to move around to activities and healthcare appointments, for example, with implications for staffing levels, and strain can be placed on the capacity of workshops and programmes.

28. Both the Prison Officers’ Association and the Prison Governors’ Association expressed concerns that the Government had no plans to decrease levels of crowding;⁵⁹ the latter, and HM Chief Inspector of Prisons, characterised the situation as “institutional overcrowding”.⁶⁰ Mr Spurr distinguished between planned cell sharing and overcrowding in inappropriate conditions, such as those described by the Chief Inspector, and emphasised that in new accommodation some cells were designed to be shared; this will be the case at HMP Wrexham, for example.⁶¹ Nevertheless, data for the financial year 2013 to 2014 show that, on a typical day, almost 19,000 prisoners were doubled up in cells designed for one, and about 800 were trebled up in cells designed for two.⁶² The practice of holding more prisoners in cells than they were designed for continues even in newly built prisons. For example, the NAO found that NOMS had planned for HMP Thameside to house more prisoners than it was built for, due to the shortage of prison places in London.⁶³

29. Lower category prisons, in particular category D open prisons, tend to be less overcrowded and hence have greater spare capacity than local prisons. The Prison Officers’ Association suggested that capacity problems in some parts of the estate could result in a situation where prisoners could be held in prison accommodation of a category that was not appropriate to their risk.⁶⁴ Thomas Bailey, HMP Isis’s POA representative, argued that on occasions prisoners were allocated to a certain security category depending on the vacant spaces available in each category.⁶⁵ Mr Spurr believed that the security categorisation policy was very clear and operating well.⁶⁶ The Secretary of State recognised

57 Q 9, Justice Committee, [The Work of the Secretary of State](#), Session 2014–15, HC 312

58 [Q 112](#)

59 [PPP33](#) [Ministry of Justice]; [PPP34](#) [Prison Governors’ Association]; [PPP13](#) [Prison Officers’ Association]

60 [Q 215](#); [PPP24](#) [HMIP]

61 [Q 374](#) [Mr Spurr]

62 Howard League press notice, [Feeding the crime problem: 3 in 4 men's prisons are overcrowded](#), 2 March 2015

63 Managing the prison estate, p23

64 [Qq 217–222](#) [Mr Bailey; Mr Gillan]

65 [Q 217](#)

66 [Q 378](#)

that there had been a change in the risk profile of offenders going into open prisons, including some offenders on indeterminate sentences for public protection.⁶⁷

30. Accommodating the recent rise in the prison population has been achieved without increasing crowding to a great extent. But it is worrying that despite the Government's efforts to supply sufficient prison places to meet demand, the proportion of prisons that are overcrowded is growing, and the proportion of prisoners held in crowded conditions remains at almost a quarter. It deeply concerns us that as a result of a shortage of prison places in London, NOMS is building prisons fully intending to hold more prisoners in them than they have capacity for, as the National Audit Office reported happened at HMP Thameside.

31. Overcrowding is a more significant issue than the way it was described to us by the Secretary of State, who characterised it simply as people sharing a cell designed to hold fewer people. When a prison holds many more people than it was designed for this impacts more broadly on regimes and the capacity of prisons to rehabilitate through the provision of purposeful activity. *If greater overcrowding is accepted as de facto policy then it is important that NOMS is clear about the wider capability of the prison estate to absorb more prisoners when they are building new facilities, expanding existing ones, and determining an individual prison's decent and safe level of capacity. Current measures of overcrowding do not facilitate this, so we recommend that NOMS should design a broader measure which better reflects the reality of prison conditions.*

Catering for different populations

Prison sizes

32. As a result of the Government's plans for building new large-scale prisons, opening new houseblocks within the perimeters of existing prisons, and closing smaller ones, there has been a significant drift towards larger penal institutions. The number of such prisons has nearly trebled in the past decade. The existing strategy for estate modernisation will result in almost half of people in prison in England and Wales being held in prisons holding over 1,000.⁶⁸

33. There was some disagreement among our witnesses on the relationship between the size of prisons and their effectiveness. Kevin Lockyer, formerly of NOMS, believed that the key determinant of the decency, safety and effectiveness of a prison was not its size, but its age, and pointed to the effectiveness of large multi-purpose prisons.⁶⁹ On the other hand, Professor Jewkes of the University of Leicester, the Howard League for Penal Reform (the Howard League) and the Prison Reform Trust (PRT) argued that there was a growing body of academic research that found that 'old' did not necessarily mean 'bad', and that prisons worked more effectively to rehabilitate prisoners when small in size, located within close proximity to prisoners' home communities, and built with principles of normality and

67 Q 20, Justice Committee, [The work of the Secretary for State](#), Session 2014–15, HC 312

68 [PPP12](#) [Prison Reform Trust]

69 [Q 78](#) [Mr Lockyer]; Lockyer, K. (2013) [Future Prisons: A Radical Plan to Reform the Prison Estate](#), Policy Exchange.

humanisation in mind.⁷⁰ This is the philosophy adopted in Denmark, which we observed when we were there. Dr Kimmett Edgar of PRT gave us his reading of the evidence:

I appreciate that there is a position from the Treasury and a position from a prison management point of view. I did a little digging prior to coming here, looking at inspection reports and prisoner surveys. If we take five large, new prisons and five small prisons, in almost everything that matters it is very obvious that prisoners are worse off in large prisons. On safety, something like 22%—I can give you the exact figures—felt unsafe compared with 15% in smaller prisons. In terms of knowing who to approach for help with accommodation and employment, again smaller prisons were clearly providing a better experience for prisoners.⁷¹

Andrew Neilson, the Howard League's Director of Campaigns, outlined why it might be difficult to find reliable evidence about the effects of prison size:

...we have not built any small prisons recently in this country; therefore any comparison you are making is not just about large versus small but large and brand spanking new versus small, old and deteriorating Victorian estate. That is not a fair comparison.⁷²

The Howard League believed that there might be a false economy from lower costs per prisoner in larger establishments as a result of losses incurred in the medium to long-term due to poorer outcomes for prisoners.⁷³

A one-size-fits-all prison estate?

34. Professor Jewkes, among others, believed that the growth in the size of prison establishments was reducing the extent to which the prison system recognised and catered for the diverse needs of the prison population.⁷⁴ The apparent trend towards less diverse prison provision may have been influenced by recent Government policies which have included the replacement of young offender institutions, secure training centres and secure children's homes with secure colleges, the planned closure of open prisons and reduction in mother and baby units for women, and the proposed abolition of specialist institutions for young adults.⁷⁵ A number of smaller specialised prisons have closed, for example, HMP Shepton Mallet, which held sex offenders, and HMP Canterbury, which held foreign national prisoners.⁷⁶

70 [Q 73](#); [PPP12](#) [Prisons Reform Trust]

71 See also [PPP12](#) [Prison Reform Trust]

72 [Q 98](#)

73 [PPP06](#) [Howard League]

74 [Q 73](#); see also [PPP06](#) [Howard League]

75 [PPP23](#) [Women in Prison]

76 [PPP20](#) [Progressing Prisoners Maintaining Innocence]

Young offenders under 18

35. The question of the ability of large scale establishments to cater for a range of prisoners has been a particular feature of the debate about the Government's proposals to build secure colleges for 320 12-to-17 year old boys and girls. In the existing youth custodial estate, in which fewer than 1,000 children are held, young offender institutions are for 15-to-17 year olds and secure training centres for under 15s. The Standing Committee on Youth Justice (SCYJ) did not believe that the Government's proposition to build secure colleges began with an assessment of what constituted the best outcomes for children who have to be kept in a secure place; they, along with the Secure Accommodation Network and Children's Rights Alliance, believed that the quality of care was of utmost importance and warned that economies of scale should not apply to ensuring children's best interests.⁷⁷ In our 2013 Youth Justice Report we recommended that young offenders should be sentenced to small custodial units that are close to home, have a high staff to offender ratio, and are safer and more humane than other forms of custodial provision for young people.⁷⁸ Legislative provision enabling the Government to pilot a secure college is contained in the Criminal Justice and Courts Act 2015, which received Royal Assent on 12 February 2015. **We stand by the view expressed in our report on Youth Justice that small custodial units are safer and more humane for children and young people. Notwithstanding the potential educational benefits of secure colleges, we question why the Ministry of Justice sees it necessary to dedicate scarce funding to develop such a large-scale establishment, when the number of children requiring secure accommodation is shrinking rapidly.**

Young adults

36. The Government proposes to bring into force provisions in the Criminal Justice and Court Services Act 2000 to repeal the sentence of detention in a young offender institution, which currently ensures that young adults are held in specialist provision. This change has been postponed pending the independent review of deaths of young adults in custody led by Lord Harris of Haringey due to report in spring 2015.⁷⁹ The proposal reflects concerns that when large numbers of people in this age group are held together, they can become so volatile it becomes difficult for staff to manage them. On the other hand, the Youth Justice Board and the Transition to Adulthood Alliance believed a distinct approach was required for young adults because of their particular needs, the transition from contact with social services, children's services and the youth justice system, and their especially high risk of self-harm and suicide.⁸⁰ The Transition to Adulthood Alliance wished to see more research on the implications of this well-recognised problem.⁸¹ Mr Spurr acknowledged that young adults as a group were particularly challenging, but argued that the matter was complex; ending the sentence of detention in a young offender institution for young adults did not

77 [Q 314](#) [Ms Gibbs]; See also [PPP02](#) [Secure Accommodation Network]; [PPP14](#) [Children's Rights Alliance]

78 HC [Session 2012–13] [339](#)

79 HC Deb, 6 Feb 2014, col [35WS](#)

80 Allen, R. (2014) *Young adults in custody: the way forward*, Transition to Adulthood Alliance; Youth Justice Board, *Transforming Management of Young Adults in Custody*, Consultation response from the Youth Justice Board for England and Wales.

81 *Ibid.*

necessarily imply that there would no longer be dedicated provision.⁸² NOMS is developing a tool to assess maturity and is evaluating which of the existing mixture of arrangements is the best approach; this will be considered alongside the recommendations of Lord Harris' review.⁸³ Joyce Moseley OBE, Chair of the Transition to Adulthood Alliance, believed that it was necessary to look more broadly at policy for this group, for example by applying the practices that have been used by the Youth Justice Board with under 18s.⁸⁴ **There is some evidence about the difficulty the prison system has had in providing appropriately for young adult prisoners, and there is no definitive answer about the best forms of establishment to meet their particular needs. *It is clear to us that there is a need for NOMS to ensure that there is dedicated responsibility for this group both at an institutional and national level. This is an issue that could be further explored by the Justice Select Committee in the next Parliament.***

Women

37. We considered in detail the suitability of the custodial estate for women in our report on Women Offenders, and concluded that Baroness Corston's recommendation for the creation of small custodial units for women, which has never been implemented, remained valid. Following a review, the Government elected instead to create strategic hubs to provide better geographically distributed prison places, and to pilot small open units—the first two of which have recently opened—pending the decision to close existing capacity for females in open prisons.

38. **The estate modernisation policy of closing of old inefficient prisons and replacing them with new more cost-effective ones is a good one in principle. We recognise in particular that some prisons have been operating, and some continue to operate, with decrepit buildings that hinder effective rehabilitation; and we note that redesign and re-configuration provide the opportunity for new technologies and their resulting efficiencies to be embedded in the infrastructure of the prison estate. It is unfortunate that to date the resources for capital investment in new technologies in public sector prisons have not been found while private sector prisons have given priority to investment in new technology. *We recommend that the Ministry carry out a cost-benefit analysis of implementation of in-cell technology across the public sector prison estate.***

39. A policy of replacing older establishments with newer ones is resulting in the creation of large, multi-purpose prisons, while questions arising from available evidence on the relationship between the size and effectiveness of institutions do not appear to have been addressed by the Government. The success of the Government's policy also depends crucially on the ability of NOMS to predict demand for places with sufficient accuracy, and to provide places accordingly. The time taken to build new prisons, and their associated costs, means that it can take several decades to yield savings. In addition, these savings are dependent on the consequent closure of older and more expensive places, which might not be possible if future demand tends towards the upper end of what are inevitably imperfect projections. We welcome the

82 [Q 381](#)

83 [Q 381](#) [Mr Spurr; Mr Selous]

84 [Q 332](#)

fact that the cost to the public purse of a prison place has fallen to some extent, but it remains high and it is unlikely to fall significantly while the population continues to rise.

40. A key question is whether making savings in the prison estate inevitably results in a one-size-fits-all approach to prisons policy. Our evidence suggests there is a definite risk of this following recent decisions on custodial provision for children, young adults and women in prison. We consider that the custodial estate needs to be designed so that it meets the different needs of different sectors of the prison population. Reconfiguring the estate could provide an important opportunity to reconsider the best forms of custodial provision for key cohorts of prisoners, for example, through smaller, more geographically dispersed, units for both females and children. Instead, decisions have been taken to retain the recent emphasis on a smaller number of large establishments.

41. It also appears to us that there are some consequences of modernisation that have not been planned for properly. When prisons are going through transition, whether that takes the form of opening, changing purpose, merging, or becoming managed by another sector, levels of performance are typically affected, at least in the short-term. There may well be unanticipated and unquantified costs of reconfiguring the prison estate in this manner. If the pressure to expand capacity continues, so too will the need for ongoing adaptations of the estate, with the risk that some establishments may be in a constant state of flux.

Future-proofing and the risk of over-securitisation

42. Mr Selous gave us several examples of prisons that were changing their purpose, or being “re-roled”, as the Ministry has implemented its reconfiguration of the estate.⁸⁵ In order to maintain maximum flexibility in the use to which prisons subsequently can be put, the Ministry has adopted a policy of “future-proofing” prisons when they are built. Professor Yvonne Jewkes, who has conducted research on prison architecture and design, described this as follows:

Prisons are built to a one-size-fits-all model, which is category B standard—in layperson’s terms, high security. Part of the reason for that, officially, is future-proofing, so that, if at some point in the future an institution has to take higher security prisoners than currently, it avoids the need for expensive retrofitting of security paraphernalia. Part of it, apparently, is familiarity, so that prisoners and prison staff moving across the system are familiar with any prison they go to.⁸⁶

She believed that this practice was “dangerous”, explaining that “[a]ccommodating medium security prisoners in high security conditions reinforces negative labels and notions of criminality, and very often elicits the very behaviour that it is seeking to avoid. Over-securitising prisoners is not conducive to rehabilitation.”⁸⁷ The Ministry noted that it

85 [Q 311](#)

86 [Q 72](#)

87 [Q 73](#)

had been building its perimeter fences to standardised security levels, but acknowledged that security must be proportionate to risk:

Applying unnecessary security is costly, a disproportionate use of staff time and can inhibit, rather than enable, prisoner access to rehabilitative interventions and activities. Similarly, failure to properly apply appropriate security measures risks prisoner escape, harm to others and erodes public confidence in the ability of NOMS to keep prisoners in safe and secure custody.⁸⁸

43. We asked other witnesses for evidence on the extent of “over-securitisation” and any impacts it had. Simon Cartwright, the Governor of HMP Belmarsh, which has the infrastructure of a high security prison and accommodates both Category A and lower category prisoners, was of the view that a regime and culture could be instilled in such prisons to meet the resettlement needs of a mix of prisoners.⁸⁹ On the other hand, HM Chief Inspector of Prisons said that strict security measures, such as strip searching when entering a prison, could be counter-productive if applied in a blanket way.⁹⁰ The configuration of the women’s estate in particular—which has limited scope for holding women of different security categories in different conditions—means that most are subject to unnecessarily stringent security.⁹¹ We heard also that measures to improve security that were implemented almost fifty years ago in response to a series of high profile escapes remained in place and had not recently been reviewed.⁹²

Prisons in Denmark

44. John Podmore, a criminal justice consultant, made the case for greater use to be made of open prisons, a policy which we observed in operation in Denmark.⁹³ There, any restriction placed on prisoners must be defensible, with the result that there is the largest possible degree of openness in terms of the security of prison establishments. We saw open prisons with closed units within them, rather than vice versa. The Government plans to replace open prisons for women in England and Wales with open units in closed prisons, for example. Danish prisons also operate on a ‘normalisation’ principle—which entails regimes approximating as much as possible life outside the prison—with an expectation that prisoners spend time with their families at weekends.

45. It may be prudent to build prisons to standard specifications to minimise the need for rebuilding them should they change purpose, but this can lead to prisoners being held in accommodation or conditions that are disproportionate to the risk that they pose, which is not conducive to rehabilitation. The approach to security in prisons which we saw in Denmark assumes that the use of open prisons should be the default, with restrictions minimised as much as possible. This is essentially the opposite of the

88 [PPP33](#) [Ministry of Justice]; [Q 378](#) [Mr Spurr]

89 [Q 184](#). See also [Qq 183–184](#) [Mr Hawkinge; Mr Biggin]; [PPP53](#) [Ms Homan]

90 [Q 116](#)

91 [PPP12](#) [Prison Reform Trust]; [PPP23](#) [Women in Prison]

92 [Q 71](#) [Mr Podmore]

93 *Ibid.*

approach taken in England and Wales, and we believe there is merit in the Danish approach. *The profile of the prison population is changing, including becoming older, and in some respects more challenging. In this context, we recommend that the Government review the way prisoners of different security categorisations are accommodated to ensure that it remains appropriate and proportionate to the risks presented by 21st century prisoners.*

Working prisons, resettlement prisons and the Transforming Rehabilitation reforms

Working prisons

46. Under its working prisons policy the Government's stated aim is to get prisoners working up to 40 hours a week in a daily routine focused around work and linking work activity with qualifications and employment opportunities. NOMS has established One3One Solutions to promote the services of prisoners and generate work. We heard evidence that it can work very effectively.⁹⁴ James Timpson OBE, chief executive of shoe repair business Timpsons, told us of his success in developing training academies and recruiting prisoners to the extent that 10% of his staff are now known ex-offenders.⁹⁵ Mr Timpson also chairs the Employers Forum for Reducing Reoffending (EFRR), another part of NOMS' effort to engage with employers to recruit offenders, and to do so more frequently. We also saw examples for ourselves: at HMP Belmarsh, we saw a printer cartridge refurbishment workshop which had recently opened and was being extended, and at HMP Oakwood we were shown a busy call centre in operation.⁹⁶ Employers on the EFRR have employed over 1500 people in the last three years⁹⁷; this initiative relies on supportive governors as much as willing employers.⁹⁸

47. The majority of our witnesses were of the view that the working prisons initiative had stalled, if not failed.⁹⁹ We encountered a very mixed picture of provision, which remains available only to a relatively small number of prisoners. Carole Homan, Chair of HMP Belmarsh's Independent Monitoring Board (IMB), questioned whether much of the work could be classed as productive.¹⁰⁰ The Prison Reform Trust calculated that if the Ministry was successful in doubling the number of prisoners working in industrial workshops, this would still mean fewer than 25 percent of prisoners would be employed in this way.¹⁰¹

48. The observations of our witnesses could be attributed in part to difficulties in developing regimes that allow prison work to be commercially viable. The regime which was put into operation at HMP Isis following staff shortages almost "immediately halved"

94 [Q 27](#) [Ms Harriott]; [Q 90](#) [Mr Podmore]; [Q 196](#) [Mr Cartwright]; [Q 362](#) [Mr Timpson]; [Q 395](#) [Mr Selous]; [PPP12](#) [Prison Reform Trust]; [Q 163](#) [Dr Mills]

95 [Qq 356–360](#)

96 [Q 129](#) [Mr Cartwright]

97 [PPP58](#) [National Offender Management Service]

98 [Qq 364–365](#) [Mr Timpson]

99 [Q 125](#) [Mr Hardwick]; [PPP12](#) [Prison Reform Trust]; [PPP13](#) [Prison Officers' Association]; [PPP06](#) [Howard League]; [PPP24](#) [HM Inspectorate of Prisons]

100 [Q 252](#)

101 [PPP12](#) [Prisons Reform Trust]

the time of purposeful activity available to offenders, with 40 per cent of them locked up in their house blocks each working day.¹⁰² In some cases where capital investment had been made to improve infrastructure, industrial workshops lay idle. For example, at HMP Wormwood Scrubs a £1.3 million laundry was unable to operate due to staff shortages.¹⁰³ Governors we took evidence from, including the Prison Governors' Association's representative Stephen O'Connell, generally interpreted the working prisons initiative narrowly, applying it to those establishments that are dedicated working prisons.¹⁰⁴ Even in these prisons the situation appears to have deteriorated: there are insufficient staff in two out of the three of them to operate to the level required to facilitate a working week.¹⁰⁵ Other limiting factors include the transient nature of the prison population in local prisons and the physical capacity to house large workshops.¹⁰⁶ In the prison at Tegel, near Berlin, we saw that it was possible for prisoners to work in a wide range of professions in a large-scale institution, housing predominantly long-term prisoners. This was similar to the approach we observed at HMP Featherstone, though there it was on a smaller scale.

