

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PRISONS AND COURTS BILL

First Sitting

Tuesday 28 March 2017

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 1 April 2017

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The Committee consisted of the following Members:

Chairs: MR GRAHAM BRADY, † GRAHAM STRINGER

Arkless, Richard (<i>Dumfries and Galloway</i>) (SNP)	† Qureshi, Yasmin (<i>Bolton South East</i>) (Lab)
† Burgon, Richard (<i>Leeds East</i>) (Lab)	† Saville Roberts, Liz (<i>Dwyfor Meirionnydd</i>) (PC)
† Fernandes, Suella (<i>Fareham</i>) (Con)	† Smith, Nick (<i>Blaenau Gwent</i>) (Lab)
† Gyimah, Mr Sam (<i>Parliamentary Under-Secretary of State for Justice</i>)	† Swayne, Sir Desmond (<i>New Forest West</i>) (Con)
† Heald, Sir Oliver (<i>Minister for Courts and Justice</i>)	† Thomas-Symonds, Nick (<i>Torfaen</i>) (Lab)
† Jenrick, Robert (<i>Newark</i>) (Con)	† Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con)
† Lynch, Holly (<i>Halifax</i>) (Lab)	† Tracey, Craig (<i>North Warwickshire</i>) (Con)
McGinn, Conor (<i>St Helens North</i>) (Lab)	† Warman, Matt (<i>Boston and Skegness</i>) (Con)
† Opperman, Guy (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Katy Stout, Clementine Brown <i>Committee Clerks</i>
† Philp, Chris (<i>Croydon South</i>) (Con)	† attended the Committee

Witnesses

Joe Simpson, Assistant General Secretary, Prison Officers Association

Martin Lomas, Deputy HM Chief Inspector of Prisons, HM Inspectorate of Prisons

Nigel Newcomen CBE, Prisons and Probation Ombudsman

Rachel O'Brien, Director of Transitions Spaces, Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA)

Public Bill Committee

Tuesday 28 March 2017

(Morning)

[GRAHAM STRINGER *in the Chair*]

Prisons and Courts Bill

9.25 am

The Chair: Before we begin, there are a few preliminary announcements. May we switch off electronic devices, or put them on to silent? Tea and coffee are not allowed during sittings.

We will first consider the programme motion printed on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication, followed by a motion to allow us to deliberate in private about our questions before the oral evidence sessions. In view of the time available, I hope that we can take those matters formally, without debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 28 March) meet—

- (a) at 2.00 pm on Tuesday 28 March;
- (b) at 9.25 am and 2.00 pm on Wednesday 29 March;
- (c) at 4.30 pm and 7.30 pm on Tuesday 18 April;
- (d) at 11.30 am and 2.00 pm on Thursday 20 April;
- (e) at 9.25 am and 2.00 pm on Tuesday 25 April;
- (f) at 11.30 am and 2.00 pm on Thursday 27 April;

(2) the Committee shall hear oral evidence on Tuesday 28 March in accordance with the following Table:

TABLE

<i>Time</i>	<i>Witness</i>
Until no later than 11.00 am	Prison Officers Association; Her Majesty's Inspectorate of Prisons; Prisons & Probation Ombudsman; Royal Society for the Encouragement of Arts, Manufactures and Commerce
Until no later than 3.15 pm	Legal Aid Practitioners Association; Professor Richard Susskind OBE; The Law Society; Women's Aid; Transform Justice
Until no later than 4.30 pm	Association of British Insurers; Association of Personal Injury Lawyers; Aviva

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 4; Schedule 1; Clauses 5 to 21; Schedule 2; Clauses 22 to 30; Schedule 3; Clauses 31 and 32; Schedule 4; Clause 33; Schedule 5; Clause 34; Schedule 6; Clauses 35 and 36; Schedule 7; Clause 37; Schedule 8; Clauses 38 to 44; Schedule 9; Clauses 45 to 49; Schedule 10; Clause 50; Schedule 11; Clause 51; Schedule 12; Clauses 52 to 54; Schedule 13; Clause 55; Schedule 14; Clause 56; Schedule 15; Clauses 57 to 72; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00pm on Thursday 27 April.—(*Sir Oliver Heald.*)

The Chair: The deadline for amendments to be considered at the first line-by-line sitting of the Committee was the rise of House on Friday. The next deadline will be 4.30 pm on Tuesday 11 April for the Committee's meeting on Tuesday 18 April, after Easter. The Clerks will circulate a note about tabling arrangements during the recess.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Sir Oliver Heald.*)

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Sir Oliver Heald.*)

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Joe Simpson, Martin Lomas, Nigel Newcomen and Rachel O'Brien gave evidence.

9.29 am

The Chair: We will now hear oral evidence from the Prison Officers Association, Her Majesty's inspectorate of prisons, the prisons and probation ombudsman and the Royal Society for the Encouragement of Arts, Manufactures and Commerce. Before I invite the witnesses to introduce themselves, I remind the Committee that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed to: this session finishes at 11 o'clock.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): I take this opportunity to declare an interest as the chair of the cross-party justice unions and family courts parliamentary group.

The Chair: That is noted, thank you. Will the witnesses please introduce themselves for the record?

Joe Simpson: Joe Simpson, assistant general secretary of the Prison Officers Association.

Nigel Newcomen: I am Nigel Newcomen, the prisons and probation ombudsman.

Rachel O'Brien: Rachel O'Brien. I lead the work of the Royal Society for the Encouragement of Arts, Manufactures and Commerce on prisons.

Martin Lomas: And Martin Lomas. I am the deputy chief inspector of prisons.

Q1 The Parliamentary Under-Secretary of State for Justice (Mr Sam Gyimah): Good morning, and thank you all for coming. I would like to start with Joe, please, on staffing and recruitment. I would like to get your view of how the offender management model, which has been announced and will give each prison officer a workload of six, could help improve safety in prisons.

Joe Simpson: First and foremost, you have got to recruit, Minister. At the moment—I make no apology about it—the remuneration package for a prison officer is not meeting the needs of the National Offender Management Service. Will it help? Of course—more prison officers will always help. Pre-2012, we had 7,000 more prison officers. We had fewer deaths, fewer suicides, less violence and less drugs, then all of a sudden 7,000 go and we are in the situation we are in. But, yes, it would help.

