House of Commons
Welsh Affairs Committee

Prison provision in Wales: Government Response to the Committee’s Fourth Report

Third Special Report of Session 2017–19

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Welsh Affairs Committee
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The current staff of the Committee are Kevin Maddison (Clerk), Matthew Congreve (Second Clerk), Rhiannon Williams (Committee Specialist), Louise Glen (Senior Committee Assistant), Kelly Tunnicliffe (Committee Assistant) and Nina Foster (Media Officer).
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Third Special Report

The Welsh Affairs Committee published its Fourth Report of Session 2017–19, Prison provision in Wales (HC 742) on 17 May 2019. The Government’s response was received on 16 July 2019 and is appended to this report.

Appendix

The Welsh Affairs Committee’s report Prison Provision in Wales which was published on 17 May 2019 made a number of recommendations to improve performance and security in Welsh prisons, as well as recommendations regarding closer working between the UK and Welsh Governments. We have carefully considered the report and provide the government’s response to the recommendations below.

Governance of prisons and provision of services

Recommendation:

We encourage NHS Wales to establish a central unit responsible for prisoners’ healthcare, and for managing the relationship with HMPPS by October 2019. For its part, the Ministry of Justice should ensure that the differing health policies in place in English and Welsh prisons are understood and accommodated by all organisations working in the prison system.

HMPPS in Wales works closely with Public Health Wales and Local Health Boards to deliver offender healthcare. Regular meetings are held to discuss national issues and address differences between English and Welsh health policy. Four priority areas for offender health in Wales have been agreed with the Welsh Government: mental health, medicine management, environmental considerations and substance misuse. Our ongoing work with Welsh Government also includes establishing 10 prison health indicators, which will ensure healthcare performance will be measured in a consistent way across Wales and jointly funding a post to support delivery of the priorities and improve collaboration between our organisations.

However, the government agrees that governance could be stronger and that a single NHS Wales point of contact with responsibility for prisoners’ healthcare would be helpful. HMPPS in Wales have advocated the establishment of a Wales Prison Health Board in their response to the Welsh Assembly’s Health, Social Care and Sport Committee’s inquiry. This board would offer the strategic oversight and a single point of contact as recommended in your report. It would address inconsistencies across prisons and provide direction for future interventions. HMPPS in Wales will also revise the governance of each establishment’s Prison Health and Social Care Partnership Boards which include senior representation from the Local Health Boards, Local Authorities and prisons. We will develop standard agendas to ensure that all meetings include strategic planning for health delivery, agreement and monitoring of action plans, and support clear escalation routes into the respective organisations.
Recommendation:
The Welsh Government’s decision to have a different drugs policy than England gives rise to particular issues when prisoners transfer from the English to the Welsh estate. To address these issues, we recommend that HMPPS work with NHS Wales to develop a transition arrangement for prisoners transferring from English prisons on arrival at Welsh prisons. This should be based on clinical advice, providing the necessary support until prisoners are fully integrated into the substance misuse programmes used in prisons in Wales. This arrangement should be in place by the end of 2019. We further recommend that more data should be collected and evaluation undertaken to gain a full picture of treatment differences between Wales and England, to include both opioid substitution psychosocial approaches and prescription arrangements.

Where inter prison transfers take place the prisoner’s treatment continues regardless of their home establishment, this includes from England to Wales. However, where sentenced in England and sent to a Welsh prison the treatment pathway differs and local health boards (who deliver the clinical treatment in prisons in Wales) follow the Orange clinical book for early days prescribing and the psycho social interventions are delivered in the South by the jointly commissioned Dyfodol service and in the North by Betsi Cadwaldr health board. HMPPS in Wales are working closely with Welsh Government to review prescribing methods in custody and seek consistency across the estate. Since the review, HMP Swansea have started an early days prescribing project to support men who require opiate substitute medication on reception to prison much earlier. Conversations are underway with HMP Cardiff to look at the same model.