49. Between 2010–11 and 2013–14, there was a 15 per cent increase in the number of prisoners working in industrial activity; and a 33 per cent increase in the total number of hours worked.¹⁰⁷ Nevertheless, 14.2 million hours equates to only a few hours per week per prisoner. Mr Selous confirmed that he remained committed to increasing work in prisons.¹⁰⁸ Mr Spurr acknowledged that there had been a shortage of work available for prisoners, but explained that NOMS had sought to develop regimes which maximised the number of people in activity, despite staff shortages, as this helped to maintain stability.¹⁰⁹

Integrating prison work with learning and skills

50. One of the Government's objectives is for prison work to be better integrated with education and training. Offender Learning and Skills Services (OLASS) are co-commissioned by the Skills Funding Agency (which is sponsored by the Department for Business, Innovation and Skills) and NOMS. Research carried out by the Prisoner Learning Alliance during summer 2013—including three expert roundtable events with over 50 practitioners, governors, prison officers, voluntary sector organisations and learners—indicated that this is not always being achieved and that opportunities to embed functional skills or industry-recognised qualifications within prison workshops were being missed.¹¹⁰ To some extent this is unavoidable. For example, if work is low-skilled there is little room for educational engagement.¹¹¹ On the other hand, Rod Clark of the Prisoners' Education

102 [Q 242](#) [Mr Pinchin]

103 [Q 27](#). Michael Spurr admitted that it had not been possible to secure a commercial contract; the problems with staffing had been short-term and are now resolved [PPP0058](#) [National Offender Management Service]

104 [Q 121](#)

105 *Ibid.*

106 [PPP58](#) [National Offender Management Service]

107 *Ibid.*

108 [Q 395](#)

109 [Q 394](#)

110 [PPP09](#). [Prisoner Learning Alliance]. The Prisoners' Education Trust has established the Prisoner Learning Alliance (PLA) who meet on a quarterly basis: 'To bring together diverse non-statutory stakeholders with senior cross-departmental officials, to provide expertise and strategic vision to inform future priorities, policies and practices relating to prison education, learning and skills'.

111 [Q 162](#) [Mr Clark]

Trust, representing the Alliance, believed a broader approach to embedded learning could be adopted across a range of purposeful activities, including the use of gyms.¹¹² In addition, other policies, including the level of prisoners' pay, which incentivises prisoners to undertake work as opposed to education and training, the Victim Surcharge, and the introduction of Advanced Learning Loans for higher level training could all act to discourage prisoners from undertaking learning.¹¹³

51. The Government's working prisons policy is a worthy aim and prison industries are becoming more common. Nevertheless, it remains the case that most prisons do not have the facilities for workshops on a scale that would enable the majority of prisoners to do work which will equip them for employment on release. Where there are such facilities, the aims of involving employers on a commercial basis and normalising a working week for prisoners are not achievable without sufficient staff to enable prisoners to be unlocked for a full working day. This appears to be much easier to achieve in prisons dedicated to that purpose.

52. The current commissioning arrangements for prison work and learning and skills do not appear to support the integration of these two vital aspects of rehabilitation. We recommend that the Ministry of Justice and the Department for Business, Innovation and Skills take steps to ensure that the next round of commissioning for learning and skills in prisons prioritises arrangements for embedding learning in the various forms of purposeful activity in which prisoners are engaged. In the shorter term, we recommend that the Government should review the combined impact of the various policies—the differential in remuneration when prisoners are in employment, the Victim Surcharge and Advanced Learning Loans—so as to ensure that they do not disincentivise prisoners from developing their learning and skills, and hence future employability.

The compatibility of working prisons and resettlement prisons

53. Another Government priority is the creation of a network of resettlement prisons where prisoners can receive support “through-the-gate” in preparation for their return to the community. The Howard League questioned whether working prisons and resettlement prisons were compatible, observing that:

For institutions to be working prisons, they require a fairly stable population of prisoners serving medium to long sentences who are able to work. Furthermore, a working prison must adapt its entire regime to suit a full working week, which includes ensuring all prisoners can be escorted to and from work and not interrupting the working day with roll checks, leisure activities and various appointments. If prisons are changed into resettlement prisons [...] this will result in a large number of specialised prisons holding a significant number of short-sentenced prisoners for the first time and will greatly increase the ‘churn’ rate in these prisons. Such a change places

112 [Q163](#)

113 [PPP09](#) [Prisoner Learning Alliance]; [PPP18](#) [A4e Ltd]

significant obstacles in the way of achieving a full working week and attracting private companies to invest in prison work.¹¹⁴

Nick Hardwick explained that resettlement prisons would operate a split regime with half a day of activity and half a day of resettlement; we note this is unlikely to be conducive to operating the normal working day as envisaged by the Howard League.¹¹⁵ We visited HMP Featherstone in February 2014 and were impressed by the workshops we saw in operation. At that time the senior management team were unclear about how the prison's training status would fit with its designation also as a resettlement prison.

Potential problems for development of resettlement prisons

54. We heard two particular observations about the creation of resettlement prisons. Some questioned whether there was sufficient capacity in the prison estate to achieve the objective of moving prisoners to their 'home' prison three months prior to their release, and concerns were also raised the potential impact on the large majority of prisoners serving medium to long-term sentences.¹¹⁶

55. In relation to capacity, two issues were raised with us: 'headroom' and staffing. HM Chief Inspector of Prisons and the Prison Reform Trust questioned whether, while prisons were operating so close to capacity, there was sufficient headroom in the system to enable the movements required to bring prisoners close to home as they prepared for release.¹¹⁷ According to the PRT, existing policies on 'closeness to home' and 'local discharge' could not be facilitated because of existing population pressures.¹¹⁸ Thomas Bailey, Prison Officers' Association representative at HMP Isis, felt there were not sufficient staff to deliver effective resettlement prisons at present.¹¹⁹ In some case staffing problems in offender management teams have resulted in backlogs in the risk assessment system (known as OASys), to the extent that some prisoners are being released without them.¹²⁰

56. On the other hand, Michael Spurr was confident that the majority of prisoners, even in a situation with population pressure, would be held in the right prisons. He drew our attention to clear contractual arrangements in the event that people are not held in their 'home' prison: the appropriate Community Rehabilitation Company was required to provide a basic resettlement service to every prisoner in each prison; and there was a 'rate charge' so that the home CRC could request additional rehabilitative work, such as drug treatment, to be done by the prison in which they are held.¹²¹ In relation to staffing, he felt this was a matter for CRCs.¹²²

114 [PPP06](#) [Howard League for Penal Reform]

115 [Q 125](#); see also [Q 196](#) [Mr Cartwright]

116 [PPP45](#) [G4S]; [PPP12](#) [Prison Reform Trust]; [PPP06](#) [Howard League for Penal Reform]

117 [Q 122](#) [Mr Hardwick]; [PPP12](#) [Prison Reform Trust]

118 [PPP12](#) [Prisons Reform Trust]

119 [Qq 230-234](#) [Mr Bailey]

120 [Q 188](#) [Nick Hardwick]; [Q203](#) [Mr Hawkings]; [PPP13](#) [Prison Officers' Association]

121 Q 22 [HC \[Session 2014–15\] 848](#)

122 [Q 393](#) [Mr Spurr]

57. We heard also that the time prisoners spent leading up to their final three months was just as important as immediate preparation for release.¹²³ The Prison Reform Trust believed that prisons holding predominantly sex offenders, for example, were already under-resourced.¹²⁴ The Howard League suggested that it would be difficult to reverse the impact if prisoners had spent “a year or more locked up in an overcrowded, violent environment with nothing to do.”¹²⁵ We heard also of a practical concern related to the potential impact on levels of violence in prisons of the re-igniting of relationships between gang members being brought back to their local prison to prepare for release.¹²⁶

58. In previous Reports we have commended the Government’s creation of a nationwide network of resettlement prisons. It should not, however, confuse the priorities of multiple purpose establishments, and dilute the priority accorded to resettlement needs elsewhere in the estate. This initiative to improve provision in the last three months of a sentence should not come at the expense of rehabilitative support for the majority of prisoners who are serving medium to long-term sentences. If time in non-resettlement prisons has been used productively, prisoners will be in a better position to prepare for resettlement. *We recommend that NOMS develops measures of performance to ensure that the quality of rehabilitative provision for prisoners who are not in the final three months of their sentence is maintained, and publishes them regularly.*

59. There are also some immediate issues which must be rectified as a matter of priority if support for offenders in moving from custody into the community is to work to best effect. These include as a matter of urgency resolving staffing shortages and clearing the backlog of risk assessments. Both issues are likely to hamper considerably the efforts of the new providers of Community Rehabilitation Companies as they seek to implement their through-the-gate services. There is a risk that such services could be rendered inoperable as a result of failures in the system that are the responsibility of NOMS. *We ask the Ministry to clarify in its response to this Report whether it has any financial obligations towards Community Rehabilitation Companies in the event that they are unable to operate effectively because of failures in the system that are beyond their control.*

123 [PPP09](#) [Prisoner Learning Alliance]

124 [PPP12](#) [Prison Reform Trust]

125 [PPP06](#) [Howard League for Penal Reform]

126 [Q 253](#) [Mr Pinchin]

3 Benchmarking and prison staffing

60. The other key part of the Government's approach to achieving efficiencies across the prison estate is the public sector benchmarking programme (also known as the prison unit cost programme). In this chapter we examine the reasoning behind this approach, how it has been implemented, and the context in which it is operating. In relation to the latter we consider in particular, why there is currently a shortage of staff, and the impact this has had on progress in applying designated benchmarks. The contracting out of non-core public sector prison services is discussed in Chapter Four.

The rationale for benchmarking

61. Explaining his decision to replace the planned prison privatisation programme with public sector benchmarking and contracting out of ancillary services in 2012, the Secretary of State for Justice proposed that the public sector could duplicate commercial models which have addressed the challenge of increased cost pressures and demand for lower prices and delivered better quality services with a lower cost base.¹²⁷ In this context, the Government's intention under the second element of its cost reduction programme was to introduce in publicly-run prisons more efficient ways of working, whilst maintaining safety, decency, security and order. Phil Wheatley, an architect of this approach when he was Director of NOMS, gave us this down to earth description of benchmarking models of practice: "...we were looking at the most efficient way of doing everything, observing it somewhere, saying, "Hey, that works," and then telling everybody else to do it that way."¹²⁸

62. Witnesses were generally supportive of the rationale of benchmarking as a means of reducing expenditure on the operation of the prison estate quickly.¹²⁹ Not surprisingly both the Prison Governors' Association and the Prison Officers' Association welcomed the decision largely to substitute public sector reform for the privatisation programme, and our evidence suggests that they have worked closely with NOMS to implement it.¹³⁰ While private sector providers continue to advocate competition as a means of improving performance, G4S, Serco and Sodexo saw value in benchmarking as a means of standardising more efficient and effective regimes.¹³¹ The Government has not excluded the possibility of further prison-by-prison competition in the future.¹³²

The implementation of benchmarking

63. To apply the benchmarks NOMS has devised what it describes as 'new ways of working', involving changes to both the prison regime and staffing complements. Modifications include: changes to the core day; maximising opportunities for prisoners to be in purposeful activities, with staff following prisoners; less time for structured

127 Q 12, [HC \[Session 2012–13\] 741–i](#).

128 [Q 81](#)

129 [Qq 81–82](#) [Mr Wheatley, Mr Lockyer]; [PPP13](#) [Prison Officers Association]

130 [Q 209](#) [Mr Bailey; Mr Buparai]; [Q 210](#) [Mr Gillan]; [PPP34](#) [Prison Governors Alliance]

131 [PPP15](#) [Serco]; [PPP45](#) [G4S]; [Q 335](#) [Mr Conway]

132 [PPP33](#) [Ministry of Justice]

association; and fewer layers of management. A phased approach has been taken to implementation, with the adult male estate being benchmarked first (from October 2013), followed by the high security estate, women’s estate and young offender institutions (from March 2014). This approach was welcomed by Mr Hardwick, but he emphasised the importance of learning lessons from the implementation of the first phase to ensure that the problems experienced do not reoccur, particularly as the prisons benchmarked in the later phase contained more vulnerable and risky populations.¹³³

64. Staffing represents the bulk of ongoing prison costs.¹³⁴ A key consequence of benchmarking is that public sector prisons will be operating with a smaller staff. NOMS estimated that the savings required would be facilitated by around five per cent of prison service staff taking voluntary redundancy in 2013/14.¹³⁵ Mr Wheatley highlighted the risks of benchmarking being too “gung-ho” and ending up with staffing levels that are too tight.¹³⁶ We consider in the next section the extent to which difficulties have arisen from some of those risks.

65. We agree with most witnesses to our inquiry that the benchmarking of prisons to develop more efficient regimes is in principle an effective way of reducing expenditure more rapidly than would be possible through prison-by-prison competition. We also support the phased approach to the implementation of benchmarking which NOMS has adopted.

The impact of efficiency savings

The impact on prison performance

66. The intention of benchmarking is to streamline what prisons do while maintaining, and where possible raising, standards.¹³⁷ Her Majesty’s Inspectorate of Prisons uses a four part healthy prison test to determine its assessment of the performance of individual prisons. The outcome of these tests for the prisons inspected in the last 10 years is set out in table 1 below. This illustrates that outcomes for the period after the implementation of benchmarking in October 2013 in local and category C prisons in the adult male estate were considerably lower than the previous 12 months and at any point in the last 10 years.

133 [Q 117](#)

134 Q 6, Justice Committee, [The work of the Secretary for State: one-off](#), Session 2014–15, HC 312

135 National Offender Management Service, [Our new way of working](#)

136 [Qq 81–83](#)

137 [PPP17](#) [British Psychological Society]

Table 1: Percentage of prisons and young offender institutions assessed as 'good' or 'reasonably good' in full inspections 2005–06 to 2014–15

Published reports (%)										
	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14	Inspected November 2013–Mar 2014 Published 2014–15
Safety	75	57	69	72	78	84	82	80	69	42
Respect	65	63	69	69	76	74	73	73	67	58
Purposeful activity	48	53	65	71	68	69	73	50	61	42
Resettlement	68	62	75	75	76	71	84	64	75	53

Source: [HM Chief Inspector of Prisons Annual Report 2013–14](#)

Note: Benchmarking was not applied in young offender institutions until the second phase which commenced in March 2014.

The Ministry's own performance ratings of prisons, which used to be published quarterly, are now annual and are not yet available for much of the period in question. Nevertheless, according to the most recent scores, the performance of almost a quarter (23 per cent) of prisons was of concern, or of serious concern in 2013–14.¹³⁸ This compared to 14 per cent and 2 per cent respectively in the previous two years.¹³⁹ The views of Independent Monitoring Boards on the state of prisons expressed in the annual reports which they are required to submit to the Secretary of State have generally accorded with those of HM Inspectorate of Prisons.¹⁴⁰

The impact on safety

67. The Ministry also publishes data on safety in custody which includes indicators on the level of assaults, self-harm, and self-inflicted deaths, for example. Table 2 shows that self-inflicted deaths have been rising since 2011 (a 45% increase over the last four years) and rose particularly sharply in the last two years (38% between 2012 and 2014).

Table 2: Deaths in custody by apparent cause, January 2011 to September 2014

	2011	2012	2013	2014
Natural Causes	122	123	131	141
Self-Inflicted	58	61	75	84
Homicide	2	0	4	3

Sources: [PPP62](#); [PPP65](#) [Ministry of Justice]

Table 3 illustrates that both incidents of assaults (by prisoners against other prisoners and staff) and incidents of self-harm have risen by 7.1% and 9% respectively over the last two years.¹⁴¹

138 Ministry of Justice, [Prison and probation trust performance statistics 2013 to 2014](#), 28 October 2014

139 Ministry of Justice, [Prisons and probation trust performance statistics 2012 to 2013](#), 31 October 2013; Ministry of Justice, [Prisons and probation trust performance statistics 2011 to 2012](#), 28 November 2012.

140 HMP Woodhill Independent Monitoring Board, Annual Report 1 June 2013 to 31 May 2014, 20 November 2014; HMP Brixton Independent Monitoring Board, Annual Report to the Secretary of State, 1 September 2013 to 31 August 2014; HMP and YOI Wormwood Scrubs Independent Monitoring Board, Annual Report 1 June 2013 to 31 May 2014. See also: [PPP50](#), [PPP51](#) [Dr Penzer]; [PPP54](#) [Ms Homan]; [PPP59](#) [Mr Thornhill]; [PPP63](#) [Ms Boothman]

141 Calculated by comparing the first nine months of 2012 with the same period in 2014.

Table 3: Assault and Self-Harm Incidents, January 2011 to June 2014

		2011	2012	2013	*2014
Assaults	January	1,172	1,299	1,147	1,266
	February	1,175	1,200	1,081	1,168
	March	1,300	1,285	1,128	1,291
	April	1,222	1,172	1,181	1,310
	May	1,300	1,305	1,296	1,380
	June	1,391	1,179	1,141	1,336
	July	1,405	1,249	1,354	1,452
	August	1,379	1,257	1,321	1,382
	September	1,227	1,200	1,193	1,356
	October	1,243	1,248	1,327	*
	November	1,283	1,105	1,251	*
	December	1,293	1,012	1,244	*
	Total		15,440	14,511	14,664
Self-Harm	January	2,094	2,030	1,781	1,875
	February	1,911	1,845	1,674	1,774
	March	2,229	1,964	1,947	2,111
	April	2,142	1,934	1,932	2,101
	May	2,242	1,868	2,093	2,148
	June	1,983	1,834	2,028	2,201
	July	2,018	2,094	2,125	2,354
	August	2,063	1,973	2,087	2,133
	September	2,032	1,829	1,759	2,273
	October	2,038	2,028	1,861	*
	November	2,011	2,001	1,908	*
	December	1,885	1,758	1,978	*
	Total		24,648	23,158	23,174

Source: [PPP62](#) [MoJ]; [PPP65](#) [MoJ] * Data from 2014 relates only from the period January to September

68. The Government uses the term ‘concerted indiscipline’ to describe incidents of prison disorder.¹⁴² There has been recent speculation that conditions in prisons were such that there had been, or was likely to be, a rise in such incidents.¹⁴³ In July 2014 we were told there had been an increase in minor incidents such as ‘incidents at height’ where prisoners “climb up on to the netting in order to try to secure a transfer to a different prison.”¹⁴⁴ In a Written Answer of 9 December 2014, Mr Selous explained that incidents vary widely in nature and duration; many are relatively minor and of short duration and cause little disruption to the prison regime.¹⁴⁵ Nevertheless, the table below illustrates that the number of incidents has doubled since 2012, and the average number of incidents per month has gone from 11 in the year before benchmarking and changes to the IEP scheme were introduced to 16 in the year after.¹⁴⁶ There was a notable rise in incidents in the last three months for which figures are available.

142 An act of concerted indiscipline is an incident in which two or more prisoners act together in defiance of a lawful instruction or against the requirements of the regime of the establishment. HL Deb, 8 Jan 2007, col [WA36-37](#)

143 BBC Radio 4, *Today*, 14 June 2014, Mr Hardwick; [Q 96](#) [Mr Neilson]

144 Qq 16-18 Justice Committee, [The Work of the Secretary of State](#), Session 2014–15, HC 312

145 HC Deb, 9 December 2014, [col W](#)

146 In 2012 there were 94 incidents of concerted indiscipline, in 2013 there were 147, and in the 9 months to September 2014 there were 153, giving a projection of 191 for 2014. [PPP62](#) [MoJ]; NOMS was unable to provide data on the number of prisoners involved in such incidents.

