

Justice Committee

Oral evidence: [Prison population 2022: planning for the future](#), HC 483

Wednesday 21 November 2018

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Members present: Robert Neill (Chair); Mrs Kemi Badenoch; Bambos Charalambous; David Hanson; John Howell; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 499 - 556

Witness

[I](#): Peter Clarke, Chief Inspector of Prisons.



Examination of witness

Witness: Peter Clarke.

Q499 **Chair:** Mr Clarke, welcome to this evidence session. Congratulations on your reappointment as Her Majesty's chief inspector of prisons. We very much appreciate the engagement you have given us through your term in office so far, and I am sure that will continue. It is very nice to see you again.

Peter Clarke: Thank you, Chair.

Q500 **Chair:** You have given evidence to us on a number of occasions about the findings of the inspectorate and its work, and I do not want to repeat that. We are particularly looking, as you know, at the strategies being put in place for assessing, handling and managing the prison population in the run-up to 2022. We are interested in your observations from the inspectorate's end as to how that is being dealt with. Do you get the sense that there is a strategy that you can observe on the ground when you visit jails and prisons that indicates that something is being fed down from the top through to the grassroots?

Peter Clarke: I have to say that it is sometimes difficult to see an overall strategic hand driving strategy. I can understand why there might be a degree of reluctance on the part of the centre, to put it that way, to be seen to be imposing strategy on local establishments because there is, of course, the overriding ambition to empower governors and enable them to bring in solutions appropriate to their particular locality, their particular establishment and the particular group of prisoners they are holding.

However, in some areas I sometimes feel it would be helpful if there was a firmer strategic hand. To take the example of older prisoners, I have been saying for some considerable time that that is an issue that is going to grow in significance and importance, and the Prison Service really needs to think strategically about it, and possibly think of different ways of caring for the rapidly ageing prisoner population we now have.

I was heartened when, about 18 months ago, I heard that the Ministry of Justice wanted to develop a strategy for older prisoners. I was invited to join a steering group. The group met, if my memory serves me right, on 11 December last year. It might not have been the 11th, but it was certainly early December last year. We had one meeting. It was an interesting steering group of people from a range of backgrounds: NGOs and other interested organisations as well as me. We had a presentation from the people who were supposedly drawing up the strategy. I have heard nothing since, and it was nearly a year ago.

In April this year, a document appeared called "The Model for Operational Delivery" which explicitly says that it is not a strategy. It says it provides a framework. What it really does is give a menu of tactical options that local establishments could use. It specifically says, for instance, that they



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are not going to be proposing special or separate accommodation for cohorts of older prisoners.

To my mind, if that is the strategy—I do not know whether it is or not—it is a missed opportunity to think more broadly and innovatively. I know that when Phil Copple gave evidence to this Committee recently he said that a strategy is being developed, and there is a steering group. All I can say is that I have not heard anything for nearly a year, so that steering group is not contributing to whatever is happening.

Q501 **Chair:** It makes you wonder what the point of it is. I understand.

Peter Clarke: To go back to your question, in some areas there is a need for a strategy. A strategy, to my mind, includes a programme to implement, with timeframes, resourcing, accountabilities and so on and so forth. It does not have to be prescriptive for every single establishment in the country, and probably nor should it be, but at least if there is a single strategic intent, it needs to be articulated and delivered.

Q502 **Chair:** The articulation and the means of delivery are really quite important, aren't they?

Peter Clarke: Yes. Individual establishments all tell me that they are severely constrained by staffing and resource issues, and they really do not have the space, time, energy or resource to start developing all sorts of things at the local area. It can help when there is a document that gives a menu of options, but it would also help if the good practice that we see around the country was promulgated more effectively. There is some very good work caring for older prisoners being done in individual establishments, for instance, but it is not widely known. Very often, I say to somebody, "Oh, do you know what is going on at HMP Northumberland?", where they have a house block specifically dedicated to older prisoners. Usually, the answer is no.

Q503 **Chair:** Unless there is less headroom within the establishment because of the numbers.

Peter Clarke: Indeed.

Q504 **Chair:** You picked up in relation to Liverpool, and we have heard it on other occasions, that at the individual jail level there is frequently a trade-off—the phrase often used to us is "difficult decisions"—between, for example, security and the decency of cells and the environment. Is it a common finding that governors are having to wrestle with that and succeeding, or not?

Peter Clarke: I am not so sure about a trade-off between security and decency.

Q505 **Chair:** Are you saying there is not a trade-off?

