



Ministry
of Justice

Government Response to the Justice Committee's Ninth Report of Session 2014-15

Prisons: Planning and Policies

September 2015



Government Response to the Justice Committee's Ninth Report of Session 2014-15

Prisons: Planning and Policies

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

This Command Paper replaces Cm 9114 (ISBN 9781474123655 and ISBN 9781474123662) which was laid before Parliament on 14 July 2015. It is available for free to all known recipients of Cm 9114.

September 2015



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at DCCBusinessSupport@noms.gsi.gov.uk

Print 9781474124355

Web 9781474124362

ID 25081511 09/15

Printed on paper containing 75% recycled fibre content minimum.

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

Contents

Introduction	3
Government Response to the Justice Committee's Conclusions and Recommendations	4

Introduction

This Command Paper is published in response to the Justice Select Committee's Ninth Report of Session 2014-15 entitled 'Prisons: Planning and Policies'.

May I begin by thanking the Committee for this wide ranging report which provides a helpful and detailed analysis covering a significant period of change within our prison system. I have studied the conclusions and recommendations thoroughly and the report will be invaluable in helping my thinking about the future direction of prisons.

I am pleased that the Committee has recognised the achievements made and in particular has commended the creation of a network of resettlement prisons as well as recognising the work on the 'new for old' prison estate strategy and supporting the principles of the prison benchmarking process .

I also recognise that the Committee has raised concerns about the potential impact the implementation of these policies may have on both staff and prisoners. I would like to assure the Committee that I am committed to making sure that staff in prisons work in safe and secure conditions and that the efforts that they make to support the rehabilitation of prisoners is properly recognised and rewarded. Achieving this can only have a positive impact on prisoners and support them in turning away from a life of crime.

In particular, I acknowledge the Committee's overarching concern that the requirement to make savings may have a negative impact on rehabilitative outcomes, particularly if demand for prison places remains high. I would like the Committee to be assured that I am committed to ensuring that all our prisons increasingly become places of rehabilitation and I am currently considering the most effective and efficient way to achieve this. We know prisoners serving short prison sentences are those most likely to reoffend and return to prison, and the recent extension of supervision in the community for these prisoners should support my future ambition.

The implementation of the benchmarking process across the public sector prison estate is set to deliver more efficient operating models and better ways of working which both reduce cost and increase the levels of time prisoners spend in purposeful activity. I want to continue to explore what more we can do in prisons to ensure that prisoners are given the greatest chance for change as they move back into communities and engage with wider society.

Michael Gove MP

Lord Chancellor and Secretary of State for Justice

Government Response to the Justice Committee's Conclusions and Recommendations

In this part of the command paper the Ministry of Justice has responded to the conclusions and recommendations made in the Justice Select Committee's report, 'Prisons: Planning and Policies'.

The response to the conclusions and recommendations appear in the same order as presented by the Justice Committee in their report.

Managing the Prison Population

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).

We are pleased that the Committee recognises the efforts made to manage the recent rise in the prison population without a significant increase in the level of crowding which has remained at similar levels for several years. This demonstrates the Government's commitment to holding all prisoners in safe and decent accommodation. Our aim is to ensure that existing crowding is managed safely and that all prisons are able to provide a safe, decent and positive regime which supports rehabilitation, which is a major priority for this Government.

The need to make savings in public expenditure means that we are unable to significantly reduce the number of prisoners sharing cells that have been safely adapted for this purpose. We do not have the funding to provide the additional places it would require: the NAO estimated the capital cost at more than £900 million and this is not affordable.

The decision to build HMP Thameside with the capacity to crowd was an exceptional one based on the need to increase capacity within London. It is not indicative of a policy of building prisons with the intention of crowding them.

We agree with the Committee that new prisons should not be built with the intention to crowd them and the North Wales Prison is not being built with this intention. It will have both single and double cells. The double cells are large enough for two prisoners with single beds rather than bunk beds and include enclosed toilet and showering facilities.

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)

We fully understand and accept why the Committee are recommending a new measure of crowding. However, we feel that changing the measurement at this stage would mean we would be unable to properly measure and understand the impact of the improvements we intend to make.