Q2 Mr Gyimah: I guess the question I was driving at is, if you were able to get to the situation where you had the 1:6, could you improve safety? You are saying that, yes, that could help improve safety.

In terms of the other point that you made about remuneration, of course I agree that remuneration is important in this context. Do you see that what the Ministry of Justice is doing about additional allowances—there are obviously ongoing negotiations with the POA on pay and so on—could also help with recruitment and retention?

Joe Simpson: Yes. If we get the right deal, yes, of course that will always help. I hope we do.

Q3 Yasmin Qureshi (Bolton South East) (Lab): Thank you very much for coming to the session. Good morning. Can I ask you about what measures are not in the Bill? I want to explore that with you. In the nine months since this Bill was promised, we have seen major riots in prisons, an increase in violence and a continued fall in staff numbers. Do you think this Bill in any way addresses those issues?

Joe Simpson: In the long term, it will; in the short term, no, because we are not seeing any difference. To get the 2,500 prison officers in post, you are going to have to recruit 8,000. As quickly as the Prison Service is bringing them in, they are leaving. It is not just new starters—you are losing experienced staff as well. They no longer want to work for the Prison Service because of the violence, because of what is happening in our prisons and because of the lack of support.

Q4 Yasmin Qureshi: Does anybody else want to add any comments?

Rachel O'Brien: For a long time, there has been a discussion about steady state being needed before you can look at rehabilitation seriously. My view is that you have to do both. I think the Bill does not say that much, but what it does say is potentially profound. I agree that it is not just about recruiting people and remuneration. It is about saying, “What kind of people do we need now in this new world?” The duty implies significant differences, and I think there is a race going on between trying to get to that point of steady state and looking at the longer-term picture. I agree with much of what is in the Bill.

Q5 Yasmin Qureshi: Mr Lomas?

Martin Lomas: The Bill addresses a number of operational matters—certainly relating to telephones and drugs—that we think are very important, but its main emphasis is on the purpose of imprisonment and scrutiny, so obviously that will be a medium to long-term improvement. We welcome that. Some of the issues you raised are about practical management and operational matters, which can be dealt with under current arrangements and structures.

Q6 Mr Gyimah: If I may come in on the staffing point, are you aware that, for example, we have more people training to be prison officers than we have ever had before, at approximately 700, and that we are on track, at the end of March, to meet the commitment announced in October to recruit 400 new officers in the 10 most challenging jails?

Joe Simpson: Yes, I am aware of that, Minister. However, the question will be how long we have them for. Once they come into prison and actually see the reality of where they are going to be working, a lot of staff are not getting past the probation point, which is 12 months, because the training does not get them ready for working in a prison. It is a challenging environment, especially now.

Mr Gyimah: I have met a number of our new recruits at Newbold Revel. I think they are going into it with their eyes wide open and a lot of them are proud to be working in a uniformed service with the opportunity to turn lives around. In terms of retention, I think it is down to everyone in the Prison Service to make sure that new recruits settle in well—the governor, prison officers on the wing—so that they can actually contribute productively.

Q7 Yasmin Qureshi: Ms O'Brien, you have said that to have proper rehabilitation we need to return frontline staffing to 2010 levels.

Rachel O'Brien: We have not done that. I welcome the measures that have been taken, but we have not done that and I do not think for one minute that we do not have an existing staff problem. Even with what we have, it is going to take a long time for those people to come through. I have also met fantastic new officers who want to make a difference and are struggling to do so. One thing we have to bear in mind is that the new way of working means stopping doing some other stuff, and that is going to take time to flow through.

I also think, though, that there is a deeper need to look at the workforce capabilities. For example, we know that mental health is a major issue within prisons, and most officers do not feel prepared to give that kind of support; I am not talking about detailed intervention but just being aware of the key issues that they are going to face, day in and day out. The race is between really thinking about what that workforce looks like at a time when most people turn on the telly and see things that may not encourage them to join the service. I have met some fantastic people; the key is to keep them, to develop them and allow them to progress.

Q8 Michael Tomlinson (Mid Dorset and North Poole) (Con): I do not think I have anything to declare, but for the avoidance of doubt I am a former practising barrister—non-practising at the moment. Joe Simpson, what are your views on the further professionalisation of the Prison Service in general, and then, specifically, what are your views on the new graduate scheme, the Unlocked scheme, that I think is starting this September?

Joe Simpson: I joined the Prison Service in 1987 and I have seen a lot of different things happen within the prison system, such as social work in prisons. We have seen the fast-track scheme before; it has taken prison officers right up to governor level—in fact, right up to

second in command of the Prison Service. They are all well and good, but to make prisons safe we have to give prison officers more training than they are being given—mental health training, more suicide awareness, and more intervention with prisoners. Most of all, we need prison officers on the landing for what we call “dynamic security”—that is, they can see us and we can see them. We can keep an eye on them and keep them safe. When they can see us, they feel safe.

So we welcome the professionalisation of the prison officer and we are ready to talk to whoever wants to talk to us about professionalisation of our members and all prison staff. Yes, the graduate scheme will take people from the shop floor into higher management, if they want to go there; sometimes, though, in my experience, some of our managers forget where they have come from and what it is like to work on the shop floor. But we welcome anything that will professionalise our prison staff in making prisons safe.

Q9 Michael Tomlinson: Thank you. I recently had the privilege of visiting HMP Wandsworth. They explained the extension of the training that was going on there. Presumably, again that is something you would welcome. I am assuming that you would welcome the extended training period for new recruits as well, given what you have said.

Joe Simpson: We would like to see a much longer training programme for new entrant prison officers, because what can you teach a prison officer in 10 weeks? What about all the other things we do? A prison officer in reality is an untrained drug counsellor and marriage guidance counsellor. We are everything rolled into one, with no training.

The only thing that you have got is experience, and you gain that experience through working in the system and in life. When you are recruiting prison staff who are 18 years old, it makes it more difficult for the more experienced staff to guide them in the way it is. When you finish your training, you are supposed to get a two-week induction into the prison to get you used to the way it works, but that never happens.