Table 4: Incidents of Concerted Indiscipline, January 2011 to September 2014

	2011	2012	2013	2014
January	11	4	8	10
February	0	6	6	8
March	6	12	12	13
April	13	10	18	18
May	14	11	13	17
June	12	4	15	16
July	10	5	10	23
August	18	6	14	22
September	9	9	9	26
October	5	10	15	*
November	11	6	15	*
December	5	11	12	*
Total	114	94	147	153

Source: [PPP 62](#) [Ministry of Justice]

Only a very small number of incidents are serious enough to require external support from specialist intervention teams, such as Operation Tornado, and the number of such interventions had not increased by the end of September 2014.¹⁴⁷

Access to purposeful activity

69. NOMS' intention was to preserve a focus on real work and purposeful activity under its benchmarked regime.¹⁴⁸ Our evidence suggests that broadly speaking this has not been achieved. The Chief Inspector of Prisons' assessment was that access to purposeful activity had "plummeted".¹⁴⁹ Provision for purposeful activity was judged to be adequate in only two-fifths of prisons inspected between November 2013 and March 2014, the lowest level in the last nine years.¹⁵⁰

70. We heard two main explanations for the reduction in access to education and training. First, there was a shortage of officers to escort prisoners to learning activities as priority was given to other tasks (such as escorting out of the prison and incident response), and, secondly, there were too few education and training places for the number of prisoners held.¹⁵¹ In relation to the former, we heard examples from the Chairs of the Independent Monitoring Boards of HMP Belmarsh and Wormwood Scrubs of prisoners having to choose between having showers and making phone calls or going to education.¹⁵² Various HM Inspectorate of Prisons reports indicate that access to libraries had also diminished due to staff shortages.¹⁵³ We also heard that a narrower range of learning provision had been procured under the most recent Offender Learning and Skills Service (OLASS)

147 House of Commons Written Answers and Questions, Written Question [217216](#), Answered on 9 December 2014.

148 National Offender Management Service, [Business Plan](#), Ministry of Justice, London.

149 [Q 120](#) [Mr Hardwick]

150 HM Chief Inspector of Prisons [Annual Report 2013–2014](#), 21 October 2014.

151 [Q 5](#) [Ms Levin]; [PPP12](#) [Prison Reform Trust]; [PPP19](#) [Association of Colleges]; [PPP09](#) [Prisoner Learning Alliance]; [PPP10](#) [Milton Keynes College]

152 [PPP54](#) [Independent Monitoring Board, HMP Belmarsh]; [Q 1](#)

153 [PPP60](#) [Howard League]

competition process, and there had been a lack of capital investment in facilities for activities.¹⁵⁴

71. A4E, one of the contractors for the provision of prison-based learning and skills, withdrew in August 2014 from its contract for 12 London prisons allegedly because it was no longer able to run the contract at a profit due to unspecified constraints.¹⁵⁵ A4E had submitted written evidence to our inquiry prior to the announcement, but it did not cover this matter. We heard that activity provision had been adversely affected while an alternative provider was found.¹⁵⁶ Due to the lack of availability of prison staff to escort prisoners to classes, teaching staff from some members of the Association of Colleges—which represents and promotes the interest of colleges, some of which are providers of offender learning and skills services—had been given the responsibility of moving prisoners themselves.¹⁵⁷

Sentence progression and case management

72. Rehabilitation programmes and effective offender management processes have also suffered in other ways: prisoners have been unable to access offending behaviour courses, or have been moved because of population pressures to another prison without having completed them, and, as we have noted, there is a high volume of backlogs in risk assessments.

Prisoner complaints

73. Nigel Newcomen, the Prisons and Probation Ombudsman, told us that his office had experienced between 2013 and 2014 a 35 per cent increase in complaints from prisoners, including a 50 per cent increase in complaints about regimes.¹⁵⁸ He observed: “Where, for example, statutory entitlements have been lost—access to fresh air, the library, the statutory gym—as part of a poorly implemented benchmarking process, clearly the real-life experience for prisoners on wings is suffering quite considerably, and that is percolating through to my office in terms of complaints.”¹⁵⁹ Evidence from the Prison Reform Trust (PRT) and the Prisoners’ Advice Service reinforced that the nature of inquiries to their services had changed. For calls to the PRT helpline, prisoners wanting to transfer prisons remained the top concern in the 2013–14 period, as it had been in previous years. On the other hand, the second most common subject of complaint was the new IEP scheme; this had not previously been an issue.¹⁶⁰ Long standing issues of mental health and housing no longer featured in the top five concerns, but the volume of complaints about changes to the

154 [PPP53](#) [Prisoners’ Learning Alliance and Prisoners Education Trust supplementary]; [PPP13](#) [Prison Officers’ Association]; [PPP18](#) [A4e]

155 *The Guardian*, [A4e terminates prisoner prison education training contract](#), 13 August 2013; see also [PPP10](#) [Milton Keynes College]

156 [Q 190](#)

157 [PPP19](#) [Association of Colleges]

158 Correspondence with Committee Secretariat. These figures related to eligible cases for investigation at the end of the first quarter (April–June) 2014, compared to the first quarter of the previous year 2013–14. After he gave evidence he told us informally that there had been a fall in the volume of complaints so for the first three quarters of 2014–15, the increase amounted to 18% on the same period in the previous year i.e. April to December 2013.

159 [Q 118](#)

160 [PPP 39](#) [Ministry of Justice]

release on temporary licence scheme and conditions of post-release licences had increased. We heard from several representatives of Independent Monitoring Boards, including the President of the National Council of Independent Monitoring Boards, who together provided a picture of deteriorating standards in terms of staffing levels, resulting in less prisoner to staff contact, less surveillance, and less access to purposeful activity.¹⁶¹

74. Anecdotal evidence from Deborah Russo of the Prisoners' Advice Service (PAS) indicated that there had been a notable increase in prisoner complaints regarding safety, and increased requests for safety interventions. PAS also said prisoners had difficulties in getting to healthcare appointments outside the prison (as escorts are required) resulting in delayed treatment.¹⁶² The Zahid Mubarek Trust, which scrutinises equalities-related complaints in London prisons, and the Archbishops Council of the Church of England said that access to chaplaincy services had also diminished.¹⁶³ We discuss the complaints system more fully in Chapter Four.

75. All available indicators, including those recorded by HM Inspectorate of Prisons and NOMS itself, are pointing towards a rapid deterioration in standards of safety and levels of performance over the last year or so. Most concerning to us is that since 2012 there has been a 38% rise in self-inflicted deaths, a 9% rise in self-harm, a 7% rise in assaults, and 100% rise in incidents of concerted indiscipline. Complaints to the Prisons and Probation Ombudsman and other sources have risen. There are fewer opportunities for rehabilitation, including diminished access to education, training, libraries, religious leaders, and offending behaviour courses.

Explanatory factors for the deterioration in performance

76. A multitude of theories has been advanced about what has contributed to the deteriorations in levels of safety and purposeful activity, and rising numbers of complaints. In his annual report for 2013–14, the Chief Inspector of Prisons concluded that “it is impossible to avoid the conclusion that the conjunction of resource, population and policy pressures, particularly in the second half of 2013–14 and particularly in adult male prisons, was a very significant factor.”¹⁶⁴ In his evidence to us he clarified what he meant by policy pressures, pointing to the recent changes to the Incentives and Earned Privileges and Release on Temporary Licence (ROTL) schemes, as well as the general “pace of change that is being applied to prison managers.”¹⁶⁵ We discuss these two policies in detail in Chapter Four.

77. Many of our witnesses supported Mr Hardwick's view that staffing levels and changes to the prison regime, including the IEP scheme, were causative factors in the decline in safety, although it was noted that reasons for each of the areas of decline were likely to differ; for instance, those behind suicide were different from those behind self-harm, and

161 [Q 242](#)

162 [Q 19](#) [Ms Russo]

163 [PPP44](#) [Zahid Mubarek Trust]; [PP05](#) [Mission And Public Affairs Council, Church Of England]

164 HM Chief Inspector of Prisons [Annual Report 2013–2014](#), 21 October 2014.

165 [Q 131](#)

the factors behind those were different from the concern about prison violence.¹⁶⁶ The Government attributed operational issues and subsequent adverse outcomes to several other factors, including unexpected and extreme population pressures, increases in the use of legal highs, and a broader increase in suicide rates.¹⁶⁷ We consider here the extent to which the situation can be attributed to prisons policies, or other factors beyond the Government's control.

Changes to regimes

78. We received evidence of some modifications to regimes that could contribute to a reduction in safety, however unintentionally. Regime restrictions can affect levels of violence in two ways: they can contribute to greater violence, but conversely they can operate as a protective factor as prisoners are unable to mix as frequently with others. Angela Levin of the Wormwood Scrubs IMB believed that increases in suicide, a “huge increase” in self-harm and a 50% increase in violence were due to the length of time prisoners were spending in their cells and the lack of capacity of staff to monitor them.¹⁶⁸ For example, at Wormwood Scrubs more prisoners were now sharing cells, including three to a cell in some cases.¹⁶⁹ The British Psychological Society explained that reduced purposeful activity and changes in regime have a potentially destabilising effect for those with mental health issues, including propensity to self-harm.¹⁷⁰

79. Several of those giving evidence attributed increased complaints and the changing nature of them to restrictions, changes and alterations to regimes. The Prisoners' Advice Service had received an increase in complaints from prisoners who feared for their safety.¹⁷¹ In relation to the changes to IEP which mean people begin sentences on a basic regime, Dr Edgar was concerned that the first period of custody was a high-risk time for suicide and self-harm and that this might make that period of adjustment more difficult and put them at greater risk.¹⁷² This might be compounded by staffing changes which meant that access to the telephone at night, for example, to call the Samaritans, had been restricted.¹⁷³ Other policy changes had also caused concern, for example, safer custody reports related to the management of prisoners at risk of harm to themselves, to others and from others were now less detailed and, according to Angela Levin, risked giving the wrong impression of the severity of incidents.¹⁷⁴

166 [Q 101](#) [Mr Edgar]; [Qq 207–208](#) [Mr Bailey; Mr Gillan]; [Q 117](#) [Mr O'Connell]; [Q 129](#) [Mr Newcomen]

167 [Q 47](#) [Andrew Selous] HC[Session 2014–15]659; [Q 57](#) [Michael Spurr] HC[Session 2014–15]659; Conservative Home Article, [Interview: Grayling - As Lord Chancellor](#), 21 January 2015.

168 [Qq 1–2](#)

169 [PPP53](#) [Prisoners Education Trust]; [PPP54](#) [Ms Homan]; [Managing the Prison Estate](#), December 2013

170 [PPP17](#) [British Psychological Society]

171 [Q 34](#) [Ms Russo]

172 [Q 101](#) [Mr Edgar]

173 [PPP03](#) [Quaker Peace and Social Witness, Crime, Community and Justice Sub-Committee]

174 [Q 2](#) [Ms Levin]

Staff-prisoner relations

80. Phil Wheatley emphasised the importance of continued interaction between staff and prisoners and getting the balance right in levels of staffing:

“...we need enough staff time to interact with prisoners. It is not just time out of cell; you can give prisoners a lot of time out of cell but not interact with them very much, and they will behave like they would on a street corner, if you don’t watch it.”¹⁷⁵

We heard that the time and opportunity that staff and prisoners had to build these important relationships might be jeopardised under new ways of working. The Prison Officers’ Association stated that day-to-day communication between prisoner and officer was rapidly diminishing, with an inevitably detrimental impact upon security and safety.¹⁷⁶ We consider the role of the modern-day prison officer further in Chapter 4 of this Report.

81. Getting this balance right is important for preserving dynamic security, an approach to prison safety based on the relationship between staff and prisoners. In part, it means that everyone who works in prison has a responsibility for security and control. In practice however, ‘dynamic security’ means that staff should mix with prisoners and talk and listen to them while remaining alert to the atmosphere and potential for incidents. ‘Static security’ includes measures where perimeter fences, bars, gates, and the use of CCTV, for example, prevent or manage prisoner movement. This could reduce the need for staff and prisoners to spend time in close contact with each other. Examples of this include strengthening security to prevent drugs being thrown over the fence, and the use of body-worn cameras.¹⁷⁷ Both forms of security are necessary but when staffing levels are reduced the balance between the two must be carefully managed.

82. We heard that under benchmarking prison officers would no longer permanently be assigned to one wing. Instead, they would become ‘troubleshooters’ and would go to wherever a difficulty arose, which could be three different wings on one day, for example.¹⁷⁸ Knowledge of prisoners on the wing is vital in maintaining safety as officers can sense when a prisoner might be prone to violence and can calm them down, or identify signs of self-harming.¹⁷⁹ Dr Kimmett Edgar, who has conducted research on violence reduction in prison, pointed out that there was strength in numbers in terms of maintaining safety:

Officers can prevent fights by intervening and confronting the use of threats and verbal abuse—but to do this, they need sufficient numbers. In particular, it takes guts to confront someone who is aggressive; and if an officer is on her own on a landing, (s)he will be far less confident about intervening.¹⁸⁰

175 [Q 83](#)

176 [PPP13](#) [Prison Officers’ Association]

177 [PPP45](#) [G4S]; [Q 266](#) [Mr Petherick]

178 [Q 30](#) [Ms Levin]

179 [Q 33](#) [Ms Levin]; [Q 34](#) [Ms Russo]; [Q 331](#) [Ms Moseley OBE]

180 [PPP40](#) [Prison Reform Trust supplementary evidence]

83. Prison officers' knowledge of prisoners on their wings was also important in dealing proportionately with matters that might escalate. For example, the Zahid Mubarek Trust emphasised that 'wing banter' might be mistaken for discriminatory behaviour and lead to a disproportionate reaction.¹⁸¹

Staff levels and turnover

84. Between 31 March 2010 and 30 June 2014 the number of full-time equivalent staff in public sector prisons fell by 28 per cent, a reduction of 12,530 staff.¹⁸² The prisoner to staff ratio has risen from 3.8 in September 2010 to 4.9 in September 2014.¹⁸³ Staff turnover in public sector prisons has doubled since 2010/11.

Table 5: National Offender Management Service total workforce and leavers by financial year since 2009–10

12 months ending	Number of Leavers (headcount)	Workforce (headcount)	Turnover
31 March 10	3,680	51,210	7%
31 March 11	3,470	49,210	7%
31 March 12	3,560	45,580	8%
31 March 13	3,760	42,720	9%
31 March 14	5,470	37,220	15%

Source: [National Offender Management Service workforce statistics](#)

Recent figures are more equivalent to turnover in the private sector. For example, at Serco it is between 5 and 15 per cent on average. Some turnover was to be expected under the benchmarking and estate rationalisation programme, under which both re-deployment of staff, following prison closures, and redundancies would be required. NOMs anticipated a 5 per cent reduction in staff under benchmarking, for example, and put in place a voluntary exit scheme to facilitate the necessary redundancies.

Reasons for staffing shortages

85. It is difficult to disentangle definitively the causal factors for staffing shortages. Our witnesses have suggested several to us, including: NOMS allowing too many staff, or too many experienced staff, to leave through voluntary redundancy arrangements; staff resigning; imposed freezes on recruitment, orchestrated at a national rather than local level; and high sickness rates.¹⁸⁴ The Secretary of State attributed staffing problems to an unanticipated rise in the prison population and a more buoyant labour market in some parts of the country. He saw these as routine difficulties associated with the ebbs and flows of a large workforce.¹⁸⁵

181 [PPP44](#) [Zahid Mubarek Trust]

182 [PPP40](#) [Prison Reform Trust supplementary evidence]

183 [PPP62](#) [MoJ]

184 [Q 83](#) [Mr Wheatley]; [Q 117](#) [Mr Hardwick]; [PPP12](#) [Prison Reform Trust]; [Q 241](#) [Ms Homan]; [PPP17](#) [British Psychological Society]; [Q 209](#) [Mr Bailey]

185 Q 15 [HC 848](#); Q 5 [HC 312](#)

86. The trend towards lower staffing levels is not solely related to benchmarking. It is present in the youth and adult estate, including in the private sector, and the decline began in 2010.¹⁸⁶ Most recently patterns in the predominant reasons for staff leaving the Prison Service have changed: in the year to September 2014, of the 3,400 staff who left (representing 11% of staff), 24% resigned, 15% retired, and 17% took voluntary redundancy. In the previous year these figures, relating to 5,300 departures, were 16%, 14% and 50% respectively.¹⁸⁷

87. The fact that resignation features more highly than redundancy in the last year supports other evidence which indicates that some staff have left due to increased dissatisfaction with the conditions in which they have been expected to work. The pressure placed on those operational and management personnel that have continued to work in prisons has had a considerable impact on them.¹⁸⁸ As well as higher staff turnover, we received evidence of low staff morale and higher sickness rates, partially explained by work-related stress.¹⁸⁹ Prior to the introduction of benchmarking public sector prisons had already gone through reforms to implement more affordable staffing structures, including new pay and conditions, under the Fair and Sustainable Programme.¹⁹⁰ The Prison Reform Trust noted that this, followed by benchmarking and changes to operational policies that would be challenging to implement had “heaped pressure” on governors and staff alike.¹⁹¹ Difficulties in operating regimes have been particularly severe during the holiday season.¹⁹² They have also been exacerbated by the need to release staff for detached duty which we consider in paragraphs 109 to 111. The POA representative at HMP Isis, which had particularly severe staff shortages, described the poor working conditions he had experienced: “Acts of violence, be it prisoner-on-prisoner or prisoner-on-staff, have gone through the roof. The staff feel that they have little support by the [Crown Prosecution Service], as crimes committed against prisoners or other staff do not seem to lead anywhere. It just seems that the whole system is in a bit of a mess. I have been in the service eight years and this is by far the worst I have experienced in that time.”¹⁹³

88. Several witnesses paid tribute to those that had kept regimes running to the extent that they had. Stephen O’Connell said:

Over the last six months, as staffing has reduced and regimes have had to be restricted in a number of prisons, frequently it is prison governors at every level who are stepping in to try to ensure that things happen with prison officers. It would be easy to think that in that situation it is somehow the prison’s fault, but actually in those prisons governors, their senior management teams and their staff are working extremely long hours to keep

186 [Q 316; Q 325](#) [Ms Gibbs]

187 [National offender management workforce statistics](#), September 2014.

188 [Qq 124-125](#) [Mr Hardwick]; [Q 241](#) [Ms Homan]; [Q 96](#) [Mr Neilson]

189 [PPP19](#) [Association of Colleges]; [Q 241](#) [Ms Homan]; [Q 207; Q 124](#) [Nick Hardwick]

190 [PPP33](#) [Ministry of Justice]

191 [PPP12](#) [Prison Reform Trust]

192 [PPP42](#) [National Offender Management Service]; Howard League, [Prisons hit by staff shortages](#), 18 December 2014

193 [Q 207](#)

going even restricted regimes, which often are not good enough by most of the measures we use now...¹⁹⁴

Steve Gillan of the Prison Officers' Association similarly spoke of the "massive impact" the cost reduction exercise had had on staff: "It is prison officers who are picking up the pieces, under difficult circumstances."¹⁹⁵

89. The impact on staff has undoubtedly affected retention levels. Research carried out by the University of Bedfordshire for the Prison Officers' Association examining the pension age of prison officers has found that they are at high risk of emotional and physical stress and exhaustion: 60 per cent of staff sampled were considering leaving the Prison Sector in the near future.¹⁹⁶ A significant proportion of staff are retired from the service each year on medical grounds.¹⁹⁷ A larger scale survey of staff engagement conducted by NOMS, to which 44 per cent of Prison Service staff responded, found that: 53 per cent of staff feel they have the effective tools to do their job; 52 per cent feel that they work in a safe environment; 21 per cent feel that their pay adequately reflects their performance; only the same proportion feel the prison service is well managed; and 42 per cent were positive about their workload.

90. Michael Spurr acknowledged that the pressured conditions that prison staff were working under had contributed to low morale:

...The vast majority of staff responding are Prison Service staff going through a major change programme with the closure of 16 prisons, changing terms and conditions, effectively freezing pay, even on top of the civil service pay freezes, for the majority of prison officers and reducing numbers.¹⁹⁸

He welcomed the fact that the majority (70 per cent) of staff had accepted new terms and conditions and that the trade unions were supportive of their approach, and emphasised that NOMS was working hard to engage staff through a difficult process.¹⁹⁹ For example, staff had access to a welfare service, available 24 hours a day.²⁰⁰

91. Mr Spurr did not believe staffing problems could have been foreseen:

...while we had very good plans to be able to deliver the savings we were hit by external events... specifically...the increase in the prison population [in autumn 2013]. That...created much more pressure than we had anticipated and...required us to have more staff than we had planned for. The difficulties in recruiting those staff, particularly in the south-east, have created significant pressure for us. I think that pressure was at its height through the

194 [Q 119](#)

195 [Q 208](#)

196 University of Bedfordshire, [Independent survey of Prison Officers reveals staff totally demoralised](#), 19 November 2014.