Peter Clarke: If somewhere is safe and secure, it will tend to be decent as well. When we look at our so-called healthy prison tests, there is very



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often a clear relationship between them. It is pretty rare for us to find in an establishment one of the extremes. It happens occasionally, but usually there is a pattern of performance across the four areas. I think they are probably all inextricably linked.

Q506 **Chair:** And, you would probably say, so they should be.

Peter Clarke: Yes, absolutely.

Q507 **Chair:** The Minister talks about back to basics. You have talked about the older offender strategy, but there are also things around employment, families and so on. When you go around prisons, do you think there is the capacity in the governors and the leadership of prisons to deliver on those strategies?

Peter Clarke: It varies from place to place. When we look at what we assess as comparable prisons, and see wide variations in performance between prisons in what should be a comparable group, very often the key variable is the quality of the local leadership—the leadership team and the energy and so on. It is absolutely fundamental. Some local jails perform pretty well, despite facing the same challenges as others that do not.

Q508 **Chair:** There have been some changes in the governance of the HMPPS and the management structures posited and so on, in both the public and the private estate. Has that made any significant impact that you are able to see in your inspections?

Peter Clarke: Not so far. My last annual report was published last July. I am afraid it made for some pretty gloomy reading about the direction of travel in terms of violence, drugs, living conditions and so on. I am afraid that I have not seen anything since then to give me optimism that any significant corner has been turned. At the moment, the violence figures are going in the wrong direction, as we know. We still see far too many drugs destabilising prisons. As to living conditions, I have not seen significant improvement in the prisons we inspect.

Q509 **Chair:** When you do your reports, obviously one of the things you need to look at is the effectiveness of the leadership of prisons. How would you tend to characterise that? What key things are you looking for, and where would you be looking for change up to 2020 to get to a more effective and consistent form of leadership?

Peter Clarke: One thing that strikes me is that many of our prisons are very complex establishments. There is a lot happening in them and there is a lot to manage. The degree of control that governors have over all of the things being delivered there, whether it be healthcare, education and so on, is variable. Those things are really very difficult. You can almost draw a comparison and say, “Is the governor actually a general in charge of an army, or is he or she a conductor in charge of trying to bring all the component parts together to deliver a finished product?”



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That is a skill. Whichever way it is, it is a specific skill, and I am concerned that there appears to be a lack of higher leadership and management training in the Prison Service at the moment. I know that the Minister has focused on that and is very keen to try to do something about it. In simple terms, to an extent, it is unfair to put people in those very highly pressured jobs without adequate preparation.

Q510 John Howell: I realise that you have commented on a lot of this already, but I wanted your comments on how you assess and address poor performance in prisons.

Peter Clarke: We assess performance against our expectations, which I hope are fairly comprehensive. The key thing about them is that they are based on international human rights standards and not on self-generated policy. That sometimes leads to some interesting discussions between us and the Prison Service. Very often we make a recommendation and it will be rejected because it is not compliant with their policy. I can understand them saying that, but it is very important that as an independent inspectorate we have independent standards, otherwise there is always the risk that policy will change according to expediency, resource availability, fashion or whatever. We maintain our independent set of standards and inspect against them.

Q511 John Howell: As a side point, to what extent do you take the assessment of the European Court of Human Rights into account in setting that assessment?

Peter Clarke: All our expectations, if you look through them, are cross-referenced to current human rights standards. If the European Court of Human Rights has delivered a judgment that has an impact on how those particular standards are interpreted, then, yes, we will include it in our assessment of what should be the appropriate expectation—or indicator, as we call it. We do not slavishly follow the European Court of Human Rights, but clearly we take account of any jurisprudence that emanates from it.

Q512 John Howell: I mentioned it because the Council of Europe is the premier human rights organisation in Europe; it is much more than that, of course. It is not just the European Court of Human Rights. There is a tremendous amount that goes on that affects the human rights of prisoners. I would recommend that you concentrate a little more on what is going on there, because it could be helpful.

Peter Clarke: Thank you.

Q513 John Howell: There are a number of prisons that have been—shall we say—challenging. We have already mentioned Liverpool, but Nottingham, Exeter and Bedford have been challenging for some time. You have put a lot of emphasis on the leadership of those prisons in trying to improve them, and I agree with you on that. What are the other key challenges that you face in overseeing the improvement of those prisons?



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Peter Clarke: One of the most important things—you would expect me to say this as the chief inspector—is that I hope the inspectorate is taken seriously. If you look at the prisons you have just mentioned, I have invoked the urgent notification process four times this year. Two of the reports are not yet published so I will not go into great detail, but I can talk about recommendations achieved from the previous inspections.