The decision on the safe level of crowding in any particular prison is based on regime capacity and is made by Deputy Directors of Custody using powers drawn from the Secretary of State. Prisons are not expected to operate above their operational capacity, and ensuring that this capacity is set to reflect the provision of safe and decent accommodation and the operation of suitable regimes we believe ensures that levels of crowding in prisons are carefully managed.

Young People and Young Adults in Custody

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)

The safety and wellbeing of all young people in custody is paramount. The youth custodial estate comprises a range of accommodation with both small and larger units. We ensure that the estate is best utilised by placing young people in accommodation most appropriate for their needs. In recognition of continued significant reductions in the number of young people in custody and the scale of the financial challenge, we will not be pursuing plans to build a new Secure College.

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)

As the Committee rightly recognises, meeting the needs of young adult offenders is a complex issue. In order to fully consider how best to manage young adult offenders in custody the Government issued a consultation in November 2013 entitled 'Transforming the Management of Young Adults (aged 18-20) in custody'. This proposed that a new approach be developed to provide a consistent framework within which young adults can progress through their custodial sentence in mixed institutions as part of the wider adult estate. In those circumstances young adults would be allocated to an institution based on an assessment of their risks, needs and circumstances, including allocating them to the

most suitable resettlement prison where appropriate. We are considering the outcome of the consultation alongside the recommendations from the review conducted by Lord Harris.

We are already taking a number of steps to better understand and respond to the specific needs of young adult men irrespective of where they are located. We recognise, as the Committee does, the importance of clear responsibility for this group and therefore, we have appointed a Deputy Director of Custody for Young People within NOMS, as senior lead on operational policy on young adults. A key part of the remit is to make sure, where appropriate, that NOMS' operational policies reflect their specific needs. We are working to improve the evidence base around what works best with young adult offenders. We are also developing and testing a screening tool for psychosocial maturity which again should help us to better tailor our services and interventions for young adults at a local level. With regard to young adult women, we recently published a review of the women's custodial estate. The research that informed the review concluded that the needs of young adult women and older women were not sufficiently different to warrant developing a separate service for young adult women.

We would welcome the opportunity to discuss the needs and management of young adult offenders further with the Justice Select Committee.

Custodial Estate Strategy

5. The estate modernisation policy of closing 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)

We are pleased that the Committee is supportive of our 'new for old' policy. We agree that as part of this policy, making best use of technology, including in-cell technology can improve efficiency and effectiveness both in terms of improved security and other outcomes. We will explore what is possible ensuring that the necessary analysis to support this ambition is undertaken.

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 trends 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)

We understand the Committee's concerns. We have studied research into the relationship between the size of a prison and its effectiveness but currently, we consider that there is no firm evidence that smaller prisons are better at reducing reoffending than larger ones.

We believe that the Government's strong focus on rehabilitation and the reduction of re-offending is fully consistent with a strategic ambition to reduce demand. We are pleased that the Committee recognises the value of the creation of a network of resettlement prisons which from 1st May 2015 enables the delivery of a Through the Gate resettlement service for all prisoners as in order to prevent offenders returning to prison.

We accept there are challenges in pursuing our aim to provide a cost effective prison estate and to replace old, inefficient prisons with new, decent accommodation. Our focus will be on identifying the successful elements of all well-performing prisons and ensuring these are transferred to new establishments of all sizes. New prisons are built with decent accommodation and an infrastructure designed to support a full positive regime.

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)

We are fully committed to meeting the needs of specific cohorts of prisoners as part of the strategy for developing a more cost effective prison estate. We feel we have succeeded in closing old inefficient accommodation and replacing it with new without having a detrimental impact on any particular cohort of prisoners.

As the Committee acknowledges, it is as yet unclear how best to manage the needs of young adults in prison. We will develop proposals once we have considered the responses to our consultation.

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 maybe in a constant state of flux. (Paragraph 41)

We fully agree with the Committee's view that there has been a period of significant change and transition within prisons which has been delivered at pace. We are confident that we have both the processes, managers and staff in place to manage this change.