197 See also [National offender management workforce statistics](#), September 2014.

198 Q 19, Justice Committee, [Annual report and accounts](#), one-off session, 28 October 2014, HC 658.

199 *Ibid.*, [Q 20](#)

200 [Q 385](#) [Mr Spurr]

end of last year and into the summer of this year, and it is beginning to recede as we are able to recruit the staff that we need.”²⁰¹

The increase in the prison population was in part driven by an increase in people being sentenced for historic sexual offences: the so-called “Savile effect”, alongside an increase in the remand population.²⁰² When we put to Mr Spurr the point that the population growth was within projected assumptions, he explained that it had gone over the level predicted, but in any case NOMS planned to accommodate the central forecast.

92. NOMS workforce statistics do not appear to corroborate the Government’s assertion that staffing problems are confined to the adult estate, and to the South East of England.²⁰³ It is true that the degree of understaffing has varied by prison. In June 2014 there were 32,550 prison staff in post across the whole public sector estate.²⁰⁴ At that time, 83 prisons had been benchmarked, and among them there were 2,481 vacancies below the ‘target staffing figure’, comprising 415 prison officers, 353 operational support staff, and 1,723 instructors, administrative and support staff.²⁰⁵ At this time only 7 of those 83 prisons were operating at their full complement of staff; some prisons in the East of England and Yorkshire and Humber were operating with over 70 too few staff.²⁰⁶ On the other hand, 16 per cent of staff who left in the year to September 2014 were from the high security and young people’s estates. While the more buoyant labour market in parts of the country might have resulted in problems with recruitment, it does not appear to have contributed disproportionately to retention: staff in Greater London and the South East represent 15.7 per cent of the workforce, which corresponds closely to the fact that staff from these areas comprised 15.2 per cent of leavers.²⁰⁷ It is also important to note that difficulties retaining staff do not solely relate to the public sector. For example, the attrition rate was higher than average at HMP Thameside (at between 10 and 20 per cent) due to the number of staff recruited when it opened who subsequently decided prison work was not for them.²⁰⁸ On the other hand, private sector prisons are able to develop their own plans for recruitment and retention, including recruiting staff directly.²⁰⁹

93. Cuts to prison budgets have resulted in changes to regimes which mean that prisoners are now routinely locked up for longer. The Government has been successful in rapidly reducing costs, but because staff are not at their full benchmarked complement it is not possible to assess whether that cost reduction will make regimes in public sector prisons more effective, or whether safety levels can be restored to their previous level. Detrimental impacts on prisoners and staff are unquantified but they are likely to have financial consequences, and it is possible that the level of cuts imposed might prove to be a false economy.

201 Q 19, 28 October 2014; 28 October [HC 658](#), Q 3

202 Q 42 HC848; Q 2 The Work of the Secretary of State, [HC 312](#), 9 July 2014

203 Q 326 [Ms Hinnigan]; [PPP41](#) [National Offender Management Service]

204 In June 2014 there were 32,550 prison staff

205 [PPP41](#) [National Offenders Management Service]

206 *Ibid.*

207 Ministry of Justice, [National Offender Management Service workforce statistics](#), September 2014,

208 [Q 352](#) [Mr Thorburn]

209 [Q 188](#) [Mr Biggin]

94. A quarter of the staff who have left the Prison Service in the year to September 2014 resigned. NOMS ought to have foreseen that major reductions in staffing, less favourable pay and conditions of employment, and significant changes to prison regimes, would lead to a rise in people opting to leave the Prison Service, regardless of the buoyancy of the external labour market. This underlines the importance of retention as well as recruitment. As NOMS is highly dependent on its staff to run well-functioning prisons, and it is important that the Service acts rapidly on the evidence of recent surveys to ensure that staff feel valued and are given appropriate support to work in circumstances which are challenging at the best of times, but currently particularly pressured. Given the importance of relationships between prisoners and prison staff we do not believe that making further detrimental changes to terms and conditions of staff is sustainable as a means of controlling costs if the prison population continues to rise.

Assaults

95. The Secretary of State told us that the number of assaults in prison had fallen.²¹⁰ Whilst this may be true over the entire period of this Government, NOMS' own figures indicate that there was an increase of 10 per cent in assaults in the year to the end of June 2014, and a parallel rise in the rate of assaults per 1,000 prisoners, indicating that this is not accounted for by the rise in the prison population.²¹¹ Serious assaults have increased by 32 per cent over the same period. Mr Grayling did acknowledge to us that assaults on staff had risen, reversing earlier reductions; he wished to see them being treated more seriously by the Crown Prosecution Service.²¹²

Suicides

96. At an evidence session on the work of the Secretary of State in July 2014, Mr Grayling attributed the rise in self-inflicted deaths in prisons to a “broader social challenge” of rising suicide rates in society.²¹³ At a subsequent evidence session, he indicated that he had been referring to suicide rates among the “community in the justice system”, and to young men in particular.²¹⁴ He reiterated that there was no clear pattern to explain the rise:

210 Q 8 [HC 312](#), 9 July 2014

211 National Offender Management Service, [Safety in Custody](#), 30 October 2014. There were 15,441 assault incidents in the 12 months to the end of June 2014, up from 14,045 incidents in the previous 12 months. The rate of assaults is 181 incidents per 1,000 prisoners, up from 165 incidents in the 12 months to end of June 2013. There were 1,817 incidents of serious assault in the 12 months to June 2014 from 1,377 in the same period last year.

212 *Ibid.* In October 2014, the Prison Officers' Association successfully challenged in the High Court a decision made by the Crown Prosecution Service to discontinue proceedings against a prisoner who had assaulted a prison officer. See Press Notice, [POA succeed in legal challenge against prisoner](#), 27 October 2014. In November 2014, the Government announced a change of policy, set out later in this chapter.

213 Q 8, The Work of the Secretary of State, [HC 312](#), 9 July 2014; At that time data on suicides that would coincide with the rise in suicide in prisons were not publicly available. The most recent figures from the [Office for National Statistics released in February 2014](#), which related to 2012, indicated that the overall trend over the last decade has been a decrease in the suicide rate for the UK general population, with a small rise in the last 4 years up to 2012. From 2011 to 2012 the suicide rate fell slightly from 11.8 incidents per 100,000 people aged 15 and over to 11.6 incidents. On 19 February 2015 the [Office for National Statistics published data for 2013](#) showing a 4% increase in suicides by people aged 15 and over compared to the previous year. This equates to 11.9 incidents per 100,000 population.

214 Q 41, [HC 848](#)

Sometimes it is the case that you get upward ticks in the suicide rate for which there is no obvious explanation. We have looked very hard to see whether there is a common factor in the suicides we have seen in prisons. They have taken place in prisons where there have been staff reductions. They have taken place in prisons where there have been no staff reductions. They have taken place in prisons where we have seen excellent inspection reports. We have seen suicides in places where there have been poor inspection reports. Parc, for example, in south Wales, which is run by G4S and therefore has not been affected by the benchmarking changes...is regarded by the prison inspector as one of the best prisons in the estate...It has had three suicides. Every one of these is tragic; every one of these is to be regretted. I am pleased that the number has settled back down again. I hope upon hope that it continues to be so, and we will work very hard to that effect.²¹⁵

Drugs

97. The increased prevalence of so-called legal highs (new psychoactive substances) was raised by several witnesses, and they partially attributed to it the rise in levels of violence in prisons.²¹⁶ Mandatory drug testing has shown illegal drug use in prisons has gone down over the last 20 years, with the proportion of prisoners testing positive falling from 24 per cent in 1996/97 to just over 7 per cent in 2013/14. Seizures of substances such as Spice, however, have risen from 133 in 2012 to 430 in 2014.²¹⁷ Early on in our inquiry we heard some speculation that the prevalence of drug use might rise due to limitations on staff time to facilitate testing and cell inspections as a result of benchmarking.²¹⁸ Dr Edgar also said: “If you appreciate that currently there are more people dealing drugs on wings than there are prison officers, you can understand that there is potential for wings to become criminogenic—to become areas in which crime flourishes.”²¹⁹ After we concluded taking evidence in our inquiry the Government announced a “crackdown” on legal highs in prison, including extending powers to mandatory drug test for them.²²⁰ The use of mandatory drug testing for those substances for which testing is already permitted fell by 14 per cent between 2011/12 and 2013/14.²²¹

Measures to deal with violence and disorder

98. The Government stressed the fact that there is a more challenging mix of prisoners than before as a key explanation for operational problems and deteriorating outcomes.²²² Their line was supported by prison governors and directors.²²³ Mr O’Connell

215 *Ibid.*

216 [Q 65](#) [Paula Harriott]; [Q 132](#) [Stephen O’Connell]; [Q 228](#) [Adellah]; [Q 347](#) [Mike Conway]; [Q 349](#) [Jerry Petherick]

217 The Guardian, [Legal highs and prescription drugs face ban in English and Welsh prisons](#), 26 January 2015

218 Discussion on visits; [Q 4](#) [Ms Levin]

219 [Q 101](#)

220 Ministry of Justice, [New crackdown on dangerous legal highs in prison](#), 25 January 2015

221 HC Written questions and answers, [WQ216064](#)

222 Examples of this included gang conflicts among young adult prisoners; Q 2 [HC 312](#), 9 July 2014; Qq 5, 42 [HC 848](#)

223 [Q 132](#) [Mr O’Connell]; [Q173](#) [Mr Hawkings; Mr Cartwright; Mr Biggin]

acknowledged that the prison population changes, with resulting challenges in violence management, had occurred alongside staffing and population pressures.²²⁴ Other witnesses felt that violence reduction measures had weakened. Andrew Neilson said that Inspectorate reports were indicating that good violence reduction strategies and procedures had ebbed away.²²⁵

99. In June 2014 the Inspectorate itself published a review of progress on the implementation of the recommendations of the public inquiry undertaken after Zahid Mubarek, a 19 year old of Pakistani descent, was tragically killed by his racist cell mate in Feltham Young Offenders' Institution.²²⁶ The Inspectorate reported that new systems and processes had been put in place and that electronic case records had made sharing and using information easier, but the implementation of recommendations had been inconsistent. The reduction in homicides in prison since 2000 is viewed as coinciding with the introduction of cell-sharing risk assessment, but in the last year there were four cases, the highest number since 1998. The Inspectorate warned that there was a danger that with the passage of time, the drive that led to the introduction of risk assessments had weakened, and the issues that the Zahid Mubarek inquiry highlighted have not been given a high enough priority now that the Prison Service's resources had been cut. For example, racist bullying on a significant scale was still found in young offender institutions. Imtiaz Amin, the uncle of Zahid Mubarek, who founded the Zahid Mubarek Trust which examines equalities measures in prisons in London, told us that dedicated staffing for equalities had reduced considerably.²²⁷ These responsibilities had been subsumed into other roles, with the potential for equalities not to be afforded sufficient priority.²²⁸ Furthermore, safer custody staff reportedly have less time to meet for mutual support and information sharing.²²⁹

Approaches to efficiency in the private sector

100. There are 14 private prisons contractually managed by one of three private companies: Sodexo Justice Services, Serco and G4S Justice Services. It is important to note that private sector providers have not been protected from cuts entirely; NOMS has negotiated with them to revise contracts to reduce their costs, including to reduce staffing levels, as well as to increase operational capacity.²³⁰ Jerry Petherick of G4S saw this as a proper means of controlling expenditure but valued the contractual method as a way of protecting prisoners and contractors and their staff because of the certainty it provides about what must be delivered and about the mechanisms for changing requirements.²³¹ As Mike Conway of Sodexo explained, when new providers begin to run a new prison or take

224 [Q 141](#)

225 [Q 102](#) [Mr Neilson]

226 HM Inspector of Prisons, [Thematic report by HM Inspectorate of Prisons: Report of a review of the implementation of the Zahid Mubarek Inquiry recommendations](#), June 2014, p.6

227 [PPP44](#) [Zahid Mubarek Trust]

228 *Ibid.*

229 [PPP47](#) [Prison Reform Trust supplementary evidence]

230 HC Deb, 2 Sep 2013, [Col 206W](#): Add: See, for example, changes in certified normal accommodation between October 2013 and October 2014: Ministry of Justice [Monthly Population Bulletin October 2014](#) London: Ministry of Justice; Ministry of Justice [Monthly Population Bulletin October 2013](#) London: Ministry of Justice

231 [Q 337](#)

over an existing one, efficiencies are built into the contract when it is agreed.²³² He also noted that it was difficult to compare the finances of public and private sector prisons as their cost base was different, in terms of overheads for example.²³³

101. Some witnesses questioned whether public sector prisons could reasonably make comparable savings to those achieved in the private sector.²³⁴ Our conversations during our visits and with private sector providers suggested that, as we have already mentioned, technology, in particular in-cell self-service kiosks, had been a contributory factor in limiting the costs of running new establishments, enabling them to be run with leaner staffing levels, for example.²³⁵ In older establishments such as HMP Birmingham and HMP Northumberland, which Serco and Sodexo have acquired from the public sector, these providers have also invested in such technology.²³⁶ Mike Conway of Sodexo questioned whether operating on slimmer staffing levels would be feasible in the public sector without reforms of this nature.²³⁷

102. It is possible that the Ministry might be taking the matter of the sudden rise in self-inflicted deaths seriously internally, but downplaying publicly its significance, and the potential role that changes in prisons policy might be playing in it, is ill-advised as it could be construed as complacency and a lack of urgency. The Ministry told us they had looked hard for evidence of factors which could be causing an increase in suicide rates, self-harm and levels of assault in prisons. Worryingly, they had not managed to arrive at any hypothesis as to why this has taken place. In our view it is not possible to avoid the conclusion that the confluence of estate modernisation and re-configuration, efficiency savings, staffing shortages, and changes in operational policy, including to the Incentives and Earned Privileges scheme, have made a significant contribution to the deterioration in safety.

103. Private sector prisons have not been immune from the imposition of efficiency savings but once their contracts have been agreed they are insulated to some extent. They also benefit from their greater ability to make capital investments in the hope of recouping the benefit over the lifetime of the contract, while public sector processes restrain such investment. We conclude that public sector prisons need greater capacity to invest in cost-effective and operationally beneficial improvements in the way that the private sector does.

NOMS' measures to manage and resolve the situation

104. The Government has employed a series of interim measures to enable prisons to be managed as safely as possible in the short term, along with efforts better to manage the challenges relating to changes in the prison population, and longer-term measures to improve NOMS' resilience in future. Towards the end of our inquiry the Government

232 [Q 335](#)

233 [Q 334](#)

234 [PPP12](#) [Prison Reform Trust]

235 [Qq 335; 342](#) [Mr Conway]; [Q 341](#) [Mr Petherick]

236 [Q 166](#)

237 [Q 335](#)

announced a package of measures to seek better to control violence.²³⁸ These were mainly designed to strengthen the criminal justice response to prisoner violence, perhaps in an effort to deter such behaviour. In particular, a joint protocol produced by the Prison Service, Crown Prosecution Service and Association of Chief Police Officers sets out a presumption in favour of prosecution when there are serious assaults on prison staff, unless there is a good reason why not. The Prison Service is also to make greater use of body worn cameras, and the Ministry put forward legislation in the Serious Crime Bill to ensure that prisoners who possess knives and other offensive weapons in prison will face prosecution under a new criminal offence punishable by up to four years in prison.²³⁹

Action to resolve staffing problems

105. The Ministry has been seeking to address staffing shortages in five main ways: the use of restricted regimes; the use of overtime;²⁴⁰ the deployment of detached duty staff to 25 prisons with the most severe problems; the introduction of a special reserve force to be deployed across the prison estate; and an accelerated recruitment drive for 1,700 new prison officers by March 2015.²⁴¹

106. A substantial number of prisons have implemented restrictions to their regimes as staffing levels had become too low to run existing regimes safely. According to the Chief Inspector of Prisons, on 10 November 2014, 22 prisons were operating restricted regimes.²⁴² Michael Spurr explained why this might occur:

Governors may adjust/restrict regimes to ensure safety, security and decency for prisoners and staff. This is a process of identifying the reduced level of activity to ensure a safe, decent and secure regime, whilst maintaining key services—such as meals, time in the open air, time to make telephone calls, visits, the dispensing of medication and access to healthcare—and some purposeful activity, which will vary according to the facilities of the prison and the function of the prison.²⁴³

107. Mr Hardwick concluded that such restrictions were a sensible means of managing staffing problems and providing certainty for prisoners of running consistent regimes.²⁴⁴

108. Some restricted regimes have had to be imposed for a considerable length of time. We heard that at HMP Isis, for example, a restricted regime had been introduced on a temporary basis in summer 2013 and remained in place 14 months later. In addition to the enduring pressure on staff of having to deal with a heavier workload, at times this had led to prisons having to lockdown entirely due to severe staff shortages.²⁴⁵ In HMP

238 Ministry of Justice press release, [Crackdown on violence in prisons](#), 16 November 2014.

239 *Ibid.*

240 Prison Officers are able to work up to an additional 9 hours per week under the Payment Plus scheme.

241 [PPP41](#); [PPP42](#) [National Offender Management Service]

242 [Q 120](#)

243 [PPP42](#) [National Offender Management Service]

244 [Q 120](#). See also [Qg 191–192](#) [Mr Hawkings]

245 Correspondence between Mr Pinchin and Mr Selous; Her Majesty's Inspectorate of Prisons, Unannounced inspection, [2-13 July 2014](#) HMP Elmley, 12 November 2014

Wormwood Scrubs prisoners were spending longer in their cells, sometimes up to 23 hours per day.²⁴⁶ On the other hand, the IMB Chair at Belmarsh felt that the restricted regime at that prison was working relatively well.²⁴⁷

109. The cost of staffing the detached duty scheme—whereby operational staff are posted to establishments with the most severe shortfalls in staff—over the 13 months a national scheme has been in operation is £63.5 million, amounting to £2,500 per officer per month, which has been absorbed into the Ministry’s staffing budget.²⁴⁸ However the Ministry has been unable to inform us of the full cost implications of this scheme; staff presumably also receive subsistence, travel and accommodation costs, overtime payments and other financial inducements.²⁴⁹

110. Drafting in staff on detached duty might resolve the issue of absolute staffing numbers but there are limitations to what they can do in practice. Mr Hardwick explained the challenges encountered by the Inspectorate with such an approach: “[they] obviously do not know the prison and the prisoners in the way that the regular staff do. They can do the turnkey business, but it is very difficult for them to do more than that.”²⁵⁰ Similarly, our evidence suggests that inexperienced staff have been deployed to plug gaps. For example, in order to maximise staff numbers when prisoners are unlocked, security staff have been drafted on to wings. Angela Levin was concerned that these staff had never done such work and had no idea how to deal with the challenges prisoners might present.²⁵¹ She intimated their role was to “come and stand in to give the impression that they have more staff than they in fact have”.²⁵² It is difficult to determine the extent to which these issues are related to immediate shortage or benchmarking, as some redeployment of staff is part of more streamlined operating procedures. These pressures do not appear to be abating as the number of detached duty staff has not fallen.²⁵³ Table 6 shows the average provision of staff on detached duty has been at or above 230 per week since July 2014.

246 [Q 1: Q 5](#)

247 [Q 166](#)

248 [PPP41](#) [National Offenders Management Service]; [PPP62](#) [Ministry of Justice]

249 [PPP62](#) [Ministry of Justice]. The Ministry said there are additional costs (including travel, accommodation and subsistence costs) but it was not possible to disaggregate these associated costs of detached duty within the central financial records from other expenses claimed by staff without incurring significant cost as it would require the manual review and collation of data from online expenses systems and travel providers. In relation to these other costs, the House of Commons Library found that [Circular 137, 1 December 2014](#) lists 14 establishments - Aylesbury, Brinsford, Bullingdon, Chelmsford, Elmley, Feltham, Haverigg, Highdown, Hull, Isis, Nottingham, Swaleside, Woodhill and Wormwood Scrubs – at which prison officers on compulsory detached duty would receive a “special bonus payment” for working on Christmas Day, Boxing Day and New Year’s Day. The bonus was £110 for a main shift, £55 for an early shift, £80 for a late shift and £165 for an A shift. The circular comments that “These special bonus payments when added to the Payment Plus rate of £17 per hour equate to approximately £30 per hour based on a national benchmark weekend day.”; [POA circular 139, 23 December 2014](#) – The attached letters from Ian Mulholland indicate that prison officers who reach the 30 day limit for claiming overnight subsistence may nevertheless continue to claim it, if they are part of the national detached duty arrangement; [POA Circular 4, 19 January 2015](#) mentions “targeted use” of the special bonus scheme, which implies that the scheme has been continued beyond the Christmas/New Year period.