At Nottingham, which was the first one, they achieved 12 recommendations of the 48 we had made on the previous inspection. At Exeter, they achieved 19 of the 56 we had made on the previous inspection. At Birmingham, they achieved 12 of the 70 we made. At Bedford, it was 19 of 68. Those figures suggest to me that there had been a lack of focus on the inspectorate reports. When you look at the figures on the safety inspection, it is even worse. Nottingham achieved two out of 13 in safety. Exeter achieved three out of 14. Birmingham achieved three out of 15, and so on.

That suggests to me a lack of seriousness and a lack of focus. To put it crudely, they are not taking us seriously. With the new independent reviews of progress, which we are just beginning, I have said to my colleagues at the inspectorate that the fundamental question that sits behind all of what we are going to do is to ask themselves, “Is this establishment taking us seriously or not?”

Q514 **John Howell:** There is another side to taking it seriously, and that is whether the recommendations are realistic.

Peter Clarke: I believe they are, otherwise we would not make them.

Q515 **Chair:** Your inspection team is broadly drawn from people who have long service in the sector or elsewhere.

Peter Clarke: It is a mixture. Probably about half of our inspectors have served in the Prison Service. We do not pluck our recommendations out of thin air. They are grounded in human rights standards. If the recommendation is unachievable because it is not affordable, for instance, I do not mind if the Prison Service says, “We can’t do this because it’s not affordable.” That is perfectly reasonable, and at least everybody can understand. But to try to construct some rather more complicated reason for not doing something, I find rather more difficult.

You may remember that last year we published a thematic report on living conditions in prisons. We made only five recommendations, which we thought were fairly simple ones. For instance, we said that an audit should be carried out of cells to see whether they comply with the European Committee for the prevention of torture standards. The Prison Service rejected four of those five recommendations and partly agreed the fifth, which I found disappointing, to say the least, particularly as the rationale for rejecting the vast majority of the recommendations was that, even if the cells were not fully compliant with the European Committee for the prevention of torture standards, that could be



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mitigated by the significant amount of time out of cell that prisoners were enjoying. Of course, we all know that prisoners are not enjoying a significant amount of time out of cell at the moment.

I was quite interested to hear Mr Copple say last week say that actually they are now conducting an audit of living conditions in prisons. I am pleased that, although they rejected our recommendation, they now appear to be doing that themselves.

Q516 John Howell: We cannot go on having this huge gap between your recommendations and the implementation of those recommendations. What is going to change that?

Peter Clarke: I am very pleased that the Minister has reintroduced achievement of our recommendations in the key performance indicators for the Prison Service. They were removed for reasons unknown to me 18 months or two years ago. I do not know why, but they were taken from being key performance indicators and became what were described to me as potentially moderating factors in assessing prison performance. I am very pleased that the current Minister has reintroduced them and that they are at the heart of the measurement of prison performance again. I hope that will reduce the gap you refer to.

Q517 Ms Marie Rimmer: HMPPS observed that the urgent notifications from the inspectorate have helped them to target resources and additional support at those prisons. What has been the impact of urgent notifications on prisons that have received them?

Peter Clarke: It is very early days to say yet. The first one we issued was at Nottingham in January. We have just gone back to conduct our first pilot independent review of progress. That was last week. I went to it, and it was a very interesting process.

One thing that we saw was that, although it is termed urgent notification, it took some months before the resources started landing in the prison. We were told by the senior management there that that had been the case. It meant that the possibly very good initiatives that are being taken have not yet fed through into positive outcomes. Time will tell as to what happens with that.

I have visited Liverpool on an informal basis. It was not an urgent notification, but it was just before the process was brought in, so it was treated as something of a pilot for an urgent notification. There has been a lot of activity there. I paid an informal visit and was very encouraged to see what is going on there to make the place cleaner and more decent, and improve healthcare and so on.

I understand that it takes a lot of resource to drive significant, meaningful improvement in some of those very difficult prisons, but it surely has to be done. It has been put to me that the urgent notification process will lead to an element of robbing Peter to pay Paul. Well, yes, I understand that, but at the same time what is the alternative? If we had



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not gone there and raised our concerns in what I hope was a strong but evidence-based way, what would have happened?

Q518 **Ms Marie Rimmer:** Who determines the priorities for the extra money and resources going into, say, Liverpool or Nottingham? Is it very much left up to the management there? Is the inspectorate involved? How are the priorities drawn up?

Peter Clarke: We do not determine the priorities.

Q519 **Ms Marie Rimmer:** Do you have any influence?

Peter Clarke: We report what we see. In our reports, we have main concerns as well as other recommendations. I hope that prisons take the main concerns very seriously. It has to be said that they are usually the same sorts of issues—violence, drugs and living conditions. Until things on those are in place, I do not see how all the ambitions around rehabilitation, training, education and meaningful resettlement are going to happen.