Q10 Michael Tomlinson: That brings me to my final question; you have neatly brought me round to rehabilitation. You mentioned marriage guidance counselling and so on. What further role do you think there could be for prison officers not only in relation to rehabilitation in general, but in relation to such things as education?

Joe Simpson: On education, the POA is involved with Toe By Toe, which is where we get other prisoners to teach prisoners to read and write. We are heavily involved in that. I think we must be the only profession that wants to put itself out of a job, because we want rehabilitation, but with the levels of overcrowding we have at the moment, you are not going to achieve it. It will take a long while to start the rehabilitation that the Government want for the simple reason that we have to make prisons a safe place to work and live in.

Q11 Mr Gyimah: Mr Simpson, I would like you to comment on professionalisation. We are consulting with the trade unions on the creation of 2,000 new senior

positions across the estate, where they will be able to work at band 4 level in such jobs as self-harm prevention or mentoring, earning up to £30,000 a year. How could that help retain senior staff and professionalise the workforce?

Joe Simpson: I used to do that as a prison officer; I did not need promotion for that. It was part of my role and what I was paid for, but the service has long depended on prison officers and prison staff volunteering to do that extra work with no pay and no pay rise. Some 70% of prison staff have not had a decent pay rise in five years. That is when you get problems in the Prison Service. They feel forgotten and as though they do not count. With the 2,000, why not train the rest of them in that and make the Prison Service a truly professional service?

Q12 Liz Saville Roberts: I think I am correct in saying that the level of turnover among prison officers is something like 12%.

Joe Simpson: Yes.

Liz Saville Roberts: Could you tell us something about the impact of that degree of change? The underlying impact is that their salary is for ever starting at the lower level. Also, there is now regional variation in salaries. What is the impact of that—I have visited HMP Berwyn and I will be going to HMP Liverpool next week—on recruiting outside of south-east England?

Joe Simpson: In areas with high unemployment, you will get people wanting to be prison officers because it is paid work and they will want to be in work. The high turnover is not just down to salary; it is also about when people come in and see the reality of prison life. It is all right talking about when you go to the school; I attended Newbold Revel and went straight to HMP Strangeways, and that was a big eye-opener for me.

In fact, when the door closed behind me for the first time, the hairs on the back of my neck stood up. I nearly put my keys in and left—I didn't. The high levels of turnover are for the simple reason that prison officers no longer feel safe in our prisons. Why would you want to come to work and earn £21,000 to be spat at, assaulted, have excrement and urine thrown over you, and be physically and verbally abused? No other profession would put up with that.

Q13 Liz Saville Roberts: Is the training perhaps not preparing new recruits? Would it be possible to adapt the training to prepare new recruits better for the reality of prison work?

Joe Simpson: I think you could get a training programme that will get them ready for prison life and for working in prisons, but they also have to go into prisons and work there. When I first started, I went into Durham prison for three weeks. I came back, did the rest of my training and then went into Strangeways. When I was at Strangeways, I had what I called a “buddy officer”, and I worked with him for 12 months. If I had a problem working there, I went to him to ask a question and he answered it. He was with me all the time. That no longer happens: because of the pressure on getting prison officers into prisons and getting a regime going in prisons, that is no longer there. I think that would help.

Q14 Liz Saville Roberts: May I ask one general question to everyone on the panel who might be able to respond? The Bill is proposing the purpose of prisons. What would you feel about including health, substance abuse and addictions while people are in prisons as a possible fundamental purpose?

Rachel O'Brien: Two of the purposes—if you are talking about progression—imply that you have to address the fundamentals, including mental health and drug use. In terms of holding governors to account, it speaks to a flaw in the prison reform agenda more widely, which is that this is only a part of people's journey—for some people, a very short part of their journey.

If you are in prison for a matter of weeks, there is very little that even the best governor and staff can do, even with some of the training support. We know that deaths peak the week after custody, so the key that is missing is the integration question. How do we hold governors to account for something they ultimately do not own? What role within that is there for local authority substance misuse organisations, NHS providers and the CLCs? There is a need to look across the journey in the Bill and the wider reform agenda.

Martin Lomas: There is a balance to be struck. Who could object to an objective of supporting and promoting mental health and wellbeing? The issue is, how do you define them? What does “wellbeing” mean, for example? There needs to be a certain clarity about that. Another argument is, where do you draw the line? One of the advantages of the purposes as they are currently stated is that there is clarity about them. They are punchy, specific and particular. We could perhaps stand having another couple, but there is a point at which they stop being purposes and start being standards. It is really a question of balance.

Nigel Newcomen: I certainly endorse that. On, for example, the fourth purpose—

“maintain an environment that is safe and secure”—

I cannot imagine an environment that is safe and does not have adequate mental health provision, an adequate approach to healthcare and, indeed, a decent environment. Unless I have misunderstood what is intended in the list of four purposes, I think most of the suggestions you just made would be encompassed within them. I am with Martin in assuming that if we have an endless list, you lose some of the prescription, direction and sentiment that is intended.

Q15 Matt Warman (Boston and Skegness) (Con): This question is probably as much for Martin Lomas or Rachel O'Brien as it is for the rest of the panel. The Bill enshrines the idea of rehabilitation and reform for the first time. In my constituency there is a category D prison, North Sea Camp, and I have seen how difficult that can be. Do you think that that is a symbolically important gesture, but also that it will make a practical difference across the prison estate? Is it something that you welcome as a whole?

Martin Lomas: That it is clearly articulated that the purpose of an institution is to help rehabilitate and reform the individuals that are sent there? I think that is pretty fundamental and empowering, and brings clarity.

Certainly, as an inspectorate, we are committed in the Bill to take account of the purposes of imprisonment, although our criteria—the expectations, as we refer to

them—are independent and separate. When we were formulating our expectations, we saw resettlement, as we term it, as fundamental, one of four interconnected features of a healthy prison: safety, respect, activity—work, in other words—and resettlement. So yes.

