



Ministry  
of Justice

Rt Hon. David Gauke MP  
Secretary of State for Justice

**Peter Clarke CVO OBE QPM**  
HM Chief Inspector of Prisons  
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17<sup>th</sup> September 2018

Dear Peter

#### **URGENT NOTIFICATION – HMP BIRMINGHAM**

Thank you for your letter dated 16<sup>th</sup> August 2018, setting out your concerns following the inspection at HMP Birmingham and invoking the Urgent Notification protocol. As set out in the Protocol between you and my Department, I am responding to you within 28 days of your letter.

I take very seriously the issues you raised and I am committed to ensuring they are addressed. I set out below an overview of the immediate actions we have prioritised to address the most serious and urgent matters. I also enclose an initial action plan providing more detail on the specific actions that have been completed or are underway.

#### **Step-in**

Over the course of the past few months, Her Majesty's Prison and Probation Service (HMPPS) has been working with G4S to drive up standards at HMP Birmingham. It became clear, however, that without additional support and resources the prison would not be able to make sufficient progress on the issues it was facing and which were highlighted following your recent inspection. Therefore, on 20<sup>th</sup> August, in accordance with the Criminal Justice Act 1991, I appointed a public-sector Governor and exercised rights in our contract with G4S for HMPPS to step in and take over the management of HMP Birmingham from G4S for an initial period of six months. We continue to work closely with G4S to address the issues which we had identified and which you highlighted in your letter.

#### **Leadership and Staffing**

You raised concerns about the ineffective front-line management and leadership, coupled with low staff confidence and competence in key prison skills. You said in your letter that this lay at the heart of the prison's problems. We agree that this needs to be strengthened at all levels. A key aspect of the step-in allowed us to utilise support and resources from across the wider prison system. I have appointed one of

our strongest prison service governors, Paul Newton, to lead the prison and steer the transformation process, drawing on his vast experience of managing challenging establishments.

We will continue to assess the need for experienced staff, and the overall numbers of staff required, to support the existing G4S officers at HMP Birmingham (who remain in the employ of G4S but under the direction of the new Governor). We have already temporarily deployed HMPPS staff in a variety of roles. In addition to the 32 (as at this week) Band 3 officers on detached duty from HMPPS, we will also bring in officers at Band 4 and managers at Band 5 and at Heads of Function level, as deemed appropriate by the Governor.

As you will be aware, the introduction of HMPPS staff is being coupled with a reduction in capacity of a further 300 places (in addition to the 116 places that were removed from use in November 2017 to assist stability). The reduction is already two thirds complete and will be fully completed by the end of September. The prison estate has sufficient capacity to reduce the number of places at HMP Birmingham. A number of West Midlands courts will be served by HMP Hewell rather than Birmingham, in order to sustain a lower population. These steps will increase pressures elsewhere, which is not ideal, but HMPPS assess that those impacts are manageable and appropriate given the priority that must be given to Birmingham. HMPPS are carefully managing the reduction in capacity and working closely with Governors across the estate to mitigate the impacts it has elsewhere. We will continue to assess the need for the reduced population over the coming months, but will not increase capacity until we deem it is appropriate and are assured it can be achieved safely in decent conditions.

It is important that these actions regarding staffing and population are taken in conjunction with one another. They will immediately reduce the pressure on inexperienced staff and support a more stable environment, and provide the resourcing levels to allow us to undertake many parts of the action plan. Creating capacity in staffing levels allows experienced officers, from both G4S and HMPPS, to mentor and support other staff. It also allows for staff to be released to undertake training to ensure they fulfil their roles to best effect. This training will aim to address gaps in skills and to instil confidence in managing prisoners; to challenge behaviour where necessary and to support rehabilitation.

The management and leadership impact of Paul Newton, supported by further HMPPS resources, is key to effective implementation of the strategy outlined above. He is working closely with G4S to consider short-term workforce issues, effective management of workforce plans and training requirements. Together they have developed and introduced recruitment, training and mentoring strategies for all staff, including senior managers.

This is supported by a strong focus on getting the basics right in the prison. We are undertaking work to ensure that an effective regime is in place, with brings certainty to both staff and prisoners alike.

This provides an effective foundation on which to ensure that the processes and procedures which are so vital in prisons can be improved. For example, it is a priority to ensure that essential systems, including the Incentives and Earned Privileges scheme and complaints processes, work effectively. We want staff to use them appropriately to maintain control and incentivise good behaviour from prisoners. Work in this area is underway, under the Governor's close scrutiny.

### **Decency and Living Conditions**

The reduction in HMP Birmingham's capacity is linked to the Governor's review of accommodation across the whole prison. This review allows him to take cells out of use where they do not meet the required standards.

As you know, the prison is made up of two parts, the old Victorian buildings and much newer accommodation. The reduction in the operational capacity will allow us to empty A, B and C wings in the Victorian section, which clearly stand out as the worst accommodation. It will also allow us to make assessments about what work is required. Urgent work will be done on G wing to bring it to the required standard over the coming weeks and ensure that prisoners are held in decent conditions when it reopens shortly.

In the newer part of the prison we are already taking cells out of action and working closely with G4S to ensure that remedial work is carried out. We have brought in estates specialists from HMPPS' central and regional resources to support local management and providers. They will ensure that work is properly identified and appropriate action is taken. In addition, the Governor will make certain that the cleanliness of the accommodation which remains in use is subject to daily review and that action is taken to respond to those areas which would fall below expected standards.

Furthermore, work is underway to replace or provide damaged and missing cell furniture and fittings. We are also ensuring that prisoners have access to clothing and other basics which are fundamental to decent treatment.