Q520 **Ms Marie Rimmer:** You seemed to lay more emphasis on the outcomes at Liverpool than at Nottingham. Are we getting the most efficient use of the resource? Is it going on initiatives? How do we get those good initiatives in other prisons?

Peter Clarke: If I gave that impression, I apologise; I did not mean to. The urgent notification process is something I take extremely seriously. I recognise that to respond to it places a real burden on people. I do not diminish that at all. I intend to use the urgent notification process very sparingly, and only in the most serious cases. We have used it, as I said, just four times so far.

The issues we saw in those prisons were so serious that I hope they will all be taken very seriously. We will find that out when we revisit, but, as you know, the inspectorate is a very small organisation. Partly thanks to this Committee, we have just expanded a bit to be able to do some of the follow-up work that, after Liverpool, I think we all agreed was very important. We are heading in the right direction, but we are still a very small organisation.

Q521 **Ms Marie Rimmer:** Have you assessed the wider impact of urgent notification on other prisons, including those that have not been rated for an urgent notification? What has been the impact on those, and on those that have had displaced prisoners from, say, Liverpool or Nottingham where a lot were moved out?

Peter Clarke: In our inspection programme, I do not think we have seen any great impact at other prisons because of the displacement of prisoners. That is really something the Prison Service would be in a better position to answer than me. Obviously, I can only talk about the prisons we inspect.



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On the impact on other prisons, there is always a risk of slipping into anecdote, but quite a number of governors have said to me how pleased they are that there is now a process that can really bring some focus to bear on the prisons where there are the most serious problems.

Q522 **Ms Marie Rimmer:** You have not had any adverse comments as yet.

Peter Clarke: Not at a local level, no. Perhaps there is a little more concern more centrally about whether it might be distorting existing priorities. Again, I would say this, wouldn't I, but, if we find conditions that are so poor as to justify an urgent notification, it should become a priority?

Q523 **Ms Marie Rimmer:** If I look at the figures on paper, there is no new money; it is money that is being shifted from the whole of the Prison Service. Maintenance has gone into doing something—a big job rather than lots of little jobs across the estate.

Peter Clarke: I understand that concern entirely. If there is anything through the urgent notification process that could help the Prison Service pull some levers to extract further funding, I would obviously welcome it.

Q524 **Ms Marie Rimmer:** I understand that it is more effective use of big resource rather than spreading it thinly.

How do you respond to concerns about the potential of the inspectorate to become a substitute for management of the Prison Service?

Peter Clarke: I am very clear that we are not managing the Prison Service, nor should we. I have obviously looked at the evidence session you held a few weeks ago with Nick Hardwick and others, where he was concerned that possibly we could be straying into that. I assure you that we are not. Nick's particular concern was around the independent reviews of progress and whether that was drawing us into management.

I am very clear that what we are doing is looking at the action plans that have been delivered and asking whether they are going to deliver the outcomes we have said need to happen from our main inspection process. We are not telling them how to deliver them. We are not telling them how to resource them. We are just looking to see whether the plans are what I would call a proper action plan. Are there individual accountabilities? Are they resourced? Are there timeframes, and is there something that goes beyond review, analysis and deep dive into actually delivering outcomes?

The expression "deep dive" is one I regularly see in action plans. I will be quite frank. I have seen an action plan that was supposed to be delivering for a prison that was under special measures. I invoked the urgent notification protocol, despite the fact that the jail was already in special measures, because the action plan gave me no confidence at all that there would be actual improvements in outcomes. There was lots of



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activity reviewing, but nothing about resourcing, timeframes or actual delivery.

Q525 **Ms Marie Rimmer:** Would you update us on your plan to develop, test and embed new scrutiny and assurance methodology by April 2019 and on the resources you have been provided to do that following the recommendation in our report on HMP Liverpool?

Peter Clarke: Yes, indeed. I am very grateful to the Committee for its support of the concept that there needed to be some independent review of progress after what we saw at Liverpool, where there was clearly a mismatch between what the prison thought it was achieving and what the headquarters of the Prison Service thought it was achieving. It is a fact that prisons, when asked to self-assess, have a tendency, as I suppose we all would, to over-assess progress.

The Government have funded us for a modest growth in the number of inspectors, because, as I said, we are very small. We have recruited some extra inspectors. We have developed a new methodology that is completely different from what we normally do on a full inspection, so we are looking at, to use the jargon, the input side as opposed to the outcomes. We are looking to see whether the plans are credible, whether they are resourced, whether there are timelines on them, whether people are individually accountable and whether they go beyond assessing and reviewing to actually doing something. It is quite clear what the problems were, otherwise we would not have invoked the urgent notification process.