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)

We entirely agree that prisoners should be accommodated in an environment which is appropriate and proportionate to the risk they present and we believe that our current operating model supports this objective. Work is ongoing to ensure the prison estate fits the population profile and that the security categorisation processes continues to work effectively.

Transforming Rehabilitation

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)

We appreciate the Committee's support for the working prisons policy. We fully intend prisons to be places of work and purposeful activity with regime activities tailored to the physical environment of the prison and the needs of the specific population. Rehabilitation includes not only commercial/industrial work but also education and vocational training courses, offending behaviour programmes, resettlement activities and prison jobs such as cleaning, cooking and serving meals. All such activity contributes to the ability of offenders to gain employment on release.

We agree that the capacity of a prison to deliver work depends on the availability of workshop space and staffing as well as the prisoner population. The amount of work delivered in any particular prison should be part of an activity profile designed to meet the needs of the prisoners. For example, in a local prison holding very short sentenced offenders it may be more difficult to sustain large-scale work activity and more beneficial for prisoners to spend their time in education or undertaking resettlement activities.

The North Wales prison will have very significant capacity for work as well as education and training. Our new operating benchmarks provide a day designed to optimise the time available to provide an effective regime and maximise the number of hours prisoners are in activities. With changes, where possible, such as prisoners remaining in places of work over the lunch-time period rather than being returned to their cells, this supports the aim of normalising a working week.

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 prisoners from developing their of learning and skills, and hence future employability. (Paragraph 52)

It is one of our objectives that prison work be better integrated with education and training and we fully accept the recommendation of the Committee that this should be a priority when these services are commissioned.

One of the principles of education in custody is equivalence with the community - both in terms of provision as well as funding, including rules around Advanced Learning Loans. We agree that prisoners should not be disincentivised from taking up either education or work in custody and will examine policies and practices where this may be the case.

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)

We are pleased that the Committee is supportive of our policy of creating a network of resettlement prisons which we believe will deliver effective resettlement services.

We are committed to providing rehabilitative and resettlement work with prisoners at appropriate stages of their sentence. By creating a network of resettlement prisons, we can also strengthen the role and resourcing of non-resettlement prisons, enabling them to focus on delivering rehabilitative interventions. This should enhance the central role that prisons have in supporting the rehabilitation of prisoners through the delivery of accredited programmes, education, work and other services aimed at reducing an individual's risk of reoffending.

In addition we are in the process of conducting a major review of our Offender Management (OM) Model and delivery of offender supervision during the custodial period of sentences. This includes developing a number of measures, as the Committee is recommending, to reflect the contribution prisons make to rehabilitation and reducing reoffending.

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)

We fully agree that the transition between custody and community should work to best effect. The Through the Gate services provided by Community Rehabilitation Companies (CRCs) went live nationally on 1 May 2015 with prisons, providers, the National Probation Service (NPS) and other key stakeholders working together to ensure the successful resettlement of prisoners.

There are contractual obligations on CRCs to complete pre-release activity for prisoners no sooner than twelve weeks prior to release from custody. In the case of those subject to community supervision, a face to face appointment will also be arranged for that prisoner with the Community Offender Manager on the day (or within one business day) of their release. Our contract management approach is developing a high level of assurance and ensuring delivery of key milestones, with performance measured through the achievement of minimum service levels. As regards our financial obligations the CRCs' fulfilment of this requirement is dependent upon us notifying CRCs of the date the prisoner is to be released from custody or day of release on licence (whichever is the case). Failure to do so may (subject to certain conditions) entitle a CRC to claim an extension of time, compensation, or relief from its obligations so long as the notification remains outstanding.

Much of the work of CRCs is independent of previous risk assessments. Through the Gate services are determined using the Basic Custody Screen (BCS) which is completed in two parts during an offenders' initial reception into prison. BCS is the resettlement screening that CRCs rely on to develop resettlement plans. In addition for longer term offenders, a CRC is contracted to produce a risk assessment following release.