In addition, HMPPS and Welsh Government are jointly developing a medicines management policy to ensure parity across the Welsh estate and to allow men who transfer to Wales to have a consistent treatment pathway whilst they adjust to the integrated system in Wales. The inaugural meeting takes place on 10th July and the review will continue during 2019/20.

Recommendation:
We call for the new model for delivery of probation services to be funded sufficiently to deliver a real difference to the rehabilitation of Welsh offenders, and ask the Government, in its response to our Report, to provide an indication of levels of funding and how it will improve future probation programmes.

We are determined to ensure probation has sufficient resource to deliver an effective service that protects the public, reduces reoffending and delivers value for money for the taxpayer. As part of our work to develop the commercial and operational framework for future probation arrangements, we continue to consider the right level of funding for the new model in consultation with HM Treasury and other partners.

Recommendation:
It is important that the UK and Welsh Governments collaborate fully to ensure that policy differences do not affect prisoners’ opportunities to secure housing upon release. We encourage the Welsh Government to work with HMPPS to review how effectively the new model is supporting people leaving prison to secure housing.
The government agrees that housing is a key part of successful rehabilitation and reducing reoffending. The decline in support has been felt particularly since the priority status was removed for those leaving custody.

Welsh Government published a review into the effectiveness of the National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate in June 2018. HMPPS in Wales is working with partners to take the recommendations forward and ensure that those leaving custody are given the best opportunities to secure suitable housing on release. We have jointly funded a post with Welsh Government to drive this work forward. HMPPS in Wales are also working closely with Welsh Government to develop and implement Housing First and Housing Led pilots in Wales, specifically targeting offenders leaving custody. These pilots will take offenders who have a history of homelessness, failed tenancies and reoffending and place them directly into permanent and suitable housing immediately on release, bypassing temporary housing solutions such as hostels. Once housed the offenders will be supported by a tailored support scheme. Housing will be a mixture of private rental and social accommodation.

Recommendation:
We call on the UK and Welsh Governments to fully engage with the findings of the Hanson Review and work together to address his recommendations by October 2019.

Following the publication of David Hanson’s review into offender education in Wales HMPPS in Wales and Welsh Government have worked together to develop an action plan for the implementation of the recommendations from the report. Welsh Government will formally report on progress at the end of Summer 2019 with input from HMPPS in Wales.

We are pleased that the Committee were impressed by the vocational training opportunities offered to offenders in Wales. HMPPS in Wales has taken a deliberately modular approach to courses which supports those that are in prison for a short period of time and the longer-term prisoners. We are piloting a New Future Network Employment Broker role to create further employment opportunities for prisoners. To date we have had further success with HGV employment across HMP Prescoed and HMP Parc.

To ensure we are offering the best development opportunities to those in our care, HMPPS in Wales and Welsh Government are implementing the Learning, Employability and Industries Strategy which was agreed in 2018. A Committee has been established which brings together officials from HMPPS in Wales, Welsh Government, Estyn and the Wales Community Rehabilitation Company to oversee this work.

Recommendation:
We call on the UK and Welsh Governments to produce a new framework for closer cooperation and integration in the provision of prison services, with clear points of contact. We expect the UK Government to consult HMPPS and the Welsh Government on ideas for strengthening co-operation, and to set them out in its response to our report. Amongst other options, they should consider the establishment of a joint unit where staff from the Welsh Government overseeing the provision of prison services are co-located with those from HMPPS Wales.