250 [Q 124](#)

251 [Q 2](#)

252 *Ibid.*

253 [PPP62](#) [Ministry of Justice]

Table 6: Average weekly provision of staff on detached duty to prisons in England & Wales– November 2013 to November 2014

Month	FTE Officers Provided
November 2013	110
December 2013	210
January 2014	210
February 2014	160
March 2014	130
April 2014	210
May 2014	160
June 2014	170
July 2014	230
August 2014	240
September 2014	230
October 2014	240
November 2014	230

Source: [PPP62](#) [Ministry of Justice]

111. In addition to the recruitment drive for operational staff, NOMS is actively recruiting to fill vacancies in other staffing groups, with priority being given to the recruitment of Operational Support Grades and Instructional staff.²⁵⁴ The costs of recruitment and initial training amounted to £9 million in the nine months to December 2014. NOMS was confident that it was on track to tackle both current vacancies and anticipated normal turnover over the coming months. Michael Spurr claimed that recruitment levels, of over 1,000 new staff, were such that the level of detached duty and impact of restricted regimes would both be reduced after Christmas 2014.²⁵⁵ The number of staff continued to fall up to December 2014.²⁵⁶ It is not clear whether account has been taken of the need to staff the new places that are coming on stream in spring 2015, in particular the re-roled young offender establishments.

112. Some witnesses questioned whether staffing difficulties would indeed be resolved by spring 2015 as the Government intends. For example, the Chair of the Independent Monitoring Board at HMP Isis shared with us a letter he had sent to the Minister in which he explained that the staffing situation at that prison was severe and deteriorating:

The prison, as of today, is 26 officers short of the agreed ‘benchmarking’ complement of 112. In addition, there are currently a further 27 officers unavailable due to factors such as sickness, maternity leave, restricted duties, disciplinary matters and temporary promotions...that is nearly half of the required workforce not being available.

As we noted above, the recruitment of officers is only part of the solution. While the Government’s recruitment drive is welcome, in the short term it will result in an influx of inexperienced staff. It will take some time before prisons are operating at their full

254 [PPP41](#). Operational support grades do a variety of duties, including checking in visitors; supervising visitors; patrolling perimeter and grounds; escorting contractors and vehicles; searching buildings and searching prisoners’ property. Instructional officers provide prisoners with vocational training. [Working for HMPS, www.gov.uk](#) downloaded 3 February 2015

255 [Q 382](#)

256 Ministry of Justice, National Offender Management Service workforce statistics: December 2014, 29 January 2015

benchmarked strength, while staff are in the process of gaining the skills and knowledge required to do their job effectively; new recruits undertake an eight week course and complete an NVQ over their first year.

Responsiveness of NOMS to changing operational demands

113. Michael Spurr sought to assure us that with a full staffing complement prisons could operate effectively under their benchmarks:

...it is important to say that we are implementing systems that are working somewhere. We have taken the best systems and said that we want them to work everywhere. That is one of the things that gives me confidence. In prisons that have managed to have the resources they need, we are getting good outcomes and that is reflected in some positive inspection outcomes where we have benchmarked and have the right staff in place.²⁵⁷

Nick Hardwick's conversations with prison governors suggested to him that they supported this view.²⁵⁸ On the other hand, the pace and scale of change was seen as a contributory factor in some of the difficulties experienced by governors. Stephen O'Connell explained:

Whether benchmarking in itself is the right answer or whether closing prisons and opening new ones is the right answer, it is not so much the individual parts but the fact that it all has to be done so quickly. As you know, when you push the pace of change it creates risk. [...] Over time and at a slower pace we would be able to manage that risk more effectively, but obviously it would not save money as quickly.²⁵⁹

114. The importance of monitoring carefully prison performance was emphasised by Mr Wheatley: "It is not easy to make a place improve, and when you have made it improve it is very easy to let it slip. Once it has slipped, it is difficult to get back again. Running prisons well is a very difficult thing. It requires high quality governors and really good staff, who need supporting."²⁶⁰ NOMS is monitoring the impact of benchmarking through a monthly assurance board, visits and routine performance data.²⁶¹ The management of prisons requires NOMS to keep their resources under review, and to change them if necessary. Public prisons can issue NOMS with notification that change to the benchmark is necessary, in a similar way to which private sector providers can alter their contracts. NOMS says that this enables them to respond to changing operational demands, for example if the size or the nature of the population at a prison were to alter.²⁶²

115. Both public and private sector prisons have been in a state of flux over the last two years, for a host of reasons. These include the implementation of new operational

257 Justice Committee, Older prisoners: follow-up, 29 October 2014, Q 21 [HC 659](#)

258 [Q 117](#)

259 [Q 117](#)

260 [Q 82](#)

261 [Q 382](#) [Mr Spurr]

262 [PPP41](#) [National Offenders Management Service]

policies, staffing reductions, populations changing and stabilising as prisons have opened, closed or re-roled, transfers from the private sector to the public sector and vice versa, and large-scale building projects on existing prison sites. It would be surprising if there had not been some adverse impact on performance. We believe that the key explanatory factor for the obvious deterioration in standards over the last year is that a significant number of prisons have been operating at staffing levels below what is necessary to maintain reasonable, safe and rehabilitative regimes. Having fewer prison officers can tip the power balance, leading to less safety and more intimidation and violence on wings. Interim measures such as restricted regimes and the national detached duty scheme have been adopted as a necessary means of minimising the risks of operating with insufficient staff, but these measures themselves have an adverse impact on the ability of the prison system to achieve rehabilitation and reduce reoffending.

116. The Government has been reluctant to acknowledge the serious nature of the operational and safety challenges facing prisons, and the role of its own policy decisions in creating them. Some difficulties could arise in any process of change, but it is clear to us that the Ministry had not planned adequately for the risk of staffing shortages, and failed to act sufficiently quickly to mitigate them. This unsatisfactory outcome and sluggish response has risked jeopardising the safety of prisoners and prison staff. We note that NOMS believes that these problems will begin to recede, and that the situation will have stabilised by April 2015, but we found convincing evidence that more pressurised working conditions for staff are compounding the staffing problem. Over the medium to long-term it is our view that turnover is likely to remain at undesirably high levels if some public sector prisons are operating with insufficient staff.

117. The Ministry remains optimistic that the benchmarking policy will prove a safe and effective means of reducing costs, but the current difficulties in many prisons highlight the hazards of seeking to run an estate operating at 98% capacity with staffing levels which afford too little flexibility. We welcome a more robust response to assaults on staff as a response to incidents of violence, but the real answer lies in staffing levels and regimes which minimise such violence. *We recommend, especially in the light of the Government's acceptance that there is now a more challenging mix of prisoners, that staffing benchmarks should be altered upwards to ensure prisons are able to have the capacity to return to the levels of operational performance which prevailed early in this Parliament. In its response to this report we also request the Ministry of Justice to provide a full update on progress which has been made in restoring staffing levels, and to set out what other steps it is taking to address low staff morale and improve the retention of staff, across the whole prison estate and in areas of particular shortfalls.*

118. *The Ministry's inability to provide us with fully worked out costings of its reforms is a recurring issue for us. We request the Ministry to provide in its response to this Report an analysis of the impact additional staffing and recruitment costs will have on the Ministry's ability to meet its spending targets for the 2014–15 financial year, along with an assessment of whether the additional staff being recruited will be sufficient also to staff the new prison places opening in the spring.*

4 Governance and accountability

119. Our announced terms of reference did not specifically refer to governance and accountability within the prison system, but as our inquiry progressed it became clear to us that there were aspects of these matters on which it would be necessary for us to comment. Policy changes at an operational level as well as at strategic level appear to have had an impact on performance and safety within prisons, and they have provoked questions about the right levels within the Ministry and the Prison Service at which responsibilities should be exercised, and the appropriate roles of governors and other staff. Strategic and operational changes have also had an impact on mechanisms for dealing with complaints by prisoners and for independent scrutiny of the performance of the prison system. We consider these matters in this Chapter.

Changes to operational policies

120. In addition to guiding broader structural reforms and efficiency savings the Secretary of State has instituted recent change to two operational policies—the Incentives and Earned Privileges (IEP) scheme and Release on Temporary Licence (ROTL), sometimes (incorrectly) referred to as day release—in order to improve their public credibility.

The Incentives and Earned Privileges Scheme

121. Early in his tenure of office, Mr Grayling explained to us his rationale for reviewing the prison regime and developing one that was “defensible in the eyes of the public”:

You have to make sure there are two things at the heart of the way a regime within prison works. The first is that it has to be defensible in the eyes of the public. If it seems to be way out of kilter, it will create frustration with the system, and that doesn't do anyone any favours. The other is a very practical one. We are dealing with people who come from very difficult circumstances outside prison, and it is often the case that what they experience in prison is a greater degree of comfort and security than they have experienced outside. That is not a good thing for us. It may be something we cannot totally solve, but I do not want people to look at prison and say, "I'm not worried about going back there."²⁶³

Mr Grayling's subsequent changes to the Incentives and Earned Privileges scheme—which came into effect from 1 November 2013—modified certain aspects of prisoner life, and changed the requirements which prisoners have to meet in order to acquire certain privileges. According to the Prison Service Instruction (PSI 30/2103), in order to earn privileges, prisoners would have to work towards their own rehabilitation, behave well and help others.²⁶⁴ Prior to the introduction of the new scheme 2 per cent of prisoners were on a basic regime; 52 per cent were on standard and 45 per cent on enhanced. In November

263 Q7, [HC 741-i](#)

264 National Offender Management Service, [Prison Service Instruction 20/2013](#)

2014, 4 per cent were on basic, 8 per cent were on entry, 52 per cent were on standard and 36 per cent on enhanced.²⁶⁵

122. Some of our witnesses were supportive of this new system, in particular the way it enabled prisoners to earn benefits related to sentence progression, rather than simply for good behaviour.²⁶⁶ Among those witnesses who did not believe these changes were constructive, concerns related primarily to the general presumption “that items for prisoners will not be handed in or sent in by their friends or families unless there are exceptional circumstances”²⁶⁷; prisoners were permitted a single package when they first enter prison. This subsequently led to people being unable to send books to prisoners; the so-called ‘book-ban’. We heard that this had resulted in some prisoners being unable to possess enough books in their cells to complete their educational courses, to receive pictures and cards from their families, and to get sufficient clothing and other supplies.²⁶⁸

123. Making privileges harder to achieve has also led to prisoners experiencing shorter visit times, reduced association and time out of cell, lower pay, fewer activities (hobbies, television) and reduced amounts of personal property (books, clothing and writing materials).²⁶⁹ Stephen O’Connell, president of the Prison Governors’ Association, said that governors felt that in some circumstances the scheme was “morally wrong”, in particular on occasions when a person is put on a basic regime on sentence despite having been on remand for some time and earned a higher level of privileges.²⁷⁰ Prisoners also felt it was unjust to be placed on basic regimes before they had been subject to adjudication, contributing to a situation where they felt they were being penalised twice.²⁷¹

124. The importance of privileges to prisoners, and the nature of control in prison life, led to some to question whether a prescriptive standardised approach which restricted governors’ discretion was constructive.²⁷² John Podmore asserted: “If I may be blunt, incentives and earned privileges were something that should be left to the Prison Service and not to Ministers”.²⁷³ Nick Hardwick explained that different approaches were required with different prisoners. He said:

I think what you ought to be saying to governors is, “Look, what you need to do is have a sensible system that passes the public acceptability test and meets the needs of prisoners, but you are the professionals and we are going to let you do that in a proper way.” We will inspect it to make sure it operates, but

265 [PPP62](#) [Ministry of Justice]

266 [Q 203](#) [Mr Biggin]

267 Prison Service Instruction 20/2013, para 10.4

268 [Q 43](#) [Ms Russo]; [Q79](#) [Ms Russo]; [PPP12](#) [Prison Reform Trust]; [PPP60](#) [Howard League for Penal Reform]

269 *Ibid*; [PPP12](#) [Prison Reform Trust]

270 [Q 128](#) [Mr O’Connell]. See also [PPP18](#) [A4e] about difficulties of prisoners maintaining their innocence progressing with their sentence.

271 [Q 244](#) [Ms Homan]

272 [Q 129](#) [Mr O’Connell; Mr Hardwick; Mr Newcomen]; [PPP12](#) [Prison Reform Trust]

273 [Q 79](#)

to try and design from the centre how it should work in minute detail is a mistake.²⁷⁴

Other witnesses gave practical examples of this. Joyce Moseley did not believe the revisions took proper account of neuro-scientific research on the maturation of young adults.²⁷⁵ The impact of the 9pm ‘lights out’ policy on young people was another instance of a blanket policy which might be sensible to some, but detrimental to others.²⁷⁶

125. Our evidence suggests that problems with the scheme have subsided to an extent as it has become more established, and as a balance has been found between central prescription and sufficient delegation for governors to make decisions sensibly in individual cases.²⁷⁷ Mr Selous did not comment on the matter of governor discretion but told us he believed the revised IEP scheme was right in principle and had settled down well.²⁷⁸ Nevertheless, the so-called book ban aspect of the scheme was ruled unlawful by the High Court and concessions were subsequently made by the Ministry of Justice to relax the restrictions.²⁷⁹

Release on temporary licence

126. Release on Temporary Licence (ROTL) has long been used as an extremely effective tool to rehabilitate prisoners and promote resettlement. We heard several positive examples of its use. James Timpson, who employs prisoners on day release at Timpsons outlets, discussed the beneficial impact that such work had on the rehabilitation of prisoners, and we heard from a former prisoner called Douglas who had benefited from access to full-time education at a college local to his prison. Other witnesses wished to see more use of ROTL as a rehabilitative tool.²⁸⁰ Nevertheless, following a small number of high profile incidents related to prisoners on ROTL the Government in March 2014 announced a review. In a written statement in March 2014,²⁸¹ Mr Grayling said: “[f]or ROTL to be granted, there will need to be a very clear benefit to how it will aid rehabilitation and increase the chances of an offender leading a crime-free life on release. There will also be a more thorough assessment of the risks before temporary release is authorised and a more consistent and robust response for prisoners who fail to comply with their licence.”²⁸² He added that all prisoners allowed release on temporary licence would be tagged, regardless of the nature of their previous offences.²⁸³

127. The review resulted in greater restrictions on use of ROTL. The Prisoners’ Advice Service warned this was an example of ‘knee jerk reactive policy making’ that could impede

274 [Q 129](#) [Mr Hardwick]

275 [Q 328](#)

276 [Q 327](#) [Ms Hinnigan; Mr Jones; Ms Gibbs]

277 [Q 129](#) [Mr Hardwick; Mr O’Connell]; [Q 203](#) [Mr Hawkings; Mr Biggin]

278 [Q 397](#) [Mr Selous]

279 [PPP60](#) [The Howard League For Penal Reform]

280 [Q 155](#) [Mr Clark]; [Qq 276-277](#) [Douglas; Raymond]; [Qq 103-104](#) [Mr Neilson; Mr Edgar]

281 [HC Deb 10 March 2010 col 1WS](#)

282 [HC Deb 10 March 2014 col 4WS](#). See also Prison Service Order 6300, amended August 2014

283 *Ibid.*

potential resettlement.²⁸⁴ Prisoners released on temporary licence must comply with a number of conditions, including a date and time to return to prison. Levels of failure—a breach of any of these conditions—are extremely low, at 0.06%, and, of these, only 6% involve an arrestable offence (equivalent to five arrests per 100,000 releases).²⁸⁵

128. Other policies might also act as a disincentive to the use of ROTL. Deborah Russo of PAS suggested that the Prisoners' Earnings Act levy can inhibit the effective use of ROTL for work outside prison, and potentially reduce opportunities for rehabilitation, as prisoners now have to compensate victims using their earnings from the scheme.²⁸⁶ The Secretary of State was conscious that that the restrictions should strike the right balance between legitimate public concern about a small number of incidents and not damaging a mechanism that was important to rehabilitation.²⁸⁷

129. Our evidence shows that the new restrictions to ROTL are already having a detrimental impact. The Prison Reform Trust has found that people in prison have reported increasing delays in obtaining access to open conditions and permission for temporary release, and mounting frustration at being denied opportunities to progress their sentences.²⁸⁸ The number of temporary releases authorised since 2013 has fallen by nearly a quarter (23 per cent). People serving life and other indeterminate sentences have been particularly affected. Figures show that the number of individuals serving life sentences who are granted ROTL on at least one occasion has fallen by 40 per cent since 2013 while the number serving all forms of indeterminate sentence has fallen by 34 per cent. This compares to a fall of 29 per cent for all prisoners.

130. Release on Temporary Licence (ROTL) is an effective tool in supporting rehabilitation and can lead to better outcomes than releasing prisoners without preparation from a recent experience of the world outside prison. We recognise that the Government has to ensure that it is operated in a way which recognises legitimate safety concerns and can maintain public trust. While the number of failures are very few, the consequences can be high-profile and tragic. Nevertheless, if as a result of the restrictions imposed considerably fewer prisoners receive ROTL opportunities, the chances of effective resettlement for them will be reduced, undermining the Government's efforts to institute a rehabilitation revolution. In addition, if there is any detrimental impact on Parole Board decisions there would be further upward pressure on the prison population. We recommend that the overall impact of these restrictions on the sustainability and effectiveness of ROTL—which should be based on the presumption that it will be available unless there are strong public safety grounds for refusal in a particular case—be reconsidered as a matter of urgency.

284 [PPP37](#) [Prisoners Advice Service].

285 [PPP12](#) [Prison Reform Trust]; [PPP64](#) [Prison Reform Trust supplementary].

286 [Q43](#); [Q279](#) [Douglas]. The Prisoners' Earnings Act 1996 commenced on 26th September 2011. It enables prison governors to impose a levy of up to and including 40% on wages over £20 per week (after tax, national insurance, any court ordered payments and any child support payments) of prisoners who have been assessed as being of low risk of absconding or re-offending and allowed to work outside of prison on temporary licence, in order to prepare for their eventual release.

287 [Q 21](#)

288 [PPP64](#) [Prison Reform Trust supplementary]; see also Prison Reform Trust, [Inside Out](#), February 2015.

Roles and responsibilities of prison governors and prison officers

131. We have referred earlier in this Report to the extent that prison governors and officers are being placed under pressure through budgetary constraints. In this section we consider other ways in which the roles of both cadres of staff have been changing over recent years, and the potential implications for the management and operation of prisons, particularly in the public sector.

The changing role of prison governors

132. Benchmarking in public sector prisons has sought to standardise practice across various aspects of prison operations and management. This, together with the trend towards centrally outsourcing services, the provision of health and education within prisons becoming the responsibility of other Government Departments, and the introduction of more rigid operational policies, led some of our witnesses to suggest that governors' roles had diminished.²⁸⁹ Some witnesses made similar observations in relation to directors of privately run prisons. For example, G4S found managing the interface between prison management and subcontractors to be both time consuming and demanding, and cautioned against further subcontracting.²⁹⁰ Dr Geoffrey Penzer, Chair of the IMB at privately-run HMP Thameside, similarly believed that contracts should be formulated to give the director sufficient authority to ensure the necessary integration of all services.²⁹¹ Directors of most Sodexo prisons run their prisons in a way more akin to what governors in the public sector used to do, managing their own primary health care, substance misuse programmes, prison shops and education provision.²⁹²

133. The Chief Inspector of Prisons, the former Director of NOMS, and some private prison contractors were concerned that having too many separate contracts operating in prisons could fragment and therefore compromise the integration of the system.²⁹³ Mr Wheatley, the initial architect of the specification, benchmarking and costings programme commented on the additional policy of outsourcing non-core custodial services:

[Benchmarking] did not necessarily imply that you were going to offload other bits of the prison by a process of letting contracts. Indeed, as I left, I was very keen on integrating what we all did, rather than splitting it up so that education just did education and worried about how many exams people got, health only did health and worried about the number of times people went to hospital and how long they lived, and prison staff just did the hotel function and maintained security. In my view, that is not a good way of running a prison.²⁹⁴

289 [Q 91](#) [Mr Podmore]

290 [PPP45](#) [G4s]

291 [PPP50](#) [Dr Penzer, Chair of IMB at HMP Thameside]; we heard at HMP Oakwood that some of the problems for which the prison had been criticised by the Inspectorate were not the responsibility of the Director as they related to education and training and healthcare provision.