Rachel O'Brien: I agree. Out there, there is a need to define some of that. What we do not need is a long list of a hundred items. When we talk about wellbeing, it is not far off, and there is lots of evidence to show that you can measure that. So it should flow through to the leadership models. For example, what are new group directors for? That is going to imply a whole new partnership approach with this core purpose at its heart.

It comes back to staff, as well. Too often it is people like me that get to do the nice stuff. I do not get spat at; I do not have the uniform; I have keys but I do not have to have that authority. Staff are being pushed into a role in which they are doing only the authority side, and lots of other agencies are doing what I call “the nice bits”. It may not be brilliantly funded. I would argue that, when we look at the core workforce, that is the core job. Yes, they still need to have that authority, but all the dynamic security tells us that it is about relationships they have; it is spotting that flame in someone that can be enhanced. If you do not have enough people or time, it is hard to do that. So I would slightly push out people like me and really focus on the core workforce.

Q16 Matt Warman: Related to that, am I right in thinking that greater autonomy for governors should allow some of that to happen locally, as is best, rather than having a one-size-fits-all model?

Rachel O'Brien: Absolutely. The centralisation issue is a critical one. There is this profound sense of change but, at the same time, it is bureaucratic: people are feeling quite disempowered. We need to be thinking about how you drive those relationships locally. An example would be the use of ROTL—release on temporary licence. That is a decision best made locally, where governors know their people and their employers, and they can make those decisions.

Although in policy we have changed our minds, in practice, as far as I know, not a single London prison is using ROTL at the moment because of the pressures we are talking about. If we are serious about that purpose, it has to be a stick-of-rock approach right the way through. It is not just the institutions that change, but also people like us on the outside that need to respond to that.

Q17 Matt Warman: ROTL is routine at somewhere like North Sea Camp—that demonstrates the variation across the estate currently.

Rachel O'Brien: Absolutely.

Q18 Richard Burgon (Leeds East) (Lab): I want to return to the subject of staffing. The Minister mentioned the 6:1 ratio in terms of staff caseloads; I want to raise a different ratio. We have already heard about the 7,000 reduction in prison officers since 2010. We have also heard about the aim to have a 2,500 increase. On Second Reading, there was some discussion in the Chamber of the need for prison staff to prisoner ratios. In their experience, do panel members think this could be helpful—a ratio of prison officers to inmates?

Martin Lomas: It might, but I am not sure. It is quite a crude measure, and what matters is the outcome and whether there is a quality to the supervision—that prisoners have confidence in the staff around them, that the staff around them are effective and trained, as has already been referred to, and that those prison officers, in a sense, are confident in what they are doing. I think it might be useful, but equally prisons are endlessly complex, have differing requirements, face differing risks, and have different geography, which will all inform the numbers of people you will need.

Q19 Richard Burgon: Would you think—to add a second question, if that is okay—that presumably there could be different ratios for different categories of prison, as a minimum ratio? Presumably, whatever the variables, there must be, in each category of prison, a minimum below which it would be dangerous to go, which would be contrary to the possibility of fulfilling the purpose of prisons as set out in clause 1.

Martin Lomas: Possibly, but within, for example, a category, there are different types of institution, different emphases in terms of supervision and risk, and competing requirements. The issue is to ensure that the outcome is right—that there is quality to the supervision, and sufficiency in the numbers, and a way of working with people that is respectful and supportive and engages the prisoner.

We have seen lots of places where prisons are insufficiently supervised—there are not enough people around. There is a variety of reasons for that. One of the consequences of that, ironically, is that prisoners have a chronic collapse in confidence. They are afraid because of it, but I am not persuaded that just a crude measure is the way forward.

Nigel Newcomen: May I endorse that? I investigate deaths in custody—self-inflicted deaths, for example—and they are a pressing problem in the system. One of the features that we often find is that it is the quality of that interaction between a staff member, and showing that the staff member is trained and has enough time for that interaction, that is the issue, rather than the numeric ratio of staff to prisoners on that particular wing. If there are more staff and no empathetic interaction, there is no likelihood of the vulnerabilities being picked up.

Q20 Nick Thomas-Symonds (Torfaen) (Lab): To refer to my relevant entry in the Register of Members' Financial Interests, for the purposes of the Committee I should say that I am a non-practising barrister and door tenant at Civitas Law in Cardiff.

On the issue of deaths in custody, you will be aware of the inquest findings in January on the death of Dean Saunders in Chelmsford prison, in which a number of criticisms were made of mental health care, and the prison system generally. Are you satisfied that the Bill will address those failings?

Nigel Newcomen: It is difficult to be satisfied that a Bill that I am still coming to terms with has got a sufficiently comprehensive reach to cover all the deficiencies exposed in that particular case. It was a very sad case where systemic failure outside as well as within the prison system was exposed—mental health deficiencies. The provision for individuals at risk was certainly not as good as it could and should have been, and I was quite robust in our investigation report.

I think the Bill will assist. I think it brings attention to the issues, and brings focus. It brings an approach to the management of prisons that should put accountability on governors to try to ensure that the provision in their establishment—at Chelmsford, for example—is sufficient to manage the sorts of very needy and vulnerable people who come through the gates of prisons. But it will also need to be supported by adequate resource, and adequate investment both from the prison staff perspective and the healthcare perspective.

The case you referred to, as I say, demonstrated a lot of systemic failures within and without the prison system, and if you are going to address them we will have to have a holistic approach, which also will involve other Departments and other provision, other than simply the Prisons and Courts Bill.

Q21 Nick Thomas-Symonds: If you as ombudsman make recommendations, how confident are you that the Secretary of State will act on them?

Nigel Newcomen: I published a report today on self-inflicted deaths among women and I said in the introduction that I was disheartened that I was saying again many of the things I had said previously. I have been in post six years, and I say very little that is new; I tend to repeat things. That does not necessarily mean that there is any ill will or any lack of desire to implement the recommendations I make. Virtually all the recommendations I make are accepted, almost without exception. I have given action plans, and my colleagues from the prisons inspectorate will go and see whether progress has been made.