Following a recommendation from the Justice in Wales Working Group, in 2017 new structures were established to enable an improved, coordinated approach between the Ministry of Justice and the Welsh Government. The Executive Director for HMPPS in
Wales facilitates this coordination to support effective partnership working. The Director General for Probation and Wales retains an oversight of operational engagement with Welsh Government with MoJ Directors leading on policy development. Since then HMPPS Wales and the Welsh Government have also jointly established the Justice in Wales Strategy Group through which senior officials and policy leads from MoJ and Welsh Government work together on areas where responsibilities overlap, including delivery of prison services. We also jointly fund posts, notably in the health and housing areas, whose function is to strengthen the delivery of services to the offender population. The blueprints for youth justice and female offending set out how we will work together to deliver services for those cohorts and we will look to develop this co-ordinated approach to other parts of the offender population.

The Committee should be assured that we are constantly looking for ways to improve and strengthen cooperation and integration and will work with Welsh Government to consider how best to address the issues raised by the Welsh Affairs Committee.

Recommendation:
We encourage the UK Government to engage fully with the Thomas commission, and to consider the arguments around the devolution of powers relating to justice in Wales, and to set out its next steps following the recommendations of the Commission.

We have engaged extensively with the Thomas Commission. We have provided information and data as requested by the Commission on matters across the justice system and senior officials gave oral evidence on a range of issues in February this year. Minister Argar has met Lord Thomas on two occasions to discuss the work of the Commission. We will continue to engage with the Commission as it nears the publication of its report.

The UK Government considered the arguments around the devolution of powers relating to justice in Wales as part of the Silk Commission process in 2014 and thereafter the cross-party process that led to the St David’s Day Agreement. Parliament considered the arguments for and against the devolution of justice powers during the passage of the Wales Act 2017 and decided that the most effective way to administer justice in Wales was as per the model prescribed under the 2017 Act. As committed to during the passage of the Wales Act 2017, we have established an independent expert advisory committee to undertake a regular review of the justice system under this framework and will consider to work with devolved authorities in Wales to improve the delivery of justice in Wales.

We will listen to the Commission’s recommendations and will of course consider those recommendations aimed at improving the administration of the justice system in Wales.
Prison performance in Wales

Recommendation:
We recommend that HMPPS Wales publish a workforce strategy to ensure that mechanisms and reward systems are in place to retain experienced staff. This strategy should include investment to improve training, particularly for new and inexperienced staff.

The government is committed to maximising the capability of our valued staff, as well as achieving low levels of attrition. HMPPS have developed a Retention Toolkit with a four-step approach for ensuring staff are motivated to stay at HMPPS and a menu of proactive activity to address specific retention issues as these arise. Governance arrangements are in place to continually review resourcing and recruitment at all Welsh prisons. Additionally, HMPPS in Wales has an overarching strategy and governance system for staff wellbeing and has recently launched a staff development guide to help staff build the skills to maximise capability in their current roles as well as in their future career in HMPPS in Wales.

Recommendation:
We are concerned about the levels of violence in Welsh prisons. The smuggling in of the drug Spice, along with other illicit items, appears to be a key factor behind much of this violence. We welcome the steps the UK Government is taking to tackle these issues, notably the introduction of airport-style scanners. We note the Minister’s intention to introduce these scanners in some prisons by August, and expect them to be running in all Welsh prisons by December 2019.

We agree that levels of violence in prisons are too high and have actively introduced a number of measures to increase stability in our establishments.

Since 2018, HMPPS in Wales has introduced a new dedicated Drug Strategy Lead post to more effectively lead our attempts to reduce both demand and supply for illicit substances such as Spice. All Welsh prisons have increased searching procedures for visitors and staff, and we have introduced itemisers which allow staff to test for drugs sent in the mail. HMPPS in Wales has also improved partnership working with law enforcement, and the investment has led to increased finds in all prisons, reducing the amount of available drugs.

As part of our England and Wales drug supply reduction approach HMPPS has increased intelligence analyst numbers and implemented new dedicated search teams and drug search dog handler resource to better handle and react to intelligence.

Airport-style scanners have been introduced to 10 prisons in England as part of a trial to see what measures make establishments safer and more secure. Extending the provision more widely, including to Welsh prisons, will be subject to an investment case within a future Spending Review.