We recognise the immediate requirement to reduce the backlog of risk assessments and have taken action to address the problem, including paying staff overtime and placing staff on detached duty to provide additional cover. We have also issued an interim policy, in place since the end of January, to enable staff to better prioritise prisoners according to the type of assessment they require. As a minimum, all prisoners must have a risk of serious harm screening (and full analysis if applicable), and a score which predicts likelihood of reconviction. Offenders who pose a greater concern, such as sexual or violent offenders, or indeterminate sentence prisoners, will then receive a fuller assessment of their offending-related needs.

Benchmarking

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)

We are pleased that the Committee has concluded the principles of the benchmarking process are sound.

We share the Committee's concerns over some recent statistics which point to areas which require immediate attention. We explain in detail in the response to recommendation 17 the work underway by us to address issues of safety in prisons.

We have also referred elsewhere to the impact of staff shortages in particular areas that we consider could not have been anticipated. In particular, staffing shortages have led to the implementation of restricted regimes in some prisons which, in the short term, will have impacted on prisoners' access to a full regime.

As the Committee recognises, in the longer term the implementation of benchmarked staffing models is designed to support rehabilitation. Benchmarking is expected to deliver more efficient regimes with improved opportunities for engagement in a range of activities. Fully implemented benchmark staffing models are planned to be in place across the estate by March 2016. As we note above the implementation from 1 May 2015 of the new Through the Gate resettlement service to all prisoners nearing release is designed to further improve rehabilitation outcomes.

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)

We accept the concerns raised by the Committee and can confirm that we currently have no further plans to make changes to terms and conditions, and will continue with our strategy of seeking to move staff over to 'Fair and Sustainable' terms. Staff have a choice as to whether to do this, and may be expected only to opt in when it is beneficial to do so, and will suffer no detriment as a result of not opting in.

The results of our annual staff survey are taken very seriously. There is a national response to each survey. Local "Listen to Improve" sessions are held in all establishments and action plans developed in partnership with staff to address local issues and concerns and the results gathered from the bi-monthly pulse surveys. Staff recognition is encouraged at all levels and culminates in annual staff awards for prison and probation staff to highlight the value of the contributions of front line staff.

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)

We can assure the Committee that the Government takes violence, self-harm and self-inflicted deaths very seriously and that dealing with these issues is a major priority.

The prison population contains a high proportion of vulnerable individuals, many of whom have experienced negative life events that we know increase the likelihood of them harming or killing themselves. Issues that increase risk include drug/alcohol abuse, family background, relationship issues, social disadvantage or isolation, previous sexual or physical abuse, and mental health problems.

Imprisonment can act as a protective factor, providing a structured and supportive environment in which the availability of drugs and alcohol is controlled and services such as healthcare are more readily available. However it can also add to risk for those where environment is an influencing factor as it can be socially isolating and difficult to handle psychologically. Prison staff support over two thousand prisoners who are assessed as being 'at risk' and are managed under Assessment, Care in Custody and Teamwork (ACCT) procedures on any given day. They managed nearly 26,000 self-harm incidents in 2014, and frequently prevent deaths through timely intervention.

A range of work has been undertaken within NOMS in direct response to recent levels of safety incidents, including:

- developing a strategy on violence reduction;
- the creation of new regional safer custody leads and the provision of additional staff resource to support safer custody work in key public sector establishments;

- the commissioning, in March 2015, of a review by safer custody teams in every prison establishment in response to the Prison and Probation Ombudsman's thematic on self-inflicted deaths of prisoners 2013-14;
- a review of the ACCT (assessment, care in custody and teamwork) process used to identify and support prisoners at risk of suicide or self-harm, which will consider issues around the delivery of ACCT and compliance with its principles which will report in October 2015;
- three national learning days in 2014-15 on self-inflicted deaths and violence;
- work to tackle the use of new psychoactive substances in prisons;
- an assessment of the evidence to better understand the rise in male self-harm, which, in contrast to female self-harm, is on an upward trend;
- and an assessment of the evidence from the published literature on what drives institutional violence, and a detailed analysis of patterns and drivers of violence in prisons.