292 [Q 336](#) [Mr Conway]

293 [Q 81](#) [Mr Wheatley]; [Q 125](#) [Mr Hardwick] [Q 336](#) [Mr Petherick; Mr Conway]

294 [Q 81](#) [Mr Wheatley]

134. One source of difficulty for the transition to benchmarked staffing levels has been the inability of governors to recruit directly to their prisons.²⁹⁵ Private sector providers explained the benefits of being wholly responsible for the operation of their prisons, including for staffing, thereby maintaining more operational flexibility.²⁹⁶ On the other hand, there was broad support for the notion of specialised services like healthcare being provided by the NHS, for example.²⁹⁷ Some witnesses also concluded that the evolving nature of the role of governors had implications both for models of procurement and for models of leadership, with more emphasis required on influencing and relationship management skills, for example.²⁹⁸

135. When we asked Mr Selous for his views on how prison services might be best integrated he agreed that governors had a critical management role in overseeing partners who were providing health or education within prisons and ensuring that this dovetailed into the overall prison regime. On the other hand he still saw the key leadership role of governors as getting “out and about in the prison, going around talking to prison officers and talking to prisoners on a regular basis”.²⁹⁹ The Chief Inspector shared the view that the latter was an important element of the role, and believed it would be a mistake if partnership management overshadowed that.³⁰⁰ The Ministry is currently reviewing professional training for governors.³⁰¹

Consultation with governors

136. The prison governors we took evidence from were satisfied with their engagement with NOMS, including during the process of benchmarking and subsequent implementation.³⁰² Governors felt that they had been consulted adequately as part of shaping a range of policies, and were able to propose adaptations to their benchmark.³⁰³ On the other hand, HM Chief Inspector of Prisons did not believe NOMS was sufficiently resourced to provide support to public sector prisons.³⁰⁴

137. Prison governors in public sector prisons and some private sector prisons are no longer responsible for the sum total of everything that happens within their prison walls. As well as effectively becoming contract managers for provision of services for which they used to be directly responsible, they are constrained in their operational decisions when dirigiste decisions are taken from the centre on such matters as the Incentives and Earned Privileges scheme, the ‘lights out’ policy and release on temporary licence. We conclude that relegating governors to an oversight and partnership management role with much reduced discretion undermines their control

295 [Q 335](#) [Mr Conway]

296 [Q 118](#) [Mr Biggin]

297 [Q 337](#)

298 [Q 337](#); [Q 186](#) [Mr Hawkings]; [PPP12](#) [Prison Reform Trust]

299 [Q 392](#)

300 [Q 125](#)

301 [Q 393](#) [Mr Spurr; Mr Selous]

302 [Q 190](#) [Mr Hawkings]; [Q171](#)

303 [Q 202](#) [Mr Hawkings]

304 [PPP24](#) [HMIP]

over the performance and safety of the establishment and their ability to govern their prisons using their professional judgment, as they are trained at public expense to do. *We recommend that the National Offender Management Service review the cumulative effect of these changes on the role of prison governors, and report the matter to our successor Committee.*

Contracting out non-core services

138. Part of NOMS' cost-reduction programme was the decision to put out to competition certain non-core services, such as those for prison maintenance and facilities management. There is a broader question of how governors and their staff will manage the potentially competing requirements of different providers operating within their prisons. There is some evidence to indicate that NOMS had not considered sufficiently the interplay between various providers in their consultation on prisons policies. For example, the Association of Colleges felt that learning and skills providers ought to have been consulted by NOMS on benchmarking plans.³⁰⁵ The funding arrangements for learning and skills are such that providers' income is affected if prisoners are not allocated to, or able to attend programmes.³⁰⁶ Community Rehabilitation Companies are also paid by results which could result in tensions between their needs and those of learning and skills providers in terms of access to prisoners, for which each will be reliant on the co-operation of prison officers.³⁰⁷

139. There is a risk that the proliferation of partner organisations providing services to prisons could distract prison management teams from their core role. This potential effect is all the more important when resources are such that reduced staffing levels are impinging on the safety of prisoners and staff for which Governors have ultimate responsibility.

The changing role of prison staff

140. As we noted in Chapter Three, the significance of the relationship between prison staff and prisoners was referred to frequently by our witnesses. Prison officers long ago ceased to be "turnkeys" and now play a range of functions.³⁰⁸ New ways of working seek to put all prison officers in prisoner-facing roles, which help deliver NOMS' policy priorities.³⁰⁹ Some feared, however, that, following benchmarking, the importance of staff-prisoner relationships might be overlooked, and the role of staff could regress in the direction of a less modern model.³¹⁰

141. Phil Wheatley felt that the professional work of prison officers, and the fine judgements required of them, were not sufficiently well understood by the public and

305 [PPP19](#) [Association of Colleges]

306 [PPP10](#) [Milton Keynes College]

307 [PPP09](#) [Prisoners' Learning Alliance]

308 [Q 185](#) [Mr Cartwright]

309 [PPP41](#) [National Offenders Management Service]

310 [PPP12](#) [Prison Reform Trust]

politicians.³¹¹ This is a view our predecessor Committee expressed in its report on the Role of the Prison Officer.³¹² Paula Harriott of User Voice suggested that one of the real barriers to rehabilitation and reform for people who were within the criminal justice system was that generally they did not ever meet anybody who was reformed and had come from their background; she wished to see more reformed ex-offenders within the Prison Service workforce.³¹³ The Zahid Mubarek Trust emphasised that because prison staff were not drawn from similar cultures and ethnicities to those of prisoners they frequently misunderstood them, leading to unnecessary conflict.³¹⁴

142. Our witnesses repeatedly drew our attention to the importance of relationships between prisoners and staff in maintaining safe and effective regimes and changing prisoners' perspectives of themselves.³¹⁵ Paula Harriott, herself a former prisoner, said:

The staff-prisoner relationship is critical to reframing a prisoner's self-identity. When you are sent to prison and are in receipt of punishment, you are judged and labelled by the community and society. You internalise that label and it can really marginalise you in terms of rehabilitation and reform. You can feel that you are out at the edge and there is no way back. A kind word, a challenging conversation—but one that is done with value and respect—is incredibly critical in reforming your self-identity.³¹⁶

143. We saw some examples of this operating in practice on our domestic and overseas visits. One programme that was operating at HMP Belmarsh, the STAR drug education programme, was developed and run by officers and was valued by prisoners and officers alike as an opportunity for more informal interaction which then influenced relationships back on the wings. This programme was likely to cease to operate soon after our visit; it was not clear whether this was as a result of new ways of working or the new arrangements for resettlement provision. Nevertheless some witnesses did not believe that prison culture currently was conducive to prison officers operating as rehabilitators, even if they would like to.³¹⁷ Suhkinder Buparai, the POA representative at HMP Belmarsh, questioned whether existing activities were focused sufficiently on prison officers' role in reforming prisoners. He said:

All the time we are not giving prisoners any moral guidance, then we are just putting the bum on the seat, showing the Government that prisoners are attending activities as per the required schedule of activity. However, these prisoners then leave prison and it is a case of revolving doors and they are straight back in, because we have not tackled the moral issues.³¹⁸

311 [Q 95](#)

312 *Op cit*, para 48

313 [Q 39](#)

314 [PPP44](#) [Zahid Mubarak Trust]

315 [Q 30](#) [Ms Levin]; [PPP23](#) [Women in Prison]; [PPP50](#) [Dr Penzer]; [Q 99](#) Mr Edgar; [PPP34](#) [Prison Governors' Association]; [Q 179](#) [Mr Cartwright]

316 [Q 31](#)

317 [Q 30](#) [Mr Robinson]

318 [Q 230](#)

This contrasted with what we saw in Denmark where we visited Horserød open prison and Vridsløselille closed prison.³¹⁹ Regardless of category, embedded in Danish prison culture is the promotion of responsibility among prisoners and the principle of approximating regimes to normal life as much as possible. For example, prisoners are given a weekly budget to shop and cook for themselves. We were struck by the fact that self-catering was almost universal in Danish prisons, and appeared to be both cost-effective and trouble-free. This contrasted with the large institutional catering arrangements which dominate prison life in England and Wales. ***We recommend that NOMS examine the scope for extending self-catering by prisoners.***

144. Our predecessor Committee proposed that the Ministry of Justice commission a wide-ranging review of prison officers' recruitment and training.³²⁰ Prison officer training in Norway, for example, is a two year degree, one year being theoretical and one year practical.³²¹ In Denmark, it is three years, with two years of practical training after the first year of studying. Peter McParlin, National Chair of the Prison Officers' Association, stated at a Howard League conference that the Ministry had undertaken a review but had been unable to implement its findings.³²²

145. The main foundation of a safe prison is dynamic security, established through consistent personal contact between officers and prisoners, enabling staff to understand individual prisoners and therefore anticipate risky situations and prevent violence. Prison officers also have a pivotal role to play in prisoners' rehabilitation. Their involvement in sentencing, planning and resettlement, and enabling prisoners to take responsibility, should be enhanced. It would be counterproductive to reduce their role to one of basic oversight of safety and security. We are not convinced that the Ministry has considered sufficiently, or valued highly enough, the complicated and difficult nature of work undertaken by frontline prison staff under its benchmarking programme.

The contribution of prisoners

146. The Government wishes to see peer support being given greater prominence in through-the-gate resettlement provision under its Transforming Rehabilitation reforms. Our witnesses argued that prisoners themselves could play a much broader role in creating effective regimes.³²³ We spoke to a number of former prisoners who explained to us that fellow prisoners were more likely to trust, and hence listen to and understand, the advice of people who had been through the system themselves.³²⁴ Raymond, a former prisoner, told us:

We need peer mentors to help the officers to police the place. Obviously the majority of the prison co-operation is from offenders—it's from prisoners. It

319 See [Q 337](#) [Mr Conway]

320 Justice Committee, Older prisoners: follow-up, 29 October 2014, [HC 659](#)

321 [Q 95](#) [Mr Podmore]; [Q 106](#) [Mr Neilsen]

322 Howard League conference, 19 November 2014

323 [Q 163](#) [Mr Clark]; [Q 37](#) [Mr Robinson]; [Q 22](#) [Ms Harriott]; [PPP32](#) [User Voice]

324 [Qq 259, 300](#) [Daniel and Adellah]

is not through any policing; it's because they're of a certain mindset, and they're willing to engage and they're willing to conform to certain rules of the establishment. The peer mentors do help and assist officers with this, so they are very important.³²⁵

Adellah, another former prisoner, said:

Peer mentors, experienced people like ourselves and organisations like User Voice are going to have a massive positive impact even on those who don't appear to want to change. It doesn't mean that they don't want to; it is just that nothing fresh has been given to them and no opportunities have been presented to them.³²⁶

147. In our inquiry we saw or heard of the value of mechanisms to involve prisoners themselves such as prison councils, listeners, induction mentors, reading mentors and prisoners supporting others to come off the basic level of the incentives scheme. However, we received some evidence to suggest that initiatives like these this might have become a lesser priority.³²⁷ The Zahid Mubarek Trust had seen a reduction in race relations representatives, for example.³²⁸ We also heard from a Toe-by-Toe (reading) mentor who had been unable to support prisoners on other wings due to staff shortages.³²⁹ The former director of NOMS cautioned against disregarding the importance of such channels for prisoners to have a voice:

...what prisoners think and say can very often be dismissed as, "Well, that's just prisoners." We should be listening very carefully to what prisoners say. I very much advocate user involvement and prisoner councils...If you want to find out what is going on in prison, ask a prisoner.³³⁰

148. Paula Harriott of User Voice argued that prison councils created a vehicle for prisoners to voice their concerns in a responsible manner to the director or the governor of the prison, cutting out the middle management.³³¹ Rod Clark of the Prisoners Education Trust wished to see prisoners take more control of their own learning, for example, by enabling more peer support when prisoners were not otherwise purposefully engaged, including through evening classes.³³² Dr Edgar believed opportunities for user involvement should be offered more widely to prisoners, having observed that a small number of prisoners tend to fulfil myriad roles.³³³ For example, he suggested that prisoners should be

325 [Q 261](#)

326 [Q 300](#)

327 [Q 56](#) [Ms Harriott]; [Q259](#) [former prisoner Daniel] HMP Oakwood Basic Intervention Group; [Q 300](#) [Daniel and Adellah]; [Q 82](#) [Mr Wheatley]; [Q 103](#) [Dr Edgar]

328 [PPP44](#) [Zahid Mubarek Trust]

329 [Q 37](#) [Mr Robinson]

330 [Q 82](#) [Mr Wheatley]

331 [Q 39](#) [Ms Harriott]

332 [Qq 163,165](#) [Mr Clark]

333 [Q 103](#)

engaged more directly as stakeholders in violence reduction, and should be consulted on preventive strategies.³³⁴

149. It is important that within new ways of working in prisons there is sufficient time to allow for productive interaction between staff and prisoners, which contributes significantly to improving safety and rehabilitative outcomes in prisons. Prisoners themselves have an important role to play in creating effective regimes. We recommend that NOMS encourage the establishment of prison councils and other initiatives which engage prisoners in meaningful dialogue with prison management about the impact of prison management and policies, and which provide a framework of support for prisoners who wish to help each other.

Prisoner complaints mechanisms

150. Complaints mechanisms are important tools to allow prisoners to communicate issues and problems they face in their everyday lives within the prison. Prisoners who already have significant anger management problems can become disruptive because a complaint, large or small, is not dealt with in a timely fashion. The Prison Service internal complaints process entails, in the first instance, talking to staff on the prison wing to see if they can sort out a matter informally or speaking to a member of the Independent Monitoring Board (IMB); if the matter cannot be resolved informally, a formal complaint can be made using forms available on the wing; if the response does not resolve matters satisfactorily it is possible to appeal against it again using forms held on the wing.

151. We heard that prisoners have little faith in the internal complaints system to provide a fair response; they often saw replies as unresponsive, untimely and of poor quality.³³⁵ Adellah, a former prisoner, said that prisoners had the feeling that complaints were not heard, applications were ignored, and the systems were not well understood.³³⁶ Nigel Newcomen told us that often complaints were made to him about the poor quality of the complaints procedure itself.³³⁷ Some, including Mr Newcomen himself, thought that the recent rise in the number of complaints could be linked to the increased complexity of complaints after the removal of areas of prison law other than those related to deprivation of liberty, i.e. parole decisions and sentence calculation, from the scope of legal aid in December 2013.³³⁸ The Government proposes that alternative means of redress such as the prisoner complaints system should be the first port of call for issues removed from the scope of legal aid.

152. In an effort to improve efficiency NOMS had recently streamlined the internal complaints system from a three-stage to a two-stage process.³³⁹ We heard mixed reviews of this. The Prisons and Probation Ombudsman did not believe that the refinements had improved the process.³⁴⁰ Prison governor Simon Cartwright reported that since the

334 [PPP12](#) [Prison Reform Trust]

335 [Q 55](#) [Ms Harriott]; Q291 [Adellah]

336 [Qq 291-2](#)

337 [Q 144](#)

338 [Q 119](#) [Mr Newcomen]; [Q 94](#) [Mr Podmore]; [Q 109](#) [Mr Neilsen]; [Q 57](#) [Ms Russo]

339 [PSO 2510](#)

340 [Q 144](#)

streamlining it had become more difficult to ensure that answers to complaints were completed in a timely and detailed manner. However, Jerry Petherick indicated that when used correctly the system allowed complaints to be dealt with more effectively.³⁴¹ Mr Cartwright stated that although initial policing of the new scheme was difficult, the overall system was functionally ‘sound’.³⁴² Quality assurance mechanisms had also improved matters, as had the use of the in-cell kiosk system which allowed for timelier and more accessible responses.³⁴³

153. If difficulties experienced by prisoners are not addressed in a timely and effective manner this can compound the problem. Given that there are fewer opportunities for prisoners to raise matters directly with staff, it is important that the more formal prisoner complaints system functions effectively. This would be aided by the wider availability of in-cell technology.

Independent scrutiny

Independent Monitoring Boards

154. The Prison Act 1952 requires every prison to be monitored by an independent board appointed by the Secretary of State from members of the community in which the prison or centre is situated. The Independent Monitoring Board (IMB) is specifically charged to: satisfy itself as to the humane and just treatment of those held in custody within its prison and the range and adequacy of the programmes preparing them for release; inform promptly the Secretary of State, or any official to whom he has delegated authority as it judges appropriate, any concern it has; and report annually to the Secretary of State on how well the prison has met the standards and requirements placed on it and what impact these have on those in its custody. To enable the Board to carry out these duties effectively its members have right of access to every prisoner and every part of the prison and also to the prison's records.

155. IMBs have a role in monitoring internal complaints. However, Paula Harriott suggested that prisoners have little faith in the wider scrutiny process of the prison system, including through IMBs.³⁴⁴ The Chair of the IMB at HMP Thameside said that while the fairness of responses was consistently monitored, it was equally important that they are provided in a consistent manner: “an apparently just response to a complaint is not really just if it cannot be understood”.³⁴⁵

156. Several Chairs of IMBs themselves believed that the MoJ did not have sufficient regard for concerns about prison conditions which IMBs had conveyed.³⁴⁶ For example, Dr Penzer, Chair of the IMB at Thameside, said:

341 [Q 355](#) [Mr Petherick]

342 [Q 205](#)

343 [Q 205](#); [Q 294](#) [Raymond]; [Q 353](#); [Q 383](#);

344 [Q 55](#)

345 [PPP51](#) [Dr Penzer]

346 [Q 241](#) [Mr Pinchin]

Everyone I have met in NOMS and the MoJ, from the Minister downwards, says they value IMBs. I think our existence increases their sense of security because if things were dramatically wrong we would say so [...] Although I believe that most IMBs play a useful role within the establishments where they are based, helping to ensure that staff do not slip into unfair or inhumane practices, I know of little evidence that IMB reports have a significant impact on NOMS or MoJ, or that changes are made in response to IMB judgements. Generally the responses to IMB reports go along the lines ‘ABC is an important point and the reason things are as they are is XYZ’. Rarely is the response ‘ABC is an important point that we did not know about and we are going to do PQR to put it right’.³⁴⁷

In a further submission, he questioned whether the role of IMBs was sufficiently clear. He observed:

IMBs’ proper focus on independent monitoring has expanded...to include elements of advising and recommending. As soon as we advise or recommend our independence is compromised (you cannot independently monitor the implementation of your own advice). We take an interest in processes (where our expertise is at best questionable) and inputs rather than concentrating on monitoring outcomes. We write annual reports to which NOMS and MoJ often respond inadequately. My impression is that although the reports may sometimes be found to be ‘interesting’, they are seldom felt to be ‘useful’.³⁴⁸

157. Angela Levin, former Chair at HMP Wormwood Scrubs, resigned because she felt there was such a chasm between the official perspective and the truth. She said:

When I wrote the IMB report that ended in June 2013 on behalf of the board, the key point we all wanted to make very strongly then—which was before the cuts—was that the prison was on a knife edge. I used that phrase and wrote about the violence, the self-harming and all the things we have already discussed. It was four months before I had any sort of reply. I then heard from the Prisons Minister, who in his letter explained to me how the prison worked, totally ignoring the point. I then sent another letter and was asked to go and see Michael Spurr, who is the head of the National Offender Management Service. I was treated like a naughty schoolgirl going to see the headmaster and was told, “You are completely wrong. You didn’t see that. No, no that is not happening.” I was not talking with my own voice—I was representing a board of people who were there a lot.”³⁴⁹

347 [PPP50](#) [Dr Penzer]

348 [PPP51](#) [Dr Penzer]

349 [Q 58](#)

Prisons and Probation Ombudsman

158. One role of the Prisons and Probation Ombudsman (PPO) is to independently assess complaints which have gone through the internal process but have not been dealt with to prisoners' satisfaction. Prisoners had a positive impression of the effectiveness of the Ombudsman, but whether he had sufficient capacity to undertake this role satisfactorily was questioned by other witnesses.³⁵⁰ Deborah Russo said "The Ombudsman has an incredible backlog, which renders the entire system unworkable. The quality of the decisions that are made is very poor. Furthermore, the system is slow and backward looking. It is not suited to deal with many of the complex and important issues that were previously covered by legal aid".³⁵¹ These claims were challenged by Andrew Selous and Michael Spurr, who sought to assure us that the Ombudsman had been given extra funding and resources to deal with the higher volume of complaints.³⁵² After we took evidence from Nigel Newcomen it became apparent that the much higher volume of complaints he signalled to us had subsided to some extent, resulting in an 18 per cent rise for the last three quarters for which figures are available (April to December 2014) compared to the equivalent period in the previous year.³⁵³

Her Majesty's Inspectorate of Prisons

159. The post of HM Chief Inspector of Prisons was created in 1982 under the Criminal Justice Act of that year, consolidating under one person the prisons inspections function which dates back to 1815, when magistrates were first given responsibility for inspecting prisons. The Chief Inspector is a Crown appointment, made on the advice of the Justice Secretary, and in consultation with and followed by a pre-appointment hearing by the Justice Committee. The Inspectorate's remit is to ensure independent inspection of all prisons and young offender institutions in England and Wales and to report to Ministers on the treatment and condition of detainees. The current Chief Inspector's 5-year term of appointment comes to an end in July 2015. We expect shortly to hold a pre-appointment scrutiny hearing with the Secretary of State's preferred candidate to be the next Chief Inspector.