Recommendation:
We are very concerned at the number of deaths, particularly self-inflicted deaths, in prisons in Wales. Whilst we welcome the Ministry of Justice’s commitment to recruit new prison officers and improve their training, we call on them to write to us setting out improvements in safety as a result of these developments by December 2019.
The government agrees that the number of self-inflicted deaths and levels of self-harm are too high and I would like to assure the Committee that HMPPS is actively working to address the issues. We are implementing the key worker role which allows staff dedicated time to provide support to individual prisoners. We are improving support for prisoners in their early days in custody and working to improve the multi-disciplinary ACCT case management process for those at risk of suicide or self-harm. We have also rolled out improved suicide and self-harm training for new and existing staff and in partnership with Samaritans, we have launched a new suicide prevention learning tool, designed to give staff more confidence in engaging with prisoners who may be at risk of suicide. We have refreshed our partnership with the Samaritans for three years which supports the excellent Listeners scheme, through which selected prisoners are trained to provide emotional support to their fellow prisoners and is available in all establishments in Wales. We will write to the committee with a full response regarding the improvements in safety being undertaken across HMPPS by December 2019.

Recommendation:
**We recommend that the Ministry of Justice take steps to improve the inquest process following deaths in prison. HMPPS and Coroners should set a target for the time within which inquests should be completed.**

The Ministry of Justice has responsibility for coroner law and policy only. Coroners are independent judicial office holders and Ministers have no power to influence the way coroners conduct their inquests including how they schedule their pre-inquest review or inquest hearings. The Chief Coroner provides guidance and support to coroners but does not have operational responsibility for coroner services – this is the responsibility of individual local authorities.

Under rule 8 of the Coroners (Inquests) Rules 2013 coroners have a duty to complete an inquest within six months of the date on which they are made aware of the death, or as soon as is reasonably practicable. Under section 16 of the Coroners and Justice Act 2009 coroners are required to notify the Chief Coroner of any investigations open longer than 12 months and to notify him when the investigation is complete or discontinued. Under section 38 of the 2009 Act the Chief Coroner is required to provide the Lord Chancellor with an annual report which must be published and laid in both Houses of Parliament. Amongst other matters the annual report must include the number and length of investigations notified to the Chief Coroner under section 16.

Coroners have explained such delays by reference to a decision to wait for the final Prison and Probation Ombudsman (PPO) report and any health service reports before holding the substantive inquest into a death with a view to ensuring that they have all relevant material, including witness statements and other expert reports to inform their inquests.

Investigations into deaths in custody will therefore frequently take longer than 6 months, and often longer than 12 months for reasons which are outside of the coroner’s control.

Additional reasons for delay include lack of resources (unlike the mainstream courts and tribunals, coroner services are funded by individual local authorities and depend on LAs for their administrative – and other - support), securing availability of appropriate
accommodation to hold the inquest (not all coroners have their own courts and death in custody inquests require particular accommodation, including provision for a jury) and the availability of all interested persons and witnesses.

The Chief Coroner will clearly take an interest in all cases which take longer than 12 months, including inquests into deaths in custody, and will take any action, as appropriate, with individual coroners.

Recommendation:
The Inspectorate and Ministry of Justice should have a consistent definition of what constitutes “overcrowding”. Whatever the terminology used, we saw clear evidence of prisons in Wales operating at capacity with two prisoners in cells designed for one, which can affect living conditions and opportunities for prisoners to engage in activities. We recommend that the UK Government set out in its response the steps it will take to reduce the population density in Welsh prisons.

The Ministry of Justice does not adopt the term ‘overcrowding’ in any of its official publications or data collections. We do however have a consistent definition for the term ‘crowding’ which is used to identify when a prison operates above its certified normal accommodation (CNA). We recognise that many stakeholders adopt the term ‘overcrowding’ and assume they are referring to when a prison operates above its CNA.

