



House of Commons
Justice Committee

HM Inspectorate of Prisons report on HMP Liverpool: Government Response to the Committee's Fifth Report

Fourth Special Report of Session
2017–19

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/justicecttee and in print by Order of the House.

Committee staff

The current staff of the Committee are Rhiannon Hollis (Clerk), Danielle Nash (Second Clerk), Gemma Buckland (Senior Committee Specialist), Nony Ardill (Legal Specialist), Claire Hardy (Committee Specialist), Christine Randall (Senior Committee Assistant), Su Panchanathan (Committee Assistant), and Liz Parratt and Simon Horswell (Committee Media Officers).

Contacts

All correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8196; the Committee's email address is justicecom@parliament.uk.

Fourth Special Report

We have received the Government's Response to our Fifth Report, *HM Inspectorate of Prisons report on HMP Liverpool*, HC 751. The response came in a letter dated 11 April 2018 to the Chair of the Committee from Rory Stewart MP, Minister of State for Justice. We publish this letter as an Appendix to the Special Report.

Appendix: Government response

Thank you for your report published on 16 February 2018 following your enquiry into the HM Inspectorate of Prisons Report on HMP Liverpool. I welcome the report and its recommendations and take this opportunity to once again reiterate my commitment to effectively address the issues at HMP Liverpool and more widely across the prison estate.

The Inspection of HMP Liverpool

We recommend that HMIP should be given additional resources to follow-up on recommendations, and hold prisons to account when they do not achieve recommendations. We also recommend that Ministers should take personal responsibility for ensuring that recommendations are implemented. They should report to Parliament on progress against recommendations at intervals. We suggest that could be done by means of a letter to this Committee. (Paragraph 17)

- (1) In my capacity as Minister of State for Justice and as I set out to you at the hearing I do take personal responsibility and I am also accountable to Parliament for the performance of prisons. I remain committed to ensuring that Her Majesty's Inspectorate of Prisons (HMIP) reports drive improvements across the prison estate.
- (2) I therefore support the suggestion that HMIP conduct follow up inspections as part of their future role in order that scrutiny is properly extended to ensure that actions which have been committed to are appropriately implemented.
- (3) However, the additional resources that are required for this work must be affordable and therefore we will work with HMIP to consider how we might implement these proposals.
- (4) I am committed to being transparent to Parliament on progress and will write to the Committee on an annual basis setting out the progress on recommendations.

Oversight of the facilities management contract

We recommend that major contracts are subject to a public framework which outlines expectations, performance and penalties levied against the provider. If contractors are penalised for poor performance there should be an annual public notification of where, why and by how much, as a percentage of the value of the contract. (Paragraph 25)

- (5) The Government has published a model contract¹ for major services contracts that sets out the process that should be applied in the event of delay or material default in service delivery. Levying 'penalties' against its suppliers is unlawful but the Government can deduct service credits from charges in the event of failure to achieve contractual performance indicators. Government has also published guidance (Procurement Policy Note 01/17) setting out a framework to ensure the public has access to clear and accurate information on service delivery. Government contractual requirements should define relevant information that will be published including, where appropriate: performance metrics, management of underperformance, and frequency of information release.
- (6) The MoJ publishes contract and supplier information in an open and transparent way in line with the Freedom of Information Act provisions. The recent launch of the cross-government Contract Management Professional Standards alongside the Department's improved processes to manage suppliers and risk will support work to drive a more consistent and transparent approach to commercial data in due course.

The impact of rises in the population and the use of unfit cells

We recommend that the Minister, the Ministry of Justice and HMPPS publish a plan to resolve the persistent overcrowding of the estate, so that governors do not feel pressure to house men or women in cells that are deemed unfit. It is clear that in order to be successful, such a plan must aim to reduce the prison population and / or increase safe and decent capacity, and we will return to this question. (Paragraph 29)

- (7) We recognise the concerns of the Committee in relation to the use of unfit cells at HMP Liverpool, which have since been removed from use. These did not meet HMPPS standards for either crowded or uncrowded accommodation and should not have been certified to hold prisoners. I reiterate my commitment in this context to insisting we run clean, decent prisons.
- (8) As the Committee suggests, the wider problem of crowding in prisons is a longstanding issue that will not be easily addressed, and we will welcome the opportunity to work with the Committee on taking the first steps in many years towards resolving it.
- (9) It is now approaching 30 years since the Woolf report into prison disturbances cited the following statement from the then Director General of the prison service:

“That the life and work of the Prison Service have, for the last 20 years, been distorted by the problems of overcrowding. That single factor has dominated prisoners' lives, it has produced often intolerable pressure on the staff, and as a consequence it has soured industrial relations. It has skewed managerial effort and it has diverted managerial effort away from positive developments. The removal of overcrowding is, in my view, an indispensable pre-condition of sustained and universal improvement in prison conditions”.