Progress is often made to a degree. I am sure that if we go back to Chelmsford, to look at one establishment you just mentioned, much will have been done in the aftermath of the case of Mr Saunders and the aftermath of other cases there, too. But sustained and consistent improvement is something that the Prison Service has struggled to achieve. One of the aspirations the Bill must have is that by ensuring greater accountability and some devolution of responsibility to governors, sustained development and improvement can be achieved. To go back to your question, I personally am quite disheartened that I have been saying the same thing for so long.

Q22 The Minister for Courts and Justice (Sir Oliver Heald): I want to ask you about mobile phones and drugs. Obviously, prison has never been a pleasant place, and I visited many prisons when I was practising as a barrister, but recently I visited a prison and talked to one of the trusted prisoners who said that the impact of psychoactive substances has been marked, particularly on younger men prisoners, with there being a lot more violence than there used to be. Mobile phones are also enabling prisoners to commit crimes at one remove that they did not use to be able to do. Will you each say a word about drugs and mobile phones—what their impact has been and whether the measures in the Bill are a help?

Martin Lomas: The linkage is very clear. The tsunami of new psychoactive substances in the last three or four years has had an enormously destabilising impact on prisons. The chief inspector referred to that in his annual report, and I for one have never seen anything quite like it. Interestingly, some prisons cope better than others, and there are some lessons to be learned there.

The linkage between drugs and the use of mobile phones and technology is clear. It facilitates criminality—there is no doubt about it. I was talking to a colleague of mine who has inspected this regularly and one of the tricks is to meet a new prisoner arriving in the institution who does not have a phone card and so is unable to communicate, and entrap them in a sense by lending them a phone, in which the numbers are stored. That facilitates the intimidation of families and leverage on them.

The answer to that is proper prevention mechanisms to stop mobile phones coming in and to interrupt those that arrive, and the Bill is supportive of that; but also, in tandem, effective means of ensuring that prisoners have access to legitimate phones, either in cell—we see that in some more modern institutions, which is incredibly helpful—or through phone cards and effective access to, for example, the canteen. We routinely report on new arrivals to institutions who do not get access to the canteen for 10 days, which increases their vulnerability both to self-harm—it is a high-risk time—and to others. It is a twin-track response, and the Bill helps.

Rachel O'Brien: I agree with all of that on phones. You see that really small things in prisons, like not having your phone card and getting the small stuff right, can have a huge impact. On NPS, to go back to the centralisation and the local, we took a long time to respond—inspections were raising that from 2012 onwards—and it is an absolute game changer. We have not been adaptive and responsive, and I think that is partly because we wait for the central machine to respond. That resulted in a quite punitive initial response; it was like we had forgotten everything we know about healthcare and substance misuse, with NPS seen somehow as different, which is ironic, because it is legal outside. It is very strange. So you have had a really punitive response generally, and I think that is beginning to change now.

Thirdly, you need to look at supply and demand. Yes, stopping it coming in in the first place is absolutely critical, but if you have no activity and no purpose—there is a lot of evidence to suggest it is partly about boredom and time out of your head, if not your cell—you are going to seek it out. I am not sure I would not seek it out, if I was stuck in a cell day after day. We have to look at the demand side, as well as supply.

Q23 Sir Oliver Heald: If you take the aims in the Bill of active reform and rehabilitation, and trying to prepare people for the world outside, are you saying that if you achieved that sort of purposeful regime, you would have a more peaceful regime?

Rachel O'Brien: Absolutely.

Nigel Newcomen: You would also have a safer regime. Access to legitimate phones increases family contact and the ability to mitigate your pressures inside. If you have more activity, you are less likely to be bored and less likely to need the bird-killer that is NPS. I endorse what colleagues have said: it is absolutely, fundamentally right for supply reduction to be at the heart of the Bill, but demand reduction—the lessening of the need—has to be implicit, and I take it to be implicit in the new purposes of prisons that have been specified. If it is not, we will be chasing a punitive response without the likelihood of success, because we will not have dealt with demand.

Q24 Sir Oliver Heald: I do not know whether you would agree, Mr Simpson, but I think a lot of prison officers find it very rewarding if they are able to help a prisoner to come round and live a better life after he leaves prison, and to help him get some skills while he is in there. I have certainly always found that when talking to prison officers. Do you agree that the overall idea of having proper purposes for prison, trying to increase the number of officers and tackling this scourge of drugs and mobile phones is the overall package that is needed?

Joe Simpson: It is, but drugs are not new in prisons.

Q25 Sir Oliver Heald: No, it is these psychoactive substances, which are allegedly legal.

Joe Simpson: Yes. The Government have also said it is illegal to bring them into prison or throw them over the wall, yet it still happens. When you are talking about supply and demand, say for argument's sake that you can buy a bag of NPS on the street for £1. When it comes into prison, it is worth anywhere between £60 and £80. It is big business, and it does not have a great effect on the person who is supplying it from the outside, because they are never, ever going to get into trouble, because nothing ever goes back to them. Mobile phone are big currency in prisons. As a union, we have been asking for mobile phone blockers to be put into prison for years. That would stop the criminality inside and outside of prison.

Then we have drones. When they come over, it is about what they are carrying. We have had to approach the employer and say, "When there is a package dropped off into the grounds of a prison, you have got a prison officer immediately being told to go over and pick it up. It could contain anything, and there is no proper control over that."

Yes, more time out of cell, and a prison officer watching them and interacting with them, would help. When I was a prison officer at Holme House, we used to have prisoners out on association, and they played pool and went on the phone. When you had a bank holiday weekend, such as Easter, by Sunday dinner time they were bored, because they were doing the same thing every weekend and every evening. It is about changing that, with education in the evening, gym programmes and programmes that prison officers can lead on, because before we entered the job, we had a prior life. We have teachers who have joined the Prison Service. They have a wealth of experience, but no one is using them, because we are going back to what we fear is a turnkey situation.

Q26 Sir Oliver Heald: Of course, a lot of these prisoners could benefit from that experience, could they not? They are not very well educated, and they could get some skills and make more of their lives.

Joe Simpson: Yes.