The independent reviews of progress will go beyond prisons where we have used urgent notification. We hope to complete perhaps 15 of them each year, and they will include other prisons where we have significant concerns or serious worries about their performance. It is my ambition that it should be a supportive process, and that we can help governors and their teams, not in any confrontational way but genuinely say, "Look, we don't think this is going to achieve what everybody wants it to achieve." Based on the pilot last week at Nottingham, I would like to think that is what happened. The senior leadership at the prison were at pains to say that they had found it a supportive process. I am optimistic. There is a lot of work still to do to develop it and make sure we get it absolutely right, but I think the first exercise last week went well.

Q526 **David Hanson:** The Minister is hanging his hat on a back-to-basics approach. Basically, he has said to the Committee and to the public at large, "Judge me by whether we improve on basic standards." You referred to the discussion we had with Mr Copple, Mr Boddis and others last week. I want to get a sense from you as to whether you think there is a baseline for decency at the moment; and, if there is not, when it is likely to be set. The crucial item is when, and if, you expect the Government to achieve that level of decency.



Peter Clarke: From an inspectorate perspective, our baseline for decency is set out in our expectations. It starts with a very high-level statement that is something like, "We expect people to be held in safe and decent conditions." Then there is a whole range of subsets of what we expect to see, around the condition of cells, staff/prisoner relationships, access to healthcare and that sort of thing. That is all set out in our expectations.

If the Prison Service chooses to develop a baseline of its own, that is fine. If it looks something like ours, that is even better, but I will not be drawn into endorsing a set of standards developed by the bodies we inspect.

Q527 **David Hanson:** Are you clear at what stage the Prison Service will have said, "This is the standard we are trying to meet"?

Peter Clarke: If that is the path they want to go down to set their standards, fine. We will then inspect against it and see whether it matches our expectations.

Q528 **David Hanson:** I got the impression last week from talking to officials—this is not a criticism of the officials because they are working under constraints—that this feeds into the next spending review. Mr Simon Boddis said, "our story about what we need for the next spending review" in order to meet those standards. That is a direct quote from question 442. I am wondering how we are going to get from A to B. Ultimately, there is a lot of aspiration and a lot of talk, but I wonder what the mechanism is, from your inspection of the service, and what they need to do to get from A to B.

Peter Clarke: I would like to think that they could pray our inspection findings in aid. If we go to Liverpool or Birmingham and find that entire wings have almost no windows, and that is a significant expense—I have forgotten how many millions of pounds it is—perhaps they could use that to support their bids for more resource to do it. I cannot get involved in their bidding to Treasury or to the broader MOJ budget.

Q529 **David Hanson:** Essentially, the standards you expect to be met in prisons are the standards that you have set out in your broad, overarching decency assessment.

Peter Clarke: In our published expectations around what we expect to see, yes.

Q530 **David Hanson:** To give the Committee a flavour, given the Minister's laudable aspirations to achieve improved back-to-basic standards, what is your assessment of the gap between where we are and where your standards are, across the service?

Peter Clarke: That is possibly rather a broad generalisation, if I may say so. Some prisons are undoubtedly decent. We go to many prisons where we are very happy with the decency scores. We see good conditions and we see very good staff/prisoner relationships.



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Q531 **David Hanson:** Last week, at question 432, I asked officials: “How many prisons do not meet what you would regard as a decent standard?” I got no answer. How many would you think do not meet your standard?

Peter Clarke: On decency, I might be able to help. In terms of what we call respect—our healthy prison test, which is broadly how decent places are and how well people are treated—last year, of the 14 local prisons that we inspected, five reached the standard that we would say would be reasonably good or good.

Q532 **David Hanson:** That is 34%.

Peter Clarke: Of local prisons. Overall, 66% of all the prisons we inspected last year—I think we inspected 39 last year—were awarded good or reasonably good under the heading of respect.

Q533 **David Hanson:** Please feel free not to answer this question. We have heard from Mr Driver that the £6.3 billion budget for the Justice Department as a whole, including the Prison Service, is going to be reduced to £6 billion next year. That is £300 million less than this year. We have the budget potential for the future to be negotiated. Do you think that within that reduction there is the possibility of making the improvements that you require to meet that decency standard?

Peter Clarke: I saw Mr Driver’s evidence, and I just hoped that the £300 million was not going to be taken from the part of the budget that deals with improving the physical conditions of prisons, because there is an enormous need to invest in much of our estate.