160. HM Chief Inspector of Prisons does not deal directly with complaints but provides independent scrutiny of prison performance, relying heavily on the perspective of those with lived experience of it. The Chief Inspector reports directly to the Secretary of State. When we asked him about his impressions of the degree of independence enjoyed by the Inspectorate he said:

...personally, I do not think it is appropriate for the post to be sponsored by the Ministry of Justice, because some critical things, like the appointment of my successor, the setting of our budget and some other matters, are done by the body that has operational responsibility for the services that we inspect. Where there are conflicts and independence things, it is often about

350 [Q 295](#) [Raymond and Douglas]

351 [Q 57](#)

352 [Q 403](#)

353 See paragraph 73 above.

perception as much as about reality. Even if everybody behaves with complete propriety, which generally they do, it is certainly not seen as independent. We have a lot of visitors coming to see us from overseas. They are very interested in what we do and in our independent model. Then they ask where we get the money from and who appoints me, and they raise their eyebrows and say, “Oh, that sort of independence.”

There are practical problems for a relatively small organisation with people who work from home being part of a very large office-based bureaucracy. That does not work very well at a practical level. The other problem is that sometimes we get the worst of both worlds. There might be a temptation sometimes for people to interfere in things that they should not. Also, the normal governance processes that you would expect to apply to a body like mine, around accountability, having a board and those sorts of functions, do not exist. That is a potential weakness.³⁵⁴

161. The National Audit Office (NAO) has undertaken a comparative study of the five home affairs and justice inspectorates.³⁵⁵ In relation to the conclusions drawn by Mr Hardwick, the NAO agreed that the inspectorates’ independence can be perceived as limited, found varying degrees of influence exerted by sponsoring Departments, and concluded that existing arrangements risked perceived or actual conflicts of interest. They suggested that the role of the sponsoring Department should be clarified but did not recommend that inspectors report directly to Parliament as Mr Hardwick has proposed to us in the past.

162. Questions have arisen in the course of our inquiry about the role of Independent Monitoring Boards (IMBs), the capacity of the Prisons and Probation Ombudsman and the independence of HM Chief Inspector of Prisons. *The future role of Independent Monitoring Boards would benefit from further, more detailed, consideration by our successor Committee. We are also concerned at the backlog of complaints now faced by the Prisons and Probation Ombudsman, and the likely impact of the rise in self-inflicted deaths on his workload. The Ministry must discuss with him how resources can best be made available to manage this. We remain of the view that the independence of HM Chief Inspector of Prisons would be strengthened if he or she reported directly to Parliament.*

354 [Q 138](#)

355 National Audit Office, [Inspection: a comparative study](#), 13 February 2015

5 Conclusion

163. At the first evidence session we held with the Secretary of State after his appointment, he told us his mantra was for “more of the right people to go to prison”.³⁵⁶ He further explained:

I do not want a criminal justice system, prison system and system of community sentences where effectively the message to the courts is, "Look, you can't actually sentence that person to what you want to sentence him to because we don't have the money to pay for it." That would be a disastrous position for our criminal justice system to be in. We have to do things in a smarter and more cost-effective way.³⁵⁷

164. We have not analysed the Secretary of State's position explicitly in this inquiry, but several of our witnesses stressed that the size of the prison population is to some extent determined by conscious political and policy choices, rather than simply a product of sentencing decisions.³⁵⁸ We have dissected these arguments in previous reports, but in view of the continuing, and sharp, rise in the prison population we feel it is worth emphasising again. The use of custody is a very substantial commitment of public funds which needs to be justified by its effectiveness in punishment, public safety and the reduction in reoffending. During our visit to Texas we were struck by the fact that an ever increasing prison population was seen across the political spectrum as a wasteful and unjustified imposition on the state's taxpayers and we saw that alternative policies were being pursued to rehabilitate drug addicted offenders and work with affected families so as to reduce the prison population.

165. It is possible to take steps to exercise some control over the size of the prison population without interfering with courts' autonomy in sentencing decisions. For example, steps could be taken to make it easier for people to achieve release, by for example, better resourcing of the Parole Board and ensuring that programmes are reliably provided which are necessary for enable prisoners to progress their sentence. The Government could also examine why the provisions in the Legal Aid, Sentencing and Rehabilitation of Offenders Act 2012 to restrict the use of remand through the “no real prospect test”, have not had the desired effect. Given the ageing profile of the prison population, finding alternative means of dealing with older prisoners might also be worthwhile. During our recent consideration of the draft sentencing guideline on robbery we reflected on the possibility that the cumulative effect of Sentencing Guidelines might have the unintended consequence of sentence inflation. We rehearsed again in our report *Crime reduction policies: a co-ordinated approach?* the importance of having readily

356 Evidence taken before the Justice Committee, 28 November 2012, [HC 741-i](#), Q 2

357 *Ibid*, Q 11

358 [Q 112](#) [Mr Hardwick]

available community sentences which can provide a credible alternative to custody, and of ensuring sentencers have knowledge of that availability.³⁵⁹

166. If decisions taken by the Government tend towards creation of a large prison population, commensurate resources for the prison system must be found, so that people do not end up leaving prison less able to play a productive role in society than when they entered custody. The public safety implications of a diminution of rehabilitative activity stemming from the lack of capacity in the system, however unintended, have not been assessed, and could result in additional costs to the criminal justice system related to re-offending and subsequent returns to custody.³⁶⁰ For this reason, several witnesses were sceptical whether the initial savings made through reducing staffing levels would translate into a fall in net costs to the Government.³⁶¹ Due to the time lag in availability of reoffending data it is not possible to draw even tentative conclusions about the extent of any such effect.

167. As we noted in Chapter Two, the Government believes that there is sufficient capacity within its current prison building programme for the population to grow in line with its latest central prediction scenario of a population of 90,200 by 2020.³⁶² We concluded in our report on the Transforming Rehabilitation reforms that there was the risk of a change in sentencer behaviour stemming from the underpinning legislation which might impact adversely on the prison population, because the availability of rehabilitative provision for short-sentenced prisoners might make sentencers more inclined to give offenders custodial sentences.³⁶³ In addition, Andrew Neilson believed that a recent ratcheting-up of punitive rhetoric about prisoners and the criminal justice system had influenced the behaviour of the courts, prison governors and prison officers in adjudications. He said: “They take a steer from the top of the Ministry of Justice. If the steer is that they should be punitive, that is what they will do.”³⁶⁴

168. Regardless of whether there is a need further to expand the prison estate, the Government is looking to continue its new for old policy.³⁶⁵ While many of the oldest institutions have closed, structural inefficiencies remain in many parts of the estate. Kevin Lockyer, who wrote a Policy Exchange report on the future of the prison estate, believed that it would be necessary to continue to tackle this by replacing prisons:

...if you have a prison estate with structural inefficiencies built in...you are still left with those structural inefficiencies, and fewer staff. Putting all of your eggs in the benchmarking basket, therefore, is not necessarily a long-term

359 Justice Committee, Twelfth Report of session 2013–2014, [Crime reduction policies: a coordinated approach? Interim report on the Governments Transforming Rehabilitation programme](#), HC 1004

360 [PPP19](#) [Association of Colleges]

361 [PPP09](#) [Prisoner Learning Alliance]; [PPP23](#) [Women in Prison]

362 [Q 379](#) [Mr Selous]

363 Justice Committee, Twelfth Report of session 2013–2014, [Crime reduction policies: a coordinated approach? Interim report on the Governments Transforming Rehabilitation programme](#), HC 1004

364 [Q 96](#)

365 [Q 377](#) [Mr Selous]

solution to an estate that has those kinds of structural inefficiencies built in.”³⁶⁶

Nevertheless, the average capital cost for a new prison place is £158,000.³⁶⁷

169. Pressure to keep modernising (and expanding) the prisons estate thus further limits the likelihood that resources will be found to improve the efficiency of existing public sector establishments, for example through increasing the availability of in-cell technology. While resources have been found within the current spending review period to build new prisons or prison blocks, running and maintenance costs will also need to be found once those prison places come on-stream and thereafter.

170. Within existing building plans the Government would find it difficult to accommodate another unexpected increase in the prison population that deviates from their central range of prediction and moves towards the upper limit. Had the Government not been able to utilise redundant capacity from the youth estate it appears quite likely that the demand for prison places for adults might already have outstripped supply. Unless there are significant changes in both policy and rhetoric on sentencing, there is a continuing risk of unmanageable growth in the prison population.

171. Insufficient access to rehabilitative activities in prison and the backlog in offender risk assessments are likely to impact adversely on rehabilitative outcomes and hence the effective implementation of through-the-gate support by new providers of Community Rehabilitation Companies. NOMS’ belief that there is sufficient headroom in the system both for the implementation of the Transforming Rehabilitation reforms and to allow for a further rise in the prison population is difficult to reconcile with the current staffing shortages.

172. Given the size of the prison population, and the likely need to continue to make financial savings in the medium term, there is a real danger that savings and rehabilitation could become two contradictory policy agendas. The question of the sustainability of the system cannot continue to be ignored.

173. The size of the prison budget, the fact that it completely dominates expenditure on crime, the importance of reducing crime, and other problems identified in this report all indicate that we need to re-evaluate how we use custody and alternatives to custody in a cost-effective way which best promotes the safety of the public and reduces future crime. General Elections have a tendency to produce the wrong kind of debate on criminal justice policy, with a competition as to who can sound toughest, rather than an examination of the evidence on what works. This need not be so, and it should certainly not preclude a rational and evidence-based discussion on criminal justice policy in the next Parliament. That task needs to be continued by future governments, by political parties, and by our successors on the Justice Select Committee.

³⁶⁶ [Q 82](#)

³⁶⁷ National Audit Office Report, [Managing the Prisons estate](#), December 2013.

Conclusions and recommendations

Modernising the prison estate

1. Accommodating the recent rise in the prison population has been achieved without increasing crowding to a great extent. But it is worrying that despite the Government's efforts to supply sufficient prison places to meet demand, the proportion of prisons that are overcrowded is growing, and the proportion of prisoners held in crowded conditions remains at almost a quarter. It deeply concerns us that as a result of a shortage of prison places in London, NOMS is building prisons fully intending to hold more prisoners in them than they have capacity for, as the National Audit Office reported happened at HMP Thameside. (Paragraph 30)
2. Overcrowding is a more significant issue than the way it was described to us by the Secretary of State, who characterised it simply as people sharing a cell designed to hold fewer people. When a prison holds many more people than it was designed for this impacts more broadly on regimes and the capacity of prisons to rehabilitate through the provision of purposeful activity. *If greater overcrowding is accepted as de facto policy then it is important that NOMS is clear about the wider capability of the prison estate to absorb more prisoners when they are building new facilities, expanding existing ones, and determining an individual prison's decent and safe level of capacity. Current measures of overcrowding do not facilitate this, so we recommend that NOMS should design a broader measure which better reflects the reality of prison conditions.* (Paragraph 31)
3. We stand by the view expressed in our report on Youth Justice that small custodial units are safer and more humane for children and young people. Notwithstanding the potential educational benefits of secure colleges, we question why the Ministry of Justice sees it necessary to dedicate scarce funding to develop such a large-scale establishment, when the number of children requiring secure accommodation is shrinking rapidly. (Paragraph 35)
4. There is some evidence about the difficulty the prison system has had in providing appropriately for young adult prisoners, and there is no definitive answer about the best forms of establishment to meet their particular needs. *It is clear to us that there is a need for NOMS to ensure that there is dedicated responsibility for this group both at an institutional and national level. This is an issue that could be further explored by the Justice Select Committee in the next Parliament.* (Paragraph 36)
5. The estate modernisation policy of closing of old inefficient prisons and replacing them with new more cost-effective ones is a good one in principle. We recognise in particular that some prisons have been operating, and some continue to operate, with decrepit buildings that hinder effective rehabilitation; and we note that redesign and re-configuration provide the opportunity for new technologies and their resulting efficiencies to be embedded in the infrastructure of the prison estate. It is unfortunate that to date the resources for capital investment in new technologies in public sector prisons have not been found while private sector prisons have given priority to investment in new technology. *We recommend that the Ministry carry out*

a cost-benefit analysis of implementation of in-cell technology across the public sector prison estate. (Paragraph 38)

6. A policy of replacing older establishments with newer ones is resulting in the creation of large, multi-purpose prisons, while questions arising from available evidence on the relationship between the size and effectiveness of institutions do not appear to have been addressed by the Government. The success of the Government's policy also depends crucially on the ability of NOMS to predict demand for places with sufficient accuracy, and to provide places accordingly. The time taken to build new prisons, and their associated costs, means that it can take several decades to yield savings. In addition, these savings are dependent on the consequent closure of older and more expensive places, which might not be possible if future demand tends towards the upper end of what are inevitably imperfect projections. We welcome the fact that the cost to the public purse of a prison place has fallen to some extent, but it remains high and it is unlikely to fall significantly while the population continues to rise. (Paragraph 39)
7. A key question is whether making savings in the prison estate inevitably results in a one-size-fits-all approach to prisons policy. Our evidence suggests there is a definite risk of this following recent decisions on custodial provision for children, young adults and women in prison. We consider that the custodial estate needs to be designed so that it meets the different needs of different sectors of the prison population. Reconfiguring the estate could provide an important opportunity to reconsider the best forms of custodial provision for key cohorts of prisoners, for example, through smaller, more geographically dispersed, units for both females and children. Instead, decisions have been taken to retain the recent emphasis on a smaller number of large establishments. (Paragraph 40)
8. It also appears to us that there are some consequences of modernisation that have not been planned for properly. When prisons are going through transition, whether that takes the form of opening, changing purpose, merging, or becoming managed by another sector, levels of performance are typically affected, at least in the short-term. There may well be unanticipated and unquantified costs of reconfiguring the prison estate in this manner. If the pressure to expand capacity continues, so too will the need for ongoing adaptations of the estate, with the risk that some establishments may be in a constant state of flux. (Paragraph 41)
9. It may be prudent to build prisons to standard specifications to minimise the need for rebuilding them should they change purpose, this can lead to prisoners being held in accommodation or conditions that are disproportionate to the risk that they pose, which is not conducive to rehabilitation. The approach to security in prisons which we saw in Denmark assumes that the use of open prisons should be the default, with restrictions minimised as much as possible. This is essentially the opposite of the approach taken in England and Wales, and we believe there is merit in the Danish approach. *The profile of the prison population is changing, including becoming older, and in some respects more challenging. In this context, we recommend that the Government review the way prisoners of different security categorisations are accommodated to ensure that it remains appropriate and proportionate to the risks presented by 21st century prisoners. (Paragraph 45)*

10. The Government's working prisons policy is a worthy aim and prison industries are becoming more common. Nevertheless, it remains the case that most prisons do not have the facilities for workshops on a scale that would enable the majority of prisoners to do work which will equip them for employment on release. Where there are such facilities, the aims of involving employers on a commercial basis and normalising a working week for prisoners are not achievable without sufficient staff to enable prisoners to be unlocked for a full working day. This appears to be much easier to achieve in prisons dedicated to that purpose. (Paragraph 51)
11. The current commissioning arrangements for prison work and learning and skills do not appear to support the integration of these two vital aspects of rehabilitation. *We recommend that the Ministry of Justice and the Department for Business, Innovation and Skills take steps to ensure that the next round of commissioning for learning and skills in prisons prioritises arrangements for embedding learning in the various forms of purposeful activity in which prisoners are engaged. In the shorter term, we recommend that the Government should review the combined impact of the various policies—the differential in remuneration when prisoners are in employment, the Victim Surcharge and Advanced Learning Loans—so as to ensure that they do not disincentivise to prisoners from developing their of learning and skills, and hence future employability.* (Paragraph 52)
12. In previous Reports we have commended the Government's creation of a nationwide network of resettlement prisons. It should not, however, confuse the priorities of multiple purpose establishments, and dilute the priority accorded to resettlement needs elsewhere in the estate. This initiative to improve provision in the last three months of a sentence should not come at the expense of rehabilitative support for the majority of prisoners who are serving medium to long-term sentences. If time in non-resettlement prisons has been used productively, prisoners will be in a better position to prepare for resettlement. *We recommend that NOMS develops measures of performance to ensure that the quality of rehabilitative provision for prisoners who are not in the final three months of their sentence is maintained, and publishes them regularly.* (Paragraph 58)
13. There are also some immediate issues which must be rectified as a matter of priority if support for offenders in moving from custody into the community is to work to best effect. These include as a matter of urgency resolving staffing shortages and clearing the backlog of risk assessments. Both issues are likely to hamper considerably the efforts of the new providers of Community Rehabilitation Companies as they seek to implement their through-the-gate services. There is a risk that such services could be rendered inoperable as a result of failures in the system that are the responsibility of NOMS. *We ask the Ministry to clarify in its response to this Report whether it has any financial obligations towards Community Rehabilitation Companies in the event that they are unable to operate effectively because of failures in the system that are beyond their control.* (Paragraph 59)

Benchmarking and prison staffing

14. We agree with most witnesses to our inquiry that the benchmarking of prisons to develop more efficient regimes is in principle an effective way of reducing

expenditure more rapidly than would be possible through prison-by-prison competition. We also support the phased approach to the implementation of benchmarking which NOMS has adopted. (Paragraph 65)