All prisons are operating within their operational capacity, which is the total number of prisoners that an establishment can hold considering control, security and the proper operation of the planned regime. It is determined by Prison Group Directors based on operational judgement and experience.

Our plan for reducing prison crowding is to replace prisons that are operating over their CNA levels with new accommodation that is safe, decent, and uncrowded. The first steps have already been taken with the opening and ramp-up of HMP Berwyn and an uncrowded houseblock at HMP Stocken; and a commitment to construct modern, decent, uncrowded prisons at the former HMP Wellingborough and HMP Glen Parva sites, due to open in 2021 and 2023 respectively. Overall the introduction of this capacity will improve the position across E&W.

Management of prisoners

Recommendation:
We recommend that the UK Government work with Dr Jones and others to produce a schedule for the publication of more Wales-specific data on the prison and offender management systems. This schedule should be published by December 2019.

HMPPS currently provides published statistics which detail how offender management services in the community and in custody are delivered. Where possible statistics are disaggregated to establishment level, including prisons in Wales. A narrative account of HMPPS in Wales, reflecting the devolved structure of the directorate and activities, is provided in HMPPS Annual Report and Accounts. However, we understand the need to provide further disaggregated Welsh data to inform service planning and delivery. Welsh Government and the MoJ have established a working group to articulate user needs and understand what aspects of Welsh data can be added into publications, and where issues
may exist. The working group will help identify appropriate channels for sharing key data to support effective partnership working throughout Wales and will report back its initial findings in July 2019.

Recommendation:

**We recommend that the Ministry of Justice collect and publish disaggregated data about whether prisoners consider themselves Welsh**

The Committee notes that HMPPS records only whether prisoners have a Welsh address not whether someone considers themselves Welsh. Current MoJ data capture and reporting systems do not allow for the identification of ‘Welsh’ prisoners. Similarly, there is no precise way to identify Welsh speakers due to self-reporting and self-assessment of fluency levels. Welsh Government and the MoJ are clarifying management information requirements with a view to identifying potential reporting solutions and the feasibility of producing the information.

Recommendation:

**Distance from home can have an adverse effect on prisoners’ resettlement opportunities. It is important that lessons are learned for future reform programmes, and that the Ministry of Justice adheres to its commitment to place offenders as close to home wherever possible**

We remain committed to ensuring that, where practicable, prisoners are accommodated as close as possible to their resettlement communities and families. Whilst this is a priority, it is not always possible due to a variety of factors including wider population pressures, or where individuals have specific sentence planning needs which can only be met at certain establishments. Closeness to home is always prioritised for those nearing release or on short sentences where they need to build family ties, secure housing and health services and look for work. We aim to ensure that prisoners who need to resettle in Wales are allocated to a Welsh prison at the appropriate point in their sentence. Any impact that a change in location may have on access to the Welsh language is discussed with the offender.

Recommendation:

**We would like to see smaller custodial units used for the management of female offenders in Wales. We welcome the Minister’s indication that a residential unit will be opened in Wales. It is important to have provision both in North and South Wales to limit the distance women must travel from their homes. We recommend that the Government bring forward plans for the establishment of these units in Wales by the end of the year.**

The Female Offenders Strategy was published in June 2018. In the strategy we committed to develop a ‘residential women’s centre’ pilot in at least five sites across England and Wales to develop an evidence base for how we might reduce the numbers of women entering and re-entering custody for short periods. We have recently concluded our first phase of consultation with stakeholders, partners and providers including those in Wales. We recognise the uniqueness issues facing women from Wales and are keen that the pilots reflect and respond to this. We are currently reflecting on the findings of our scoping work and hope to be able to discuss the location and nature of these centres in the Autumn 2019.
Recommendation:
We recommend that the UK Government ensure that HMPPS collect accurate data about Welsh-speaking prisoners regularly, both in Welsh and English prisons, and provide Welsh-language services accordingly. Detailed data about Welsh speakers should be published and made available to inform service planning. HMPPS should also collaborate fully with the Welsh Government in creating and implementing its new Welsh-language scheme. The Welsh language should also be strongly considered in decision-making about the placement of prisoners.