Q534 **David Hanson:** One of the questions you have raised previously, and which we have looked at, is about inspections on prison maintenance. For example, we had the Amey experience in Liverpool, the Carillion collapse and all those issues. Is it a priority for you to monitor the level of maintenance expenditure in future years?

Peter Clarke: I will not be monitoring maintenance expenditure. I referred earlier to the living conditions thematic report that we published last year and the fact that the Prison Service rejected four of the five recommendations. One of them was that all cells should be in good physical condition and contain appropriate facilities and equipment for day-to-day life. That is the one recommendation that they partly agreed. In their narrative they said, “We are robustly managing the FM contracts to ensure faults and repairs are responded to quickly and there is also a contract reset exercise underway to review how we can deliver a more responsive reactive maintenance service.” That was sent to us in February this year, which was just about the time when Carillion collapsed.

I have to say that I do not recognise “robustly managing the FM contracts” as something I see around the country. What I see are FM contracts that very often fail to deliver basic standards, with huge backlogs of maintenance tasks, often into thousands of items.



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Q535 **David Hanson:** Perhaps there is a thematic there for you.

Peter Clarke: We did one.

Q536 **David Hanson:** On a separate issue, what is your current assessment of the Government and HMPPS response to the issue of drug supply and levels of violence, self-harm and self-inflicted deaths, which are all at record highs?

Peter Clarke: They are. It is a variable picture. In terms of suicide and self-harm, I am afraid the figures are going in the wrong direction at the moment. After the very welcome decline last year in the number of suicides in prison, at the moment the indications are that they are rising again. Last year, in more than 90% of our reports on men's prisons, we were critical of one or more of the key indicators that we use to assess the effectiveness of suicide and self-harm prevention. We are concerned about that. We are very concerned when we see the recommendations of the prison and probation ombudsman not being as fully implemented as they should be, or not implemented in a sustained way.

With safety generally, clearly all the indicators are going in the wrong direction. Assaults, both prisoner on prisoner and prisoner on staff, are rising. The incidence of self-harm is going up in a very worrying way. As you mentioned, the relationship to drugs is incontestable.

The effectiveness of the strategies to deal with the influx of drugs into prison varies from prison to prison. To my mind, the thing that is lacking—again, I am pleased that the Minister seems to be devoting considerable time and energy to this issue—is the use of modern technology. It seems to be taking quite a long time to get into prisons technology that has been widely available elsewhere for many years.

Q537 **David Hanson:** Have you made any assessment of the relationship between staffing levels and some of those challenges?

Peter Clarke: Yes. There is no doubt at all. You can draw a correlation. If you look at levels of violence in prisons over the last decade, in the five years leading up to 2013, levels of violence were steady or even slightly declining in some areas. Since 2013, there has been an inexorable rise, with most categories showing at least double digit increases each year. That is violence of all kinds, including self-harm and assaults on staff.

The correlation is that the second half of that decade coincides of course with the reduction in staff numbers within the estate. I am not in a position to show a causative link, but we can show a very clear correlation. It is quite clear to me as we inspect that—

Q538 **David Hanson:** Are the numbers of staff that the Government have indicated they are recruiting currently, although not to the level that were in post, sufficient to at least help support the reduction of that challenge?

Peter Clarke: Yes, they will help support, but whether they will achieve what needs to be achieved is another matter. You can see in the various



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prisons that we inspect positive changes as a result of more staff being available. The better governors regard the new staff, even though they are inexperienced, as a real opportunity, not as an inexperienced liability. That is very welcome.

Where the new offender management in custody programme is rolling out, you can see some improvements. When I went to Liverpool a few months ago, prisoners came up to me and said, "Since OMiC was rolled out, it has made a really good difference. There's a member of staff that I can recognise and relate to on the wings, and go and speak to." That is all positive. Inevitably, it will help, but it is going to take a long time for the staff to get the confidence and the expertise they need to be fully effective.

Q539 David Hanson: We saw research in September that raised issues around highly controlling regimes and rules being unevenly applied, which are giving rise to additional aspects of conflict and assault. We have also had revisions of the earned incentives and privileges scheme, which are being consulted on currently. I want to get a sense from you as to whether or not there are potential areas of good practice in incentive schemes and disciplinary schemes that, as well as staffing issues, will help to reduce the level of violence and conflict.

Peter Clarke: Yes, there are. First of all, we published a thematic report earlier this year on managing behaviour and incentives. It was aimed particularly at the children and young people's estate, but many of the lessons are transferrable across the entire prison estate.

The key lesson from that was that relationships sit at the heart of good behaviour management, and having an incentive-based scheme as opposed to a purely punitive scheme. From our reports, we have seen some positive things happening. Werrington young offenders institution has a good, incentive-based scheme, which is having some good impacts. At Parc prison in Bridgend, we have seen something similar. There are pockets of good practice. We highlight them in our reports. The key from our perspective is the staff/prisoner relationship and having something that is not just punitive, but with genuine incentives for people to work towards.