## **Safety**

Safety remains an absolute priority to address at HMP Birmingham. The Governor has reviewed the plan that G4S were taking forward. This plan is now being supplemented by support from both the HMPPS National Safety Team and the local West Midlands Safety Support Team.

Action has already been taken to review 'isolators' within the prison. All the Assessment Care and Custody in Teamwork (ACCT) plans have been reviewed to ensure that the Governor is satisfied that the appropriate actions and review procedures are in operation. In line with our national review of cell bell responses, we are ensuring that local systems are in place to provide assurance on response times.

Key aspects of the planned activity are detailed in the action plan. The priority actions concerning safety are now underway and include:

- Ensuring implementation of recommendations from the Prisons and Probation Ombudsman (PPO).
- Reviewing and ensuring effective implementation of the local Safety Support Plan to address suicide and self-harm and violence reduction.
- Ensuring that the structure and staffing of the establishment's Safety Team ensures that effective oversight of the Safety Support Plan is in place and that action is taken and progress is monitored.
- Introducing a new quality assurance process for Assessment Care and Custody in Teamwork (ACCT). Plans are already in place to provide ACCT coaching to Case Managers.
- Reviewing the Listeners Scheme to ensure that it is running efficiently.
- A new Challenge Support and Intervention Plan will be implemented to address violence while assuring the management of violent prisoners is discussed at weekly multidisciplinary meetings.

We also recognise the need to tackle drug use at HMP Birmingham. We are already putting in place plans for the HMPPS National Drugs Diagnostic team to assess the prison's approach to drug reduction and take forward recommendations of this assessment.

We are engaging more proactively with the West Midlands police force to combat the criminal activity underpinning the drugs trade in prisons. National experts in this area will support both the prison and local law enforcement partners in addressing these challenges.

## **Offender Management**

The National Probation Service and HMPPS central offender management experts are offering support to improve HMP Birmingham's performance in offender management.

Utilising experienced National Probation Service resources, we have already put in place suitable release plans for 50 men due for release between August and November. We will now review the whole prison population to ensure that appropriate links with probation providers and effective release plans are in place.

The Operational and System Assurance Group (OSAG) will conduct a review of the offender management processes at HMP Birmingham to support the Governor in ensuring appropriate resources and skills and are deployed in the future structures. We will also be supporting the prison's key worker strategy to ensure the effective delivery of the Offender Management in Custody (OMiC) model.

This week we have begun to review the Home Detention Curfew (HDC) processes and procedures to ensure that prisoners who are entitled to HDC have the opportunity to apply and are appropriately considered.

## **Contract Management**

You raised concerns about the effectiveness of contract management procedures and questioned how conditions at the prison had been allowed to deteriorate to the levels identified during your inspection. HMPPS has had serious concerns about the safety, security and decency of the prison for an extended period and has worked closely with G4S through the contract in an effort to drive up standards. Failure by G4S to deliver against improvement plans agreed in the autumn of 2017 resulted in the issue of two formal contract Improvement Notices in March 2018 with follow up Outstanding Issues Notices issued on 1<sup>st</sup> June 2018 and 10 August 2018 due to continued unsatisfactory progress. Further action was taken on 20<sup>th</sup> August to 'step-in' and take over running of the prison for an initial period of six months which will be kept under review.

Whilst reserving their legal position, G4S has welcomed the step in, are engaged in the UN process and cooperating fully with HMPPS to ensure that, to the greatest extent practically possible, services continue to be operated in accordance with the contract subject to directions from the HMPPS Governor and other HMPPS staff appointed to support him. As such, contract managers will work with the Governor to closely monitor contractual performance, applying remedies in accordance with the contract where any failure to meet contract standards is directly attributable to G4S.

We have put in place systems to record the additional cost to HMPPS of the step-in arrangements and will recover this, together with a reduction in the price for cells taken out of operational use, from G4S in accordance with the terms of the contract. We are working closely with G4S on arrangements for urgent works necessary to restore the condition of cells to the standards set out in the contract, taking into consideration the need for wider investment in improvements to the fabric of the building, for example, replacement windows, in order to protect the long-term future of our asset. Finally, discussions are in progress on the criteria for the eventual "step out" by HMPPS and the point at which I will be satisfied to hand control of the prison back to G4S.

## Conclusion

You suggested that I might want to consider an independent assessment of the circumstances which have led to us stepping in, and to your poor assessment of the prison. I strongly believe that we already understand what happened at HMP Birmingham. Through your assessment of the prison and that of the Independent Monitoring Board, as well as our own investigation following the serious disturbance in December 2016, we have gained significant insight. I have personally visited the prison, as have Rory Stewart (Prisons Minister) and Michael Spurr (Chief Executive of HMPPS). Unfortunately, the story at HMP Birmingham is a relatively familiar one to all of us. We recognise the issues of drugs, violence, management and training, and the impact that these can have on our prisons. We will learn lessons for the management of other private prison contracts from this background, as well as through the action we now take, alongside the other work underway across the wider estate. This includes the 10 Prisons Project, whereby we are increasing investment and developing estate wide approaches to tackle issues such as those found at HMP Birmingham and to incentivise the right behaviours in the prison population.

I hope that this letter reassures you that we are taking seriously the outcomes of the inspection and that appropriate action is being taken by the prison and the wider system over the coming weeks and months.

I will of course continue to monitor the situation at HMP Birmingham to ensure we begin to see improvements. We will take all action necessary to ensure that staff and prisoners work and live in safe and decent conditions.

Yours ever  
David

**DAVID GAUKE MP**