Martin Lomas: I agree that NPS is a specific challenge, and it has been a game changer. We have seen prisons that do better than others—this is a bit speculative, and there needs to be more research into this—and that seems to be down to effective multi-disciplinary working, particularly with local law enforcement and the like.

However, your point is valid: there cannot be reform, work, education and rehabilitation without safe institutions, but there is then a feedback loop. If prisoners understand,

believe and realise—as enough of them do; there is a critical mass—that they might have to be in prison, but at least there they have a chance, or that it is worth investing their effort, or that there is a constructive opportunity for them, that in itself will begin to lift the bar and create a sense of positivity and civility within the institution.

Q27 Matt Warman: You briefly mentioned mobile phone blockers; the Bill allows for more rapid blocking of individual mobile phones that are associated with prisoners. Presumably, you would welcome the fact that you would not have a blanket ban on everything, or use more widespread blocking, because prison officers have mobile phones, which are useful for keeping in contact with families and all that while in the prison. Of course, people who live nearby prisons do not appreciate their systems being blocked, either. This helps with that, I would hope.

Martin Lomas: Whatever technology works. Actually, in prisons, nobody is allowed a mobile phone; there may be a community consequence.

Q28 Matt Warman: Not on the block, but in the broader area it is still a pain to have anything blocked, is it not?

Martin Lomas: I can imagine so.

Rachel O'Brien: If you look at open prisons, or somewhere like Britannia House in Norfolk, the prisoners who are working outside during the day have access to mobile phones. That is really important for jobs. As ever, it is about looking at the context.

Matt Warman: So the more targeted the technology—that is what the Bill more quickly allows for—the better, ultimately?

Q29 Yasmin Qureshi: Whether we are talking about mobile phones, psychoactive drugs, mental health or education, the truth is that you do not have sufficient trained people in the Prison Service, or in the round, to deal with these problems. Unless and until those properly qualified and trained people are there, none of these problems will go away. It does not matter how much legislation we have about phones or drugs or whatever; unless there are people there to deal with it, nothing is really going to shift, is it?

Rachel O'Brien: That is a problematic position, and in a way I think that is where we have been stuck for years. We cannot do this stuff—we all agree with this rehabilitative outcome—until we have that. I agree, and I would love to see more staff investment, but a lot of it is also about culture and leadership. We have talked about rehabilitation, but we have a prison system that is still, in lots of ways, very command-and-control, and of the old military model. In terms of culture and hope, prison officers and prisoners are like us: they have ambition, purpose and activity. That is what is missing. Yes, we need more staff, and we need to use them and the external agencies more wisely, but the key is rethinking the culture and how prisons are run. That is what makes the difference. We know it makes a difference, because we have some fantastic prisons and wings and so on that operate very differently.

Nigel Newcomen: If I may say so, I think it is a counsel of defeat. The prison system has always faced many challenges. I described NPS as a game changer in one of my reports, and it probably has been, but it is not that there is no work going on in either supply reduction or demand reduction. There are even some very good efforts being made at harmonisation by prisoners themselves. There is always scope for improvement, and to assume that there is no answer to the problem is, as I say, a counsel of defeat.

Q30 Yasmin Qureshi: I was not saying that there is not an answer to the problem. I was saying that, yes, some good things are happening—I am not saying nothing good is happening—but to achieve a level of productivity, if I may use that expression, you will need back-up resources. That is what I am talking about, in essence. That needs to be addressed fully.

Martin Lomas: There needs to be proper supervision of prisoners to give confidence to staff and prisoners. That might involve a resource solution, but equally, as colleagues have said, there are issues around leadership, accountability, learning the lessons that have just been pointed out to you, and sustaining improvement, rather than this being the rollercoaster that we often see. A variety of resource, cultural, management and leadership issues need to be put right.

Rachel O'Brien: You mentioned prisoners and the role of prisons. That is a huge untapped resource. It is very easy to talk about things like co-design and working with prisoner empowerment, but when you do it, you see the transformative change, not just among the prisoners but in the staff, and if staff are doing it, rather than people like me, that is how you get a completely different kind of response. Prisoners can be your best allies. They do not want to live in unsafe environments where it becomes the norm to be off your head. One of the things that would not be in the Bill but is absolutely about the culture is seeing prisoners and their families as key assets to support outcomes.

The Chair: Chris Philp, on this point. I want to exhaust this area before we move on to the next questions.

Q31 Chris Philp (Croydon South) (Con): Mr Lomas, you said a moment ago that you thought that there were some failures of leadership in this area. Will you expand a bit on what you mean by that?

Martin Lomas: I was making a broad point about there not being a single solution to the problem, and about how there needs to be analysis of what is needed in particular institutions. The Bill requires us, as an inspectorate, for the first time to take account of leadership, and we will be commenting on it. We sort of do already, but this will be a more transparent arrangement. Our intent is to link our commentary on leadership very directly to the outcomes that we see in the prison. We are not management consultants as such, but we will look for there to be evidence of leadership—at every level, because it is not just about the governor. There needs to be leadership among staff and at the Ministry of Justice. A variety of influences will create a situation in a particular institution.

Q32 Chris Philp: In your experience of inspecting prisons, how frequently are there comprehensive searches both of prisoners and their cells, with the purpose of identifying things like mobile phones and drugs?

Martin Lomas: It is not something we specifically look at, although they are going to begin looking at it, but every prison will have a security protocol that will specify the amount of searching that takes place. That is just the routine element. There will be search protocols around specific risk areas like visits, reception and the like, and there will be targeted searching in response to intelligence that comes in through information reports. There will be a variety of responses and different levels of searching, some more intrusive than others. Beyond that, there will be the application of technology, dogs and all sorts of available options.

Q33 Chris Philp: In your experience of inspecting prisons, do you think that search, whether of individual prisoners or of their cell accommodation, is adequately frequent, bearing in mind the amount of contraband that seems to be in circulation?

Martin Lomas: I do not think that I can give a broad-brush answer to that. There are 120-odd institutions that perform differently, and the identification of contraband might be a sign of the success of searching, so it is a difficult one to answer. We look at the security of the institution, the risks that it faces and questions of proportionality. Prisons have to be constructive places, so searching needs to be justified, reasonable, effective and for a purpose. A variety of factors need to be considered.