Q540 David Hanson: Do you think the offender management in custody model is a positive development?

Peter Clarke: Yes, from what we have seen so far. It is very early days yet. It is only just being implemented, but from what we have seen in prisons we have been to where it is being implemented, the early indications are quite positive. We look forward to seeing more of that as it is rolled out over the next year.

Q541 Ellie Reeves: Thinking about cohorts of prisoners, what impact has the Lammy review had on the way that prisons treat BAME prisoners? Are there any examples that the inspectorate has seen of prisons that have



effectively tackled disproportionality or taken concrete steps? If so, how are they achieving that?

Peter Clarke: In terms of actual examples directly related to David Lammy's review, we and our inspection programme have only seen one specific example so far, which was at Wetherby and Keppel young offenders institution, where a self-assessment was carried out to try to understand the disproportionate negative perceptions from BAME detainees there. That is the only one we have seen so far.

On the broader issue, which is referred to in the report, of the more negative perceptions that BAME prisoners tend to have about their treatment, we have repeatedly encouraged and recommended that prisons should try to understand that. As you are aware, our methodology includes prisoner surveys, and we break them down into various protected characteristics as well, in terms of perception. Repeatedly, we see more negative perceptions from BAME prisoners about their treatment. We encourage and recommend that prisons should analyse that to understand it. I have to say it is a variable picture as to whether they actually do that or not. More often than not, I have to say, they do not, so there is a long way to go in that respect.

Q542 **Bambos Charalambous:** HMPPS models of operational delivery include identification of specialist cohorts and how to best meet their needs and manage them effectively. What evidence has the inspectorate found to indicate what impact that approach is having on provision?

Peter Clarke: To be honest, it is probably too early to say. Most of them were only published earlier this year, so, as far as I can see, they have not yet fed through into identifiable change in the prisons we have inspected since then. I am afraid it is really too early to say.

The identification of the cohorts for which they produced the models of operational delivery is good, but they are menus of tactical options. I would like to see something that is probably a little more focused on actual delivery, recognising, as I said earlier, local autonomy and freedom to respond to local circumstances, but at the same time not entirely leaving it to local discretion.

Q543 **Bambos Charalambous:** Do you see a role for the inspectorate in disseminating good practice?

Peter Clarke: In disseminating good practice, yes, we do. Where we identify good practice it is on our website and available. A unit has now been set up in the MOJ, and one of its functions is to identify good practice from inspections and to promulgate it throughout the service, which obviously I welcome.

Q544 **Mrs Badenoch:** My questions are about the reducing reoffending board. The Government have established a cross-departmental board, chaired by the Minister for the Cabinet Office. You know the reasons why; they believe that many of the issues cannot be done just by one particular



department. What are the key issues you find in your inspections that you think require a cross-departmental approach?

Peter Clarke: There have been several inspections where, instead of making recommendations just to prison governors or the Prison Service, I have made them to the Minister or to the Secretary of State to have a cross-departmental approach. One that comes to mind immediately is the subject of IPP prisoners, where there are issues for prison, probation and parole. Okay, it is all within the Ministry of Justice, but at the end of that thematic inspection we made a recommendation to the then Secretary of State that she should exercise her personal authority to bring together the various parts of the Ministry that are required.

We recently published another thematic on the delivery of social care in prisons. Again, we made a recommendation to the Prisons Minister, I think—forgive me if I have made a mistake and it was to the Secretary of State—that at ministerial level there should be a cross-departmental effort, because clearly it involves several Government Departments to deliver social care in a prison. It is not just in the gift of the Ministry of Justice and the Prison Service. That is the type of area where we would recommend it.

Q545 **Mrs Badenoch:** The first example was actually Departments within Justice, and the second one was across different Ministries.

Peter Clarke: Yes.

Q546 **Mrs Kemi Badenoch:** Do you ever contact other Secretaries of State or Ministers, or do you always work via those in the Justice Department?

Peter Clarke: Usually via the Justice Department, although in the case of our joint inspections on immigration issues I speak directly to the Ministers in the Home Office who are responsible for immigration issues.

Q547 **Mrs Kemi Badenoch:** Have you had any opportunity to give your views to the reducing reoffending board?

Peter Clarke: No. I have seen the letter from Mr Lidington setting it up, but, as far as I am aware, and I have asked around, I do not think that the inspectorate has been contacted as part of its work as yet.

Mrs Kemi Badenoch: Do we know if anything has happened at all, Chair?