15. All available indicators, including those recorded by HM Inspectorate of Prisons and NOMS itself, are pointing towards a rapid deterioration in standards of safety and levels of performance over the last year or so. Most concerning to us is that since 2012 there has been a 38% rise in self-inflicted deaths, a 9% rise in self-harm, a 7% rise in assaults, and 100% rise in incidents of concerted indiscipline. Complaints to the Prisons and Probation Ombudsman and other sources have risen. There are fewer opportunities for rehabilitation, including diminished access to education, training, libraries, religious leaders, and offending behaviour courses. (Paragraph 75)
16. A quarter of the staff who have left the Prison Service in the year to September 2014 resigned. NOMS ought to have foreseen that major reductions in staffing, less favourable pay and conditions of employment, and significant changes to prison regimes, would lead to a rise in people opting to leave the Prison Service, regardless of the buoyancy of the external labour market. This underlines the importance of retention as well as recruitment. As NOMS is highly dependent on its staff to run well-functioning prisons, and it is important that the Service acts rapidly on the evidence of recent surveys to ensure that staff feel valued and are given appropriate support to work in circumstances which are challenging at the best of times, but currently particularly pressured. Given the importance of relationships between prisoners and prison staff we do not believe that making further detrimental changes to terms and conditions of staff is sustainable as a means of controlling costs if the prison population continues to rise. (Paragraph 94)
17. It is possible that the Ministry might be taking the matter of the sudden rise in self-inflicted deaths seriously internally, but downplaying publicly its significance, and the potential role that changes in prisons policy might be playing in it, is ill-advised as it could be construed as complacency and a lack of urgency. The Ministry told us they had looked hard for evidence of factors which could be causing an increase in suicide rates, self-harm and levels of assault in prisons. Worryingly, they had not managed to arrive at any hypothesis as to why this has taken place. In our view it is not possible to avoid the conclusion that the confluence of estate modernisation and re-configuration, efficiency savings, staffing shortages, and changes in operational policy, including to the Incentives and Earned Privileges scheme, have made a significant contribution to the deterioration in safety. (Paragraph 102)
18. Private sector prisons have not been immune from the imposition of efficiency savings but once their contracts have been agreed they are insulated to some extent. They also benefit from their greater ability to make capital investments in the hope of recouping the benefit over the lifetime of the contract, while public sector processes restrain such investment. We conclude that public sector prisons need greater capacity to invest in cost-effective and operationally beneficial improvements in the way that the private sector does. (Paragraph 103)
19. Both public and private sector prisons have been in a state of flux over the last two years, for a host of reasons. These include the implementation of new operational

policies, staffing reductions, populations changing and stabilising as prisons have opened, closed or re-roled, transfers from the private sector to the public sector and vice versa, and large-scale building projects on existing prison sites. It would be surprising if there had not been some adverse impact on performance. We believe that the key explanatory factor for the obvious deterioration in standards over the last year is that a significant number of prisons have been operating at staffing levels below what is necessary to maintain reasonable, safe and rehabilitative regimes. Having fewer prison officers can tip the power balance, leading to less safety and more intimidation and violence on wings. Interim measures such as restricted regimes and the national detached duty scheme have been adopted as a necessary means of minimising the risks of operating with insufficient staff, but these measures themselves have an adverse impact on the ability of the prison system to achieve rehabilitation and reduce reoffending. (Paragraph 115)

20. The Government has been reluctant to acknowledge the serious nature of the operational and safety challenges facing prisons, and the role of its own policy decisions in creating them. Some difficulties could arise in any process of change, but it is clear to us that the Ministry had not planned adequately for the risk of staffing shortages, and failed to act sufficiently quickly to mitigate them. This unsatisfactory outcome and sluggish response has risked jeopardising the safety of prisoners and prison staff. We note that NOMS believes that these problems will begin to recede, and that the situation will have stabilised by April 2015, but we found convincing evidence that more pressurised working conditions for staff are compounding the staffing problem. Over the medium to long-term it is our view that turnover is likely to remain at undesirably high levels if some public sector prisons are operating with insufficient staff (Paragraph 116)
21. The Ministry remains optimistic that the benchmarking policy will prove a safe and effective means of reducing costs, but the current difficulties in many prisons highlights the hazards of seeking to run an estate operating at 98% capacity with staffing levels which afford too little flexibility. We welcome a more robust response to assaults on staff as a response to incidents of violence, but the real answer lies in staffing levels and regimes which minimise such violence. *We recommend, especially in the light of the Government's acceptance that there is now a more challenging mix of prisoners, that staffing benchmarks should be altered upwards to ensure prisons are able to have the capacity to return to the levels of operational performance which prevailed early in this Parliament. In its response to this report we also request the Ministry of Justice to provide a full update on progress which has been made in restoring staffing levels, and to set out what other steps it is taking to address low staff morale and improve the retention of staff, across the whole prison estate and in areas of particular shortfalls.* (Paragraph 116)
22. *The Ministry's inability to provide us with fully worked out costings of its reforms is a recurring issue for us. We request the Ministry to provide in its response to this Report an analysis of the impact additional staffing and recruitment costs will have on the Ministry's ability to meet its spending targets for the 2014–15 financial year, along with an assessment of whether the additional staff being recruited will be sufficient also to staff the new prison places opening in the spring* (Paragraph 118)

Governance and accountability

23. Release on Temporary Licence (ROTL) is an effective tool in supporting rehabilitation and can lead to better outcomes than releasing prisoners without preparation from a recent experience of the world outside prison. We recognise that the Government has to ensure that it is operated in a way which recognises legitimate safety concerns and can maintain public trust. While the number of failures are very few, the consequences can be high-profile and tragic. Nevertheless, if as a result of the restrictions imposed considerably fewer prisoners receive ROTL opportunities, the chances of effective resettlement for them will be reduced, undermining the Government's efforts to institute a rehabilitation revolution. In addition, if there is any detrimental impact on Parole Board decisions there would be further upward pressure on the prison population. *We recommend that the overall impact of these restrictions on the sustainability and effectiveness of ROTL—which should be based on the presumption that it will be available unless there are strong public safety grounds for refusal in a particular case—be reconsidered as a matter of urgency.* (Paragraph 129)
24. Prison governors in public sector prisons and some private sector prisons are no longer responsible for the sum total of everything that happens within their prison walls. As well as effectively becoming contract managers for provision of services for which they used to be directly responsible, they are constrained in their operational decisions when dirigiste decisions are taken from the centre on such matters as the Incentives and Earned Privileges scheme, the 'lights out' policy and release on temporary licence. We conclude that relegating governors to an oversight and partnership management role with much reduced discretion undermines their control over the performance and safety of the establishment and their ability to govern their prisons using their professional judgment, as they are trained at public expense to do. *We recommend that the National Offender Management Service review the cumulative effect of these changes on prison governors, and report the matter to our successor Committee.* (Paragraph 137)
25. There is a risk that the proliferation of partner organisations providing services to prisons could distract prison management teams from their core role. This potential effect is all the more important when resources are such that reduced staffing levels are impinging on the safety of prisoners and staff for which Governors have ultimate responsibility. (Paragraph 139)
26. *We recommend that NOMS examine the scope for extending self-catering by prisoners.* (Paragraph 143)
27. The main foundation of a safe prison is dynamic security, established through consistent personal contact between officers and prisoners, enabling staff to understand individual prisoners and therefore anticipate risky situations and prevent violence. Prison officers also have a pivotal role to play in prisoners' rehabilitation. Their involvement in sentencing, planning and resettlement, and enabling prisoners to take responsibility, should be enhanced. It would be counterproductive to reduce their role to one of basic oversight of safety and security. We are not convinced that the Ministry has considered sufficiently, or valued highly enough, the complicated

and difficult nature of work undertaken by frontline prison staff under its benchmarking programme. (Paragraph 145)

28. It is important that within new ways of working in prisons there is sufficient time to allow for productive interaction between staff and prisoners, which contributes significantly to improving safety and rehabilitative outcomes in prisons. Prisoners themselves have an important role to play in creating effective regimes. *We recommend that NOMS encourage the establishment of prison councils and other initiatives which engage prisoners in meaningful dialogue with prison management about the impact of prison management and policies, and which provide a framework of support for prisoners who wish to help each other.* (Paragraph 148)
29. If difficulties experienced by prisoners are not addressed in a timely and effective manner this can compound the problem. Given that there are fewer opportunities for prisoners to raise matters directly with staff, it is important that the more formal prisoner complaints system functions effectively. This would be aided by the wider availability of in-cell technology. (Paragraph 153)
30. *The future role of Independent Monitoring Boards would benefit from further, more detailed, consideration by our successor Committee. We are also concerned at the backlog of complaints now faced by the Prisons and Probation Ombudsman, and the likely impact of the rise in self-inflicted deaths on his workload. The Ministry must discuss with him how resources can best be made available to manage this. We remain of the view that the independence of HM Chief Inspector of Prisons would be strengthened if he or she reported directly to Parliament.* (Paragraph 162)

Conclusion

31. Within existing building plans the Government would find it difficult to accommodate another unexpected increase in the prison population that deviates from their central range of prediction and moves towards the upper limit. Had the Government not been able to utilise redundant capacity from the youth estate it appears quite likely that the demand for prison places for adults might already have outstripped supply. Unless there are significant changes in both policy and rhetoric on sentencing, there is a continuing risk of unmanageable growth in the prison population. (Paragraph 170)
32. Insufficient access to rehabilitative activities in prison and the backlog in offender risk assessments are likely to impact adversely on rehabilitative outcomes and hence the effective implementation of through-the-gate support by new providers of Community Rehabilitation Companies. NOMS' belief that there is sufficient headroom in the system both for the implementation of the Transforming Rehabilitation reforms and to allow for a further rise in the prison population is difficult to reconcile with the current staffing shortages. (Paragraph 171)
33. Given the size of the prison population, and the likely need to continue to make financial savings in the medium term, there is a real danger that savings and rehabilitation could become two contradictory policy agendas. The question of the sustainability of the system cannot continue to be ignored. (Paragraph 172)

34. *The size of the prison budget, the fact that it completely dominates expenditure on crime, the importance of reducing crime, and other problems identified in this report all indicate that we need to re-evaluate how we use custody and alternatives to custody in a cost-effective way which best promotes the safety of the public and reduces future crime. General Elections have a tendency to produce the wrong kind of debate on criminal justice policy, with a competition as to who can sound toughest, rather than an examination of the evidence on what works. This need not be so, and it should certainly not preclude a rational and evidence-based discussion on criminal justice policy in the next Parliament. That task needs to be continued by future governments, by political parties, and by our successors on the Justice Select Committee. (Paragraph 173)*

Formal Minutes

Wednesday 4 March 2015

Members present:

Sir Alan Beith, in the Chair

Mr Christopher Chope
Jeremy Corbyn
Nick de Bois
John Howell

Mr Elfyn Llwyd
Andy McDonald
John McDonnell

Draft Report (*Prisons: planning and policies*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 173 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Ninth Report of the Committee to the House.

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

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 11 March at 9.15am.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at www.parliament.uk/justicecttee.

Tuesday 9 September 2014

Question number

Paula Harriott, Head of Programme, User Voice, **Angela Levin**, former Chair of HMP Wormwood Scrubs Independent Monitoring Board, **Jonathan Robinson**, former prisoner, and **Deborah Russo**, Prisoners' Advice Service

[Q 1–65](#)

Tuesday 14 October 2014

Kevin Lockyer, consultant, former Regional Director for National Offender Management Service, **John Podmore**, consultant, former Prison Governor, **Phil Wheatley CB**, consultant, former Director General of National Offender Management Service, and **Professor Yvonne Jewkes**, University of Leicester

[Q 66–95](#)

Dr Kimmitt Edgar, Prison Reform Trust, **Andrew Neilson**, Howard League for Penal Reform, and **Imtiaz Amin**, Zahid Mubarek Trust

[Q 96–110](#)

Monday 10 November 2014

Nick Hardwick, Chief Inspector of Prisons, **Nigel Newcomen**, Prisons and Probation Ombudsman, and **Stephen O'Connell**, President, Prison Governors' Association

[Q 111–144](#)

Rod Clark, Chief Executive, Prisoners' Education Trust, **Dr Julie Mills**, Association of Colleges, and **Keith Smith**, Interim Chief Executive, Skills Funding Agency

[Q 145–165](#)

Tuesday 18 November 2014

Simon Cartwright, Governor, HMP Belmarsh, **John Biggin**, Director HMP Thameside, **Grahame Hawkings**, Governor, HMPYOI Isis, and **Phil Copple**, Director, National Offender Management Service

[Q 166–206](#)

Steve Gillan, General Secretary, Prison Officers' Association, **Sukhvinder Buparai**, Branch Secretary, HMP Belmarsh, and **Thomas Bailey**, Branch Chairman, HMP/YOI Isis

[Q 207–239](#)

David Pinchin, Independent Monitoring Board Chair, HMY/OI Isis, and **Carole Homan**, Independent Monitoring Board Chair, HMP Belmarsh

[Q 240–254](#)

Monday 24 November 2014

Douglas, Adellah, Raymond, Daniel, and **Dwayne**, former prisoners

[Q255–300](#)

Lin Hinnigan, Chief Executive, Youth Justice Board, **Gareth Jones**, Chair, Association of Youth Offending Team Managers, **Joyce Moseley OBE**, Chair, Transition to Adulthood Alliance, and **Penelope Gibbs**, Chair, Standing Committee for Youth Justice

[Q301–332](#)

Tuesday 25 November 2014

Mike Conway, Director of Operations, Sodexo, **Jerry Petherick**, Managing Director for Custodial and Detention Services, G4S, **James Thorburn**, Managing Director for Home Affairs, Serco, and **James Timpson**, Chair, Employer's Forum for Reducing Reoffending

[Q333-368](#)

Tuesday 2 December 2014

Andrew Selous MP, Minister for Prisons, Probation and Rehabilitation, Ministry of Justice, and **Michael Spurr**, Chief Executive, National Offender Management Service

[Q369-406](#)

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at www.parliament.uk/justicectee. PPP numbers are generated by the evidence processing system and so may not be complete.

- 1 A4e ([PPP0038](#)) & ([PPP0018](#))
- 2 Association of Colleges ([PPP0019](#))
- 3 Bail for Immigration Detainees ([PPP0016](#))
- 4 Barnardo's ([PPP0056](#))
- 5 Catholic Bishops' Conference of England and Wales ([PPP0028](#))
- 6 Children's Rights Alliance for England ([PPP0014](#))
- 7 Comisiynydd Y Gymraeg / Welsh Language Commissioner ([PPP0007](#))
- 8 Criminal Justice Alliance ([PPP0027](#))
- 9 Dr Geoffrey Penzer ([PPP0050](#)) & ([PPP0051](#))
- 10 G4s ([PPP0045](#))
- 11 Guy Opperman MP ([PPP0043](#))
- 12 Helen Boothman ([PPP0063](#))
- 13 HM Inspectorate of Prisons ([PPP0024](#))
- 14 Independent Monitoring Board ([PPP0059](#))
- 15 Independent Monitoring Board, HMP Belmarsh ([PPP0054](#))
- 16 Kevin O'Neill ([PPP0021](#))
- 17 Milton Keynes College ([PPP0010](#))
- 18 Ministry of Justice ([PPP0033](#)); ([PPP0061](#)); ([PPP0062](#)); and ([PPP0065](#))
- 19 Mission and Public Affairs Council, Church of England ([PPP0005](#))
- 20 National Offender Management Service ([PPP0041](#)), ([PPP0042](#)) & ([PPP0058](#))
- 21 Police Officers Association ([PPP0013](#))
- 22 Progressing Prisoners Maintaining Innocence ([PPP0020](#))
- 23 Prison Governors' Association ([PPP0034](#))
- 24 Prison Reform Trust ([PPP0012](#)); ([PPP0039](#)); ([PPP0040](#)); ([PPP0047](#)); ([PPP0048](#)); and ([PPP0064](#))
- 25 Prisoner Learning Alliance ([PPP0009](#))
- 26 Prisoners Advice Service ([PPP0037](#))
- 27 Prisoners' Education Trust ([PPP0053](#))
- 28 Quaker Peace & Social Witness, Crime, Community and Justice Sub-Committee ([PPP0003](#))
- 29 Standing Committee for Youth Justice ([PPP0057](#)) & ([PPP0026](#))
- 30 Secure Accommodation Network ([PPP0002](#))
- 31 Senait Jones ([PPP0001](#))
- 32 Serco ([PPP0015](#))
- 33 The British Psychological Society ([PPP0017](#))
- 34 The Howard League for penal Reform ([PPP0049](#)), ([PPP0006](#)) & ([PPP0060](#))
- 35 The Open University ([PPP0008](#))
- 36 Unilink ([PPP0011](#))
- 37 Unlock ([PPP0035](#))

- 38 User Voice ([PPP0032](#))
- 39 Women In Prison ([PPP0023](#))
- 40 Youth Justice Board ([PPP0055](#))
- 41 Yvonne Jewkes ([PPP0031](#))
- 42 Zahid Mubarek Trust ([PPP0044](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at www.parliament.uk/justicecttee. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Revised Sentencing Guideline: Assault	HC 637
Second Report	Appointment of the Chair of the Judicial Appointments Commission	HC 770
Third Report	Government's proposed reform of legal aid	HC 681-I (Cm 8111)
Fourth Report	Appointment of the Prisons and Probation Ombudsman for England and Wales	HC 1022
Fifth Report	Appointment of HM Chief Inspector of Probation	HC 1021
Sixth Report	Operation of the Family Courts	HC 518-I (Cm 8189)
Seventh Report	Draft sentencing guidelines: drugs and burglary	HC 1211
Eighth Report	The role of the Probation Service	HC 519-I (Cm 8176)
Ninth Report	Referral fees and the theft of personal data: evidence from the Information Commissioner	HC 1473(Cm 8240)
Tenth Report	The proposed abolition of the Youth Justice Board	HC 1547 (Cm 8257)
Eleventh Report	Joint Enterprise	HC 1597 (HC 1901)
Twelfth Report	Presumption of Death	HC 1663 (Cm 8377)
First Special Report	Joint Enterprise: Government Response to the Committee's Eleventh Report of Session 2010–12	HC 1901

Session 2012–13

First Report	Post-legislative scrutiny of the Freedom of Information Act 2000	HC 96-I (Cm 8505)
Second Report	The budget and structure of the Ministry of Justice	HC 97-I (Cm 8433)
Third Report	The Committee's opinion on the European Union Data Protection framework proposals	HC 572 (Cm 8530)
Fourth Report	Pre-legislative scrutiny of the Children and Families Bill	HC 739 (Cm 8540)
Fifth Report	Draft Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013	HC 927
Sixth Report	Interpreting and translation services and the Applied Language Solutions contract	HC 645 (Cm 8600)
Seventh Report	Youth Justice	HC 339 (Cm 8615)
Eighth Report	Scrutiny of the draft Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013	HC 965 (HC 1119)

Ninth Report	The functions, powers and resources of the Information Commissioner	HC 962 (HC 560, Session 2013–14)
First Special Report	Scrutiny of the draft Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013: Government Response to the Committee's Eighth Report of Session 2012–13	HC 1119

Session 2013–14

First Report	Sexual Offences Guidelines: Consultation	HC 93
Second Report	Women offenders: after the Corston Report	HC 92 (Cm 8279)
Third Report	Transforming Legal Aid: evidence taken by the Committee	HC 91
Fourth Report	Environmental Offences Guideline: Consultation	HC 604
Fifth Report	Older prisoners	HC 89 (Cm 8739)
Sixth Report	Post-legislative Scrutiny of Part 2 (Encouraging or assisting crime) of the Serious Crime Act 2007	HC 639 (HC 918)
Seventh Report	Appointment of HM Chief Inspector of Probation	HC 640
Eighth Report	Ministry of Justice measures in the JHA block opt-out	HC 605 (HC 972)
Ninth Report	Fraud, Bribery and Money Laundering Guideline: Consultation	HC 804
Tenth Report	Crown Dependencies: developments since 2010	HC 726 (Cm 8837)
Eleventh Report	Appointment of the Chair of the Office for Legal Complaints	HC 916
Twelfth Report	Crime reduction policies: a co-ordinated approach? Interim report on the Government's Transforming Rehabilitation programme	HC 1004
Thirteenth Report	Serious Fraud Office Supplementary Estimate 2013-14	HC 1005
Fourteenth Report	First Joint Report from the European Scrutiny, Home Affairs and Justice Committees of Session 2013–14: The Government's response to the Committees' Reports on the 2014 block opt-out decision	HC 1177
First Special Report	The functions, powers and resources of the Information Commissioner: Government Response to the Committee's Ninth Report of Session 2012–13	HC 560
Second Special Report	Post-legislative Scrutiny of Part 2 (Encouraging or assisting crime) of the Serious Crime Act 2007: Government Response to the Committee's Sixth Report of Session 2013–14	HC 918
Third Special Report	Ministry of Justice measures in the JHA block-opt: Government Response to the Committee's Eighth Report of Session 2013–14	HC 972

Session 2014–15

First Report	Crime reduction policies: a co-ordinated approach?	HC 307 (Cm 8918)
Second Report	Theft Offences Guideline: Consultation	HC 554
Third Report	Mesothelioma Claims	HC 308 (HC 849)
Fourth Report	Joint enterprise: follow-up	HC 310
Fifth Report	Manorial Rights	HC 657
Sixth Report	Robbery Offences Guideline: Consultation	HC 1066
Seventh Report	Health and safety offences, corporate manslaughter and food safety and hygiene offences guidelines: consultation	HC 1099
Eighth Report	Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012	HC 311
First Special Report	Mesothelioma Claims: Government Response to the Committee's Third Report of Session 2014–15	HC 849
Second Special Report	Joint enterprise: follow-up: Government Response to the Committee's Fourth Report of Session 2014–15	HC 1047