The size of the prison population compared with the number self-inflicted deaths makes patterns and trends difficult to identify from numerical data as any given prison establishment will typically experience either none or a very low number of self-inflicted deaths per annum.

We acknowledge both the rise in self-inflicted deaths and the extent and impacts of organisational change but we believe the relationships are far more complex than a causal link. Self-inflicted deaths have occurred in public sector and privately managed prisons, prisons with good and less good inspection ratings, in prisons with various levels of crowding, and across all Incentives and Earned Privileges (IEP) scheme levels. Clear correlations and patterns do not emerge from the current data.

Our work has therefore focussed both on analysing the data and distribution of self-inflicted deaths against such factors, and, importantly, continuing to seek to learn the lessons from individual deaths and share learning to improve practice in prisons. This has shown there has been an increase in self-inflicted deaths in the first month in custody and at the later stages of long sentences. There has also been an increase in the proportion of self-inflicted deaths of prisoners identified as at risk and subject to the ACCT case management process. Fatal Incident Reports by the Prison and Probation Ombudsman (PPO) have included common recommendations concerned with the emergency response process, the identification of risk, the management of the ACCT process and referrals to mental health services. Whilst not at the level of statistical significance, these findings have provided an indication of where renewed efforts should be targeted.

Our work has therefore also encompassed analysis of the profile of those individuals who have taken their own lives in prison, work to examine the ways in which vulnerable individuals are identified and managed in prison, work to see what more can be done in the early days of a sentence and how the assessment, care in custody, and teamwork process is operating, and work to learn the lessons from deaths in custody. This has identified some factors which appear more frequently in self-inflicted deaths, such as latency between 30-90 days in custody, or having been recalled to custody. This analysis and the dissemination of learning will continue.

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)

We recognise that the private sector has innovated, particularly in its use of technology in prisons and that there are opportunities to innovate further across public sector prisons. We address earlier in this response the work being taken forward to examine the greater use of technology in prisons.

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)

We agree with the Committee that there has been significant change over the last two years and we have managed pressures to maintain safe, decent and secure regimes.

We accept that in some prisons there have been restricted regimes because of short term staffing shortages. Since the summer of 2014, we have effectively managed concerns about operational stability, caused principally by staffing shortages, through arrangements that redeploy staff to provide support and operational resilience.

Although restricted regimes has affected some prisoners, since 1st May 2015 all prisoners in the last three months of their sentence have the benefit of Through the Gate resettlement services. As of May 2015 only 15 prisons are operating a restricted regime and these restrictions will be reviewed in September 2015 if they have not come to an end prior to this date.

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).

We have acknowledged fully to the Committee that it did take us longer than it should have done to ramp up our Prison Officer recruitment, following a lengthy period in which little recruitment had been needed. The main factors which contributed to this increased recruitment need included an unexpected spike in the prison population, and increases in staff turnover, particularly in the South East. We acknowledge that we could have acted more quickly to rectify this situation

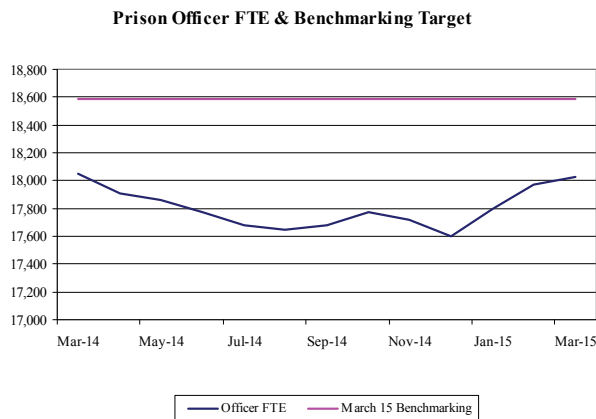
Prison Officer recruits have been attracted, selected and appointed in large volumes from mid-2014, and we will continue recruiting in similar numbers during 2015-16. We show in the response to 21 below the figures for recruitment which demonstrate that the situation is now stabilising. We trust this provides assurance to the Committee on this issue and demonstrates our commitment to ensuring appropriate staffing levels are maintained in future.