Chris Philp: Mr Simpson, what is your view of the search regime?

Joe Simpson: At the moment, it is hit and miss across the whole system, and that is down to staffing pressures and the regime. The Prison Service ultimately does whatever it has been told to do by the Secretary of State in power at the time. We have gone from “security, security, security” to “regime, regime, regime”. Only at the weekend one of our prisons had to shut down the whole prison in order to put on visits on a Saturday afternoon. Nothing else happened—there was no searching and the prisoners were not out of their cells. They were in their cells because there were not enough staff on duty to get them out.

It depends on what the searching protocol is for the prison as well. Obviously, we have got different categories—A, B, C and D. I would say that the searching strategy in the category A and B systems is more robust because of the types of prisoner being held. In cat C and cat D, I would say it is not as much as we would like to keep people safe—especially in the cat C estate.

Q34 Nick Thomas-Symonds: Rachel, a moment or two ago, you were taking about what the prisoners themselves have to offer in this. I know that the RSA has spoken about things such as rehabilitation culture—I think “rehabilitation capital” is the phrase that is used by the prisons. Can I pick up on that and, in a general sense, ask you whether you think the Bill incorporates that sort of culture and those sorts of measures in the way you would like to see?

Rachel O’Brien: I am slightly nervous of the new HMPPS defining this thing. We know a lot about wellbeing: for example, we can measure people’s ability to make good decisions and their self-confidence—all sorts of things that are prerequisites for the resilience they will need going forward. We are working with a high-security prison at the moment to develop a community-wide strategy. The outcome is going to be great. It is about thinking about, in a very closed system, how you have a better relationship with the outside world, family and so on. Actually, it is about the process of engagement with those prisoners, when they are talking strategies and tactics. They would not necessarily agree to do desktop publishing, but they will do it because they are producing a newsletter to communicate. It is that kind of approach, and you can measure people’s progress—partly because they will tell you and partly because you see it. It is that kind of approach that we need to replicate. Prisons need to be able to do things themselves rather than outsource them, because that is how staff can get those really valuable relationships.

Q35 Liz Saville Roberts: Nigel Newcomen, you mentioned the dichotomy between supply reduction and demand reduction. There are aspects of this Bill that deal with supply reduction per se. To what degree do you and other members of the panel feel that the demand reduction aspect is sufficiently considered within the Bill?

Nigel Newcomen: As I said, I impute from the purposes onward that some of the balances that we have been struggling to put across to you are required are implicit in the Bill’s structure. Demand reduction is a necessary partner of supply reduction. If you have only one, you are going to have only part of the solution. It is essential to have supply reduction, both for phones and for drugs, but you equally have to have work to mitigate the demand and the need for those illicit goods. Without that balance, I think we are on a hiding to nothing. There is nothing in the Bill that I can see that precludes that balance.

Q36 Liz Saville Roberts: Would you be prepared to suggest additions to the Bill that might make it less implicit and more explicit?

Nigel Newcomen: I am not sure I can think of any. It just seems to me that, unless we are misinterpreting it, the supply reduction issues are necessarily going to be balanced if you want a purposeful, rehabilitative prison. It is implicit that you have to do both. You cannot simply attempt to reduce supply if demand is insatiable.

Martin Lomas: I agree with that, but I would also make the point that there has to be a balance. One goes with the other. I make the observation that it is not perfect. How much is enough? We often report quite positively on some of the demand-side work that we see taking place within institutions, notwithstanding some of the other issues around it. In contrast, when we inspect we survey prisoners and one of the questions we ask is, “How easy is it to get drugs in this prison?” and although I cannot remember the exact statistic, the increase in positive responses in recent years has been striking. We comment on that routinely in our reports—that quite a lot of prisoners are telling us it is easy to get drugs in. Some of that will be over the wall, some will be an interpretation of the question around, for example,

the diversion of prescribed medication, which is also an issue. So it is a complex problem and there has to be a balance. Questions of quantity will always be difficult to determine absolutely, but a balance is what is needed.

Liz Saville Roberts: Mr Simpson, what do you think?

Joe Simpson: On the demand side, the Prison Service has been very successful. When I joined, the drug of choice was cannabis; then, when they started mandatory drug testing, it went from cannabis to heroin and cocaine, for the simple reason that they stay in the body a lot less than cannabis. But we just punish prisoners; if they get a positive MDT, they are punished and that is the end of it. We are not doing anything to say to them, “Why are you taking it?” Why don’t we turn around and start educating them about the drug issue, rather than just punishing them? As long as we punish them, nothing is going to change, because they still want that drug; they will still want it inside.

As long as people are coming into prison and bringing it in—the supply side of it—they do go hand in hand. We have to stop the supply but we also have to start to reduce the demand as well, because if we reduce the demand, the supply will stop coming in because people will no longer want it.

How do we do that? When I was at Holme House we had a successful drug treatment wing there. We turned it on its head: it was run by the prisoners. They looked after everything; they made sure everything was clean and took over the duties of the prison officer. The prison officer was still there; we were still there supervising it and it worked. Then all of sudden, because we ran out of money, it went. We reduced the demand and then, once the money stopped, the demand went back up, because there was nothing there to get prisoners to take charge of their lives in prison. That is what is missing.

Rachel O’Brien: It is an interesting question, in terms of responsibility. I would raise a concern about that being just on the governor, not going any wider. It is interesting to ask about the responsibility to reduce demand and how you might show that. The other parts of the Bill that are important concern education, employment and health commissioning, because ultimately if we do not have more people working, more people getting the treatment they need, the supply will respond to demand. For me, a key question is whether that commissioning going to be more local, more sensitive and more productive. Many prisoners will tell you that they are either in their cell most of the time or they are doing another level 1 catering when they have done four as they have moved around the system. The intention, not so much as reflected in the Bill, but in the education strategy and so on, is to actually look at more progression for people.

Again, it comes back to the fact that a prisoner will tell you exactly how they want to progress, but what if that is not available? I really worry that while what is in the Bill looks like a decentralisation of commissioning, I am not clear that that is actually what is going to happen.