1 <https://www.gov.uk/government/publications/model-services-contract>

- (10) We acknowledge that this description of the impact of crowded conditions on the operation of the prison estate remains valid today, and that successive governments of all persuasions have so far failed to address this issue.
- (11) Crowding is the result of population growth that exceeds increases in certified normal accommodation. Since 1945, the size of the prison population has increased from around 15,000 to around 85,000, and during this period crowding has been used extensively to accommodate deficits between the number of new places built and sustained population growth. The challenges presented by a growing population are clear. In these circumstances new capacity is required simply to keep pace with population increases, and while reductions in crowding are theoretically possible by building capacity faster than the population is growing, in practice this has never been achieved.
- (12) Population pressures have eased in recent years, and although there have been major fluctuations, there are slightly fewer people in custody today than there were in 2010. Sentence lengths have however grown as the number of those held for serious sexual, violent and drug offences has increased. We have not and will not introduce an arbitrary target for the size of the prison population, but this recent stabilisation in the prison population presents an opportunity to begin to address the issue of crowding through a prison capacity based strategy.
- (13) Our plan for reducing prison crowding is to replace prisons that are operating over their certified normal accommodation levels with new accommodation that is safe, decent, and uncrowded. The first steps in this direction have already been taken with a commitment to build up to 10,000 prison places and the opening of 2,100 uncrowded prison places at HMP Berwyn. This has enabled the closure of HMP Kennet and HMP Glen Parva, crowded establishments which were both operating well above their certified normal capacity. The impact of this on overall crowding levels in a population of around 85,000 will be relatively modest, but as plans to transform the prison estate gather pace and more new prisons are delivered while existing crowded unsuitable capacity is closed, a steady reduction in crowding is achievable. A lower prisoner population, aside from reducing crowding, enables prisoners to be decanted to allow for major renovation.
- (14) We are determined to ensure that the basics are appropriately addressed to support the running of safe, decent and secure prisons. Governors and their staff will be held increasingly to account for the general cleanliness of prisoner accommodation. In addition we are determined that prison maintenance resources are properly focused to deliver decent accommodation.

Healthcare at HMP Liverpool

We welcome the commitment from HMPPS and NHS England to publish the Partnership Agreement in April, so there is a clear commitment to working together to ensure that prisoners have access to decent healthcare. We request that the Ministry set out how it plans to ensure that gaps during which there is no formal working arrangement between justice and healthcare systems do not occur in future. (Paragraph 33)

- (15) We fully recognise the need for prison custodial and healthcare services to work together to enable access to the provision of healthcare services and we recognise the need for close joint working arrangements between justice and health partners at all levels.
- (16) NHS England commissions healthcare services from providers to conform to the quality requirements set out in the relevant service specifications. Joint working between NHS England, HMPPS (and formerly, NOMS) and Public Health England has been close and ongoing since NHS England was created in 2013 and all agencies have continued to work together through the agreed joint governance of the National Prison Healthcare Board. While the published National Partnership Agreement (NPA) has fallen out of date, there has been no break in formal joint working between agencies and the National Prison Healthcare Board, a key part of the governance of the partnership, has continued to meet throughout.
- (17) We are on track to publish a new National Partnership Agreement in April which will extend our commitment to partnership working to include the Ministry of Justice, and the Department of Health and Social Care, alongside NHS England, HMPPS and Public Health England. This new partnership marks the establishment of an even stronger relationship that will ensure cohesiveness between policy and operational spheres. The five partners are committed to continuing to work closely together to and will continue to lead and drive close working between health and justice partners at all levels to support quality healthcare in English prisons through the delivery of joint key priorities for 2018–21.
- (18) Local Delivery Boards which include NHS England commissioners, prison leaders and prison healthcare providers continue to meet at the establishment level. NHS England and Public Health England are fully engaged in strategy and action meetings which are in place to drive improvements at HMP Liverpool.