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 is 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).

We recognise the pivotal role staff play in the delivery of a safe, decent and secure operating environment and we acknowledge the Committee's concerns that the benchmarked staffing levels may not be sufficient in all places. We are confident that we have designed each establishment's benchmark to provide staffing sufficient to deliver a safe, secure and decent environment. Each individual prison's benchmark has been agreed with both the Deputy Director of Custody for the region and the Governor of the establishment. Following the setting of the benchmarks, where the need to provide additional staff in a particular prison has been evidenced a change to the benchmark staffing level has been agreed. This challenge process, led by senior operational managers, has resulted in more than 600 operational staff being added to initial benchmark staffing levels.

We are planning to continue to recruit sufficient Prison Officers to further support delivery of the benchmark.

The following sets out the total number of full time equivalent Officer grades (Band 3 to 5) and benchmark target number of Officer grades (Band 3 to 5) required in total.



Date	Officer FTE
Mar 2014	18,050
Apr 2014	17,910
May 2014	17,860
Jun 2014	17,770
Jul 2014	17,680
Aug 2014	17,650
Sep 2014	17,680
Oct 2014	17,770
Nov 2014	17,720
Dec 2014	17,600
Jan 2015	17,800
Feb 2015	17,970
Mar 2015	18,030

1,810 Officer grades entered the workforce between January 2014 and March 2015 these included recruits, conversions and reserves. Officer numbers fell between March and December 2014, to 990 (5.3%) below the benchmark total. Since December 2014, Officer numbers have increased by 430 to 18,030 and at end of March 2015 there were 550 officer vacancies, 3.0% below benchmarking levels. NOMS will continue recruiting during 2015-16 to fill these vacancies.

It is recognised that even the most well managed change can be unsettling to staff. Prison governors have a key leadership role for all prison staff, supported by their senior management teams, to explain and manage staff understanding of change and to ensure that they are fully supported to carry out their duties. To help with staff experiencing difficulties we provide a 24 hour staff welfare service, which includes access to counselling. There are also peer support teams in prisons. More widely, a range of staff engagement activities take place at local, regional and national levels, using a number of communication channels, such as local team meetings, face to face events, web chats and telephone conferences. Our regular staff pulse surveys also allows current issues to be identified through the year, and this is used to influence wider staff communications and programme development.

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)

The NOMS Agency has delivered its savings target in full in each year of Spending Review 2010 (2011/12 - 2014/15). The Ministry of Justice also met its spending review target for 2014/15. Details are available in the department's Annual Accounts (Annual Accounts for the MOJ were laid in parliament and published on 10th June and the Annual Accounts for NOMS were laid in parliament and published on 11th June. Staff recruitment and training costs in 2014/15 were off-set by reduced expenditure across other areas including from staffing shortfalls and vacancies. Recruitment in 2015/16 of prison staff is to meet existing and anticipated vacancies and cost of recruitment and training has been included in the NOMS budget.

Release on Temporary Licence

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)

The Government shares the Committee's full support for prisoners using ROTL to take work, training and educational opportunities that cannot be provided in prison, as well as for maintaining ties with their families. These are all positive factors that should help reduce re-offending.

We fully agree with the Committee that ROTL must be operated in a way which recognises legitimate safety concerns and maintains public trust. The reviews undertaken in 2013 showed a low but increasing level of ROTL failure and a culture of presumption to ROTL that had contributed to a significant increase in its use but not always for clear, legitimate purposes. An independent Joint HM Inspectorate of Prisons and Probation report on the management of lifers estimated that 75% of ROTL was meaningful. The reviews also disclosed inconsistent practice, differing approaches to ROTL and enforcement across prisons and a system that had the same risk assessment approach for all prisoners regardless of the seriousness of their offending.

As the Committee recognises, in order for the system to work, the public must have confidence that the authorities have minimised the risks taken in allowing temporary release. All of the measures that have been taken are focussed upon that aim and not on preventing ROTL.