Q37 Suella Fernandes (Fareham) (Con): I refer the Committee to my entry in the Register of Members’ Financial Interests. I am still in receipt of fees from the Treasury Solicitor for providing legal services to the Ministry of Justice and the Parole Board.

Nigel, I want to follow up on your point about the statutory purposes listed in proposed new section A1. There are four purposes set out and you said that an endless list would be unhelpful for professionals and for the inspectorate. Can you say a bit more about why you think that the current drafting hits the nail on the head and strikes the right balance?

Nigel Newcomen: I did not quite say that the current drafting hits the nail on the head. I said that an endless list would, I think, be unhelpful; I think Martin made the same point. If you are going to have a set of overarching purposes, they need to be relatively discrete, something managers can focus on and, in Rachel’s words, could run through a stick of rock. If it is an endless list, that is a very big piece of rock. This needs to be a means of gaining clarity for the organisation and the institution.

I said in passing, I think, that the word “decency”, for example, was missing. It may be that there are bits of drafting that may be attended to as the Bill goes through. I think a relatively discrete statement of purpose and set of aims is useful. All experience of business management and organisational institutional change is predicated on having a relatively limited set of outcomes that you are seeking to achieve. I think these are pretty good and discrete statements. They could probably be improved, but I do not think I would like to see the list get that much longer.

Q38 Suella Fernandes: My second point I would like to raise with all members of the panel relates to health and mental health provision in the Bill and also in the White Paper. In those, there is considerable detail on how governors can work together with the local clinical commissioning group or other health providers to assess the health needs of prisoners, co-commission services and assess quality of performance, instilling a bit more responsibility and flexibility in the system to safeguard health and mental health concerns. I would like the panel’s views on the mental health and health provisions.

Joe Simpson: When you are bound to outside agencies, especially in prisons, they are not there 24/7. The only people who are there 24/7 are prison officers and prison staff. One thing that we are going on from mental health is also social care in prisons. We have a lot of older prisoners who need more social care. Between the hours of 7 o’clock at night until 7 o’clock the next morning, they do not have access to that, and we do not have access to that as prison staff. We have no training whatever in order to assist prisoners who have those needs.

Mental health and health wellbeing should start on reception at the prison, when the prison officer brings the prisoner into prison, goes through the reception process and then passes them on to our colleagues for the mental health check. From that should come a plan of care, but that is not there, for the simple reason of time—“Let’s get them through because staff need to get off,” or, “We need to do this; we need to do that.” It is constant pressure on the regime and having the staffing available to do that.

If you are dependent on an outside agency that has its own staffing problems, it is not going to be done. That is the frustrating part from our members’ side. They identify a problem and nothing seems to be done for two or three days because we cannot get that expertise in.

Why not utilise the person who is already there—the prison officer—and train them to do those duties, so that we can give better mental health care and increase wellbeing?

Q39 Holly Lynch (Halifax) (Lab): May I return to the issue of prison officer safety? I have tabled some new clauses that I hope will be helpful in that regard. On Second Reading, we touched on the issue of a prison officer being assaulted in prison by a prisoner. Is that referred to the police, followed up by the Crown Prosecution Service and taken to court, or is it dealt with internally within the prison? What is your experience of the decision making around that process, and what would be the preference of the Prison Officers Association for dealing with those types of incidents?

Joe Simpson: Our view is that somebody who assaults our members should be punished. As for the question of who does that, we are not really bothered. Our experience, and my members' experience, of the police and CPS is actually getting a policeman in to do the investigation. More often than not, what comes back from the CPS is that it is not in the public interest, because that person is serving a sentence and in prison anyway. That demoralises our members. They feel as if they go to work and they are just punchbags. There was a big campaign by the trade union to try to change people's thinking on that, because we work behind a wall—people do not look in and we do not look out. We would like our members to be protected by the law and to be taken seriously when they are assaulted at work.

Some incidents are serious physical assaults, but you also have to look at the mental aspects, especially in relation to spitting and biting. Let us say that a prison officer is bitten. We do not know the prisoner's history. We do not know whether they have any blood-borne disease or anything like that. The officer then has to spend six months on antiviral treatment and everything like that, and along with that goes the mental anguish, not just for the member of staff, but for their family, because they cannot interact properly with their family for six months. That leads to its own problems: high rates of divorce, cases of alcoholism and people just not wanting to come to work. That develops into mental health problems. While they are in the service, they are looked after, but once they are dismissed by the service, all that assistance stops, because the employer turns round and says, "Well, we're no longer responsible for that care." Sometimes we are putting really poorly and ill prison officers back into society with no assistance whatever, because of something that has happened in the course of their work.

One of the most disgusting things ever is potting. It is especially the female members of staff who are targeted. A prisoner or prisoners will fill a bucket or whatever with excrement and urine, wait for the officer and then tip it over them. We are seeing an increase in that, because prisoners seem to think that it is more acceptable than hitting a member of staff or hitting a female member of staff. They still see that as a bit of a taboo subject, but that is starting to break down. They are not just targeting male staff; they are now targeting female staff as well, especially with potting, which is absolutely disgusting.

Q40 Holly Lynch: Mr Lomas, when you do inspections of prisons, is how assaults on prison officers are investigated something that you would look at?

Martin Lomas: The specific technicalities of how they are investigated, no, but the fact of assaults on staff, yes, it is something we would look at. We would look to disaggregate the data to see whether we can get any learning from them, so we would look at fights and assaults—prisoner-on-prisoner assaults and prisoner on staff. There is no doubt that violence is increasing across the three, but it is notable that violence against staff is increasing; it has increased quite markedly in recent times. At an anecdotal level, we watch videos to try to get some sense of the—this is an unfortunate word—quality of the violence, and yes, some of it can be quite disinhibited, concerted and reckless. There was a case recently in which a member of staff in a midlands institution was very severely assaulted and hospitalised. They went through considerable trauma; the case has been reported in the media.

Yes, we report on violence as a feature of relationships between staff and prisoners, but the questions about policing priorities in a certain area or the decisions of the CPS in terms of public