Q548 **Chair:** Do you think the inspectorate could contribute, Mr Clarke?

Peter Clarke: I would like to think we could contribute to all sorts of things. It depends what issue they are looking at.

Q549 **Chair:** But you have not been asked.

Peter Clarke: If it is something that is particularly relevant that we have some data or some information or a view on, I would be delighted to contribute.



Q550 **Chair:** You stand ready.

Peter Clarke: Absolutely, yes.

Q551 **John Howell:** I have a couple of questions on prison estate modernisation. Is there any evidence from new prisons such as Berwyn and Oakwood that the newness and design is having a big impact on rehabilitation?

Peter Clarke: We have not inspected Berwyn yet. We are giving it a chance to settle so that we do not get false readings. History teaches us that, if we inspect new prisons too soon, we are liable to get false readings. I have visited Berwyn informally, and from what I saw there I was quite encouraged by the potential to improve rehabilitation activity. I know there is a debate about big and small prisons, and no doubt it will rage endlessly, but what I saw there was, for instance, an education department on a scale and of a quality that I had not seen elsewhere in the estate.

They have a strategy there of big to small, or small from big—whatever they call it—to try to break down that large institution into smaller communities to give the feeling of being in a smaller establishment. If you could combine that with the potential opportunities and the breadth of provision that being a big establishment gives, I thought that the economies of scale were such that, properly handled and tailored to perhaps small groups of prisoners, there was potential for some good work to be done. I was very encouraged by what I saw in the education department. As I say, we have not inspected it yet, so it would be wrong for me to speculate as to whether it will or will not deliver improved outcomes.

Q552 **John Howell:** As a bit of crystal ball gazing through to 2022 and beyond, how do you see the inspection and monitoring system at that point?

Peter Clarke: As I have said already, I would very much like us to be taken seriously. I would like as well, if at all possible, the opportunities to codify some of our activities that were lost when the Prisons and Courts Bill fell last year. It would be very good to think that we could one day get the inspectorate on to a statutory basis, which we are not. There is this strange legal position at the moment where, in law, I exist but the inspectorate does not.

It would be very good to get reference to this country's obligations under OPCAT and the existence of the national preventive mechanism. I think there was going to be reference in the Bill to those national requirements or obligations. Had that happened it would, for the first time, have established the independence of the inspection process in law. If you acknowledge this country's obligations under OPCAT, which are for independent inspection to be carried out on a regular basis, my amateur view is that it would require primary legislation to change that if it were to go into law. It would seem an unlikely development to remove by



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statute independence, implicit or explicit, so I think it would be a very positive thing for that to be enshrined in statute.

Q553 **Chair:** If there is an opportunity, that is something you would like to see before 2022.

Peter Clarke: Yes.

Q554 **Chair:** We sometimes hear that prisons change their purpose from one category to another—resettlement or something like that—or they close. It has been suggested to us that that can have impacts on all the other providers in the area, in the ecosystem. Is that something you monitor very much when you do inspections?

Peter Clarke: We do not particularly look for knock-ons to other establishments, but I can give an example from a recent report. We inspected High Down prison, which is cat B, local, and under the prisons estate transformation programme is going to be changed into a category C trainer. What we found when we were there earlier this year was that the staff were very uncertain as to what was going to happen. They had been receiving messages that they were going to be turned into a category C training prison within a matter of months.

About 1,100 prisoners are held there. There was a huge shortfall in activity places—about 500 or 600 short. A large number of the 1,100 existing prisoners were actually unemployed, so the prospect of turning it into a training prison within a matter of months was, to my mind, fanciful. The staff were left with a huge element of uncertainty, and they did not really know what the future held for them. That was not good for delivering a good, consistent service to the prisoners in their care at that particular time.

The only comment I would make is that, if there is to be a transformation or re-rolling of a prison, the sooner clarity can be delivered to establishments about what the future holds, the better. We recently inspected Durham. It is the first of the reception prisons and they are still trying to establish exactly what that means for them in terms of throughput, because of the numbers of people coming through, and how to avoid it just becoming a process as opposed to an individualised service to the prisoners and so on. As much notice and planning as possible for individual establishments would be welcome and desirable.

Q555 **Chair:** There should be much more specificity and, going forward in the plans for the future shape of the Prison Service, perhaps a greater focus on outcomes.

Peter Clarke: Yes please.

Q556 **Chair:** That is pretty fundamental.

Peter Clarke: Yes.

Chair: Mr Clarke, thank you very much for your evidence. It is very much



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appreciated, as always. We look forward to working with you during your new term of office.

Peter Clarke: Thank you, Chair.