This includes the changes made to prevent those prisoners with a history of escape, absconding and serious ROTL failure during their current sentence transferring to open conditions and/or having ROTL other than in exceptional circumstances. NOMS has implemented a new progression regime for indeterminate sentence prisoners affected by the change. The new regime is designed to provide the prisoner with opportunities to progress and therefore to show the Parole Board that they are suitable for release.

These changes were always likely to reduce instances of ROTL. The latest data shows a decrease of 14% in recorded instances of ROTL, comparing 2014 with 2013. Over the same period there was a 39% reduction in recorded instances of ROTL failure.

We feel that ROTL is a useful resettlement tool and it is important not to let abuse by a small number of prisoners undermine it. The changes aim to restrict abuse and ensure greater consistency whilst allowing purposeful ROTL to continue where this does not put the public at risk.

Whilst the changes may not be welcomed by prisoners who now need to go through a more stringent process in order to secure ROTL, there is no evidence at this stage that the reduction in instances of ROTL is having a detrimental impact on the successful resettlement of offenders when they are released permanently. We recognise the desire of the Committee to review the new processes urgently in order to understand the impacts but we believe that a review, as planned, in 2016 will be more beneficial as it will have sufficient evidence from the implementation of the changes to consider the impact of the changes in detail.

Role of the Governor

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 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)

We agree with the Committee that prison Governors play a pivotal role and we would not wish to see this role diminished. We will examine what more we can do to enhance the role of the Governor as the Committee suggests

Self-Catering

26. We recommend that NOMS examine the scope for extending self-catering by prisoners. (Paragraph 143)

As recommended by the Committee, we will be looking to increase the opportunities for the extension of self-catering where it is appropriate and affordable, particularly in areas such as therapeutic communities. For both practical and financial reasons it would not be possible to achieve this across the estate, but the issue of increased responsibility for prisoners, a principle this underpins, is part of the approach to rehabilitation in prisons and can be delivered in a variety of other ways.

Role of the Prison Officer

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)

We fully support the committee's view that prison officers and all staff working in prisons play a vital role in running safe, secure and decent prisons that rehabilitate offenders. All staff in prisons must demonstrate the behaviour and attitudes that help prisoners to make positive changes to their lives.

Providing a safe, decent and secure environment is fundamental to achieving our primary objectives of protecting the public, reducing reoffending and delivering the sentences of the courts. This requires a culture where authority is exercised confidently, consistently and fairly in order to build trust and improve safety. A diverse range of staff work with prisoners, all of whom need to balance their important role in maintaining safety and security with behaviour and attitudes which foster hope and enable prisoners to make positive changes to their lives. To do this they need to develop effective relationships with prisoners.

We prioritise, as articulated in our Commissioning Intentions and the Public Sector Prison Priorities, the development of a rehabilitative culture where all staff who interact with prisoners have the knowledge, competencies, skills, attributes and support to maximise the effectiveness of their interactions with prisoners. We are developing a range of tools to better equip staff to contribute to and support the delivery of a rehabilitative culture, where effective staff-prisoner relationships are central.

In public sector prisons, Every Contact Matters is a concept introduced to all staff which conveys the message that every interaction has the potential to reinforce positive messages to prisoners and to further promote safe, decent and secure prisons. Under this umbrella, a number of initiatives are being developed, for example:

- Five Minute Interventions (FMI) where staff are trained to turn everyday conversations with prisoners into brief rehabilitative interventions.
- Creation of a handbook to aid the development of a rehabilitative culture within high security prisons.
- Provision of core performance objectives which focus on positive relationships and rehabilitative working, which can be included in Prison officer's performance and development reviews.
- 'Our New Way' describes the approach being taken in public sector prisons which emphasises that reducing reoffending by providing the appropriate supportive environment is central to the work of all prison staff.

Prisoner Engagement

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)

We fully recognise the value of prisoners contributing to effective regimes in prisons through involvement in prison councils to encourage meaningful dialogue with prison management. We also fully support the effective use of peer support schemes where prisoners are actively involved in delivering services and helping others. The benchmark implementation process has emphasised the need to communicate with prisoners (including prisoner councils) as part of a strategy to ensure that prisoners are fully informed about changes and their impact.