A new Welsh Language Scheme for the service is imminent and will strengthen our arrangements for data collection both in terms of accuracy and accountability. There is no requirement, either in the 1993 Welsh Language Act or in Welsh Language (Wales) Measure 2011 to provide translations or other services in Welsh for service users in England. However, HMPPS is determined to go further than its statutory obligations and to provide services in Welsh wherever possible. We will conduct an exercise to determine the number of preferred Welsh speaking service users in Secure Training Centres and the Women and Long Term High Security Estates, where provision is only in England. We will also take steps to ascertain how many Welsh speaking staff we have in establishments across England and Wales, to accommodate our Welsh speaking prisoner population.

Currently, prisons in England and Wales keep their own records on Welsh speaking prisoners which we use to obtain a national picture. Staff awareness of our Welsh language obligations will be improved as part of the implementation of the new Scheme, to ensure that all prisoners are being asked the question on reception. Each prison now has a member of staff responsible for Welsh language staff matters, including service planning. Upon publication of the Scheme, each prison will develop an action plan based on the national direction, numbers of preferred Welsh speakers locally and local Welsh language forums. This will be supported by a new communications plan for Wales.

The Welsh Language Commissioner’s office have been kept fully informed throughout the development of the new Welsh Language Scheme. Additionally, HMPPS are in regular communication with the designated Single Point of contact officers on many matters relating to the Welsh language, beyond the Welsh Language Scheme. The Executive Director in Wales and the Welsh Language Commissioner meet quarterly to maintain a regular dialogue.

Recommendation:
We recommend that the Ministry of Justice publishes a strategy outlining how to tackle issues related to gangs amongst young offenders by the end of 2019, including the potential merits of housing young offenders in smaller residential units in their local areas.

In Wales young people are only able to be housed at the Young Persons Unit at HMP Parc or at Hillside Secure Children’s Home. Youth Custody Service will seek to identify Young Persons with harmful group behaviours and factor this into placement decisions, while considering placing young people as near to their home as possible. Placement decisions are made in the best interests of the young person, and will also consider any harmful group behaviours that may impact the existing cohort at the receiving establishment.
Youth Custody Service is working with those who care for young people in the secure estate to reduce negative behaviour and promote a safe and positive regime as part of the ‘Building Bridges’ programme which includes greater participation by young people, promoting psychologically informed environments and respecting diversity. Youth Custody Service is also working with Home Office, MoJ and Welsh Government on wider strategic issues around tackling serious violent crime.

HMPPS in Wales have been working with colleagues in MoJ, Youth Custody Service, Welsh Government and Youth Justice Board Cymru to develop a blueprint for Youth Justice in Wales that will build on suitable options in Wales for Welsh children and create safe environments in which children are protected from harm and supported to thrive.

Recommendation:

Any new prison development in Wales should give due regard to Welsh-specific requirements, and the programme should be done in full collaboration with the Welsh Government. Lessons should be learned from the experiences with Baglan to ensure that communities are fully involved in the process of identifying the merits of potential locations for a prison. It is important that any new prison is built primarily to house Welsh prisoners and to reduce overcrowding in existing Welsh prisons. The effectiveness of HMP Berwyn should be independently reviewed before any commitment to a new super-prison is made.

We remain committed to a prison in South Wales where there is a clear need for modern, fit-for-purpose category C prison places subject to available funding. We will continue to engage with the Welsh Government and Wales Office to identify sites for a new prison that will potentially create up to 500 jobs in Wales and contribute £11m a year to the regional economy. When designing new prisons we undertake thorough research and stakeholder engagement, consulting experts in the field of prison design, and learning lessons from previous builds.