In 2010-11 we grant-funded Clinks to review the range and extent of service user engagement in prisons, young offender institutions as well as probation trusts and subsequently commissioned two further projects in response to Clink's recommendations. These were aimed at developing effective systems of engagement with offenders. These projects resulted in the publication of toolkits to support effective engagement and were published in autumn 2014. The principles of all types of formal assistance arrangements between prisoners were recently clarified and set out in a Prison Service Instruction (PSI) *Prisoners Assisting Other Prisoners*. This PSI recognises the benefits of engaging in the activities the Committee mentions, and mandates appropriate risk assessment, training and supervision.

A wide variety of peer support occurs in prisons, and includes: information sharing, sign-posting towards further support and induction activities (for example prisoner information desks or "Insiders" First Night schemes); provision of advice and guidance (for example assistance with housing or employment issues); mentoring (for example the Toe-by-Toe reading scheme); and support to prisoners (for example Listeners).

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)

We fully accept that difficulties experienced by prisoners should be addressed in a timely and effective manner. The most efficient and effective way of resolving difficulties is through direct contact between staff and prisoners. This is and always has been the method by which the vast majority of requests and complaints are dealt with.

A formal complaints system does not replace informal conversations between staff and prisoners but provides an accessible and formalised route for issues which cannot be resolved informally. The vast majority of complaints are resolved using the formal complaints processes in place in all prisons.

We comment earlier in this response on the work being taken forward on in-cell technology.

Role of External Monitoring Bodies

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)

We agree that the role of Independent Monitoring Boards should be further considered and would welcome the opportunity to discuss their role with the Justice Select Committee.

We have actively worked with the Prison and Probation Ombudsman to ensure it is adequately funded so it can work to reduce the backlog of complaints. We increased its funding by £380k in 2014-15 for a limited term staffing increase and have agreed to retain this increase in 2015-16.

We recognise the Committee's views on the independence of HM Chief Inspector of Prisons. The Government has considered the question of independence in the Treasury Minute Response to the Public Account's Committee's recommendation for a Cabinet Office led review on the criminal justice inspectorates. The Treasury Minute concluded that the Government is in the process of finalising the schedule for reviewing all arm's length bodies. Existing arrangements provide a suitable approach for reviewing arm's length bodies, ensuring that they have strong lines of accountability and that they operate at the appropriate length from government.

Managing Demand

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)

We recognise the Committee's concern about the impacts of rises in the prison population. The need to be prepared for unexpected rises in demand will always be necessary. As recognised by the Committee, we keep the capacity for each population cohort under review and rebalance the estate as required.

As new prison accommodation requires between two and four years from conception to full operation (depending on the size and type of build), we use long-term forecasting (the annual prison population projections) to plan for future capacity requirements.

This long-term forecasting is, by its very nature, less suited to predicting short-term fluctuations in the prison population. For this reason, we have a number of contingency places (approximately 1,300) which can be deployed to manage spikes in demand.

Transforming Rehabilitation

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)

We fully recognise the Committee's concerns and we have earlier in this response accepted the pressures that were created through staff shortfalls. We believe these have been tackled and as vacancies are filled the number of prisons delivering full positive regimes will increase.

The network of resettlement prisons has been designed to withstand the impact of rises in the prison population.

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)

We acknowledge the Committee's concern and recognise the potential for the requirement to make savings to impact on rehabilitation. However, we consider that it is sustainable to both reduce costs within the prison estate and improve rehabilitation.

The aim of our reforms is to transform the way we rehabilitate offenders and to make progress in driving down reoffending rates. For example we have now extended community supervision post release to all prisoners for the first time. Prisoners serving short prison sentences are those most likely to reoffend and return to prison.

The costs of implementing our rehabilitation reforms are affordable within the context of the Ministry's commitment to deliver annual savings. We have made substantial savings across the public sector prison estate. This work has delivered more efficient operating models and smarter ways of working whilst at the same time creating a network of Resettlement Prisons where prisoners can begin to receive support "through the gate" for their resettlement.

ISBN 978-1-4741-2435-5



9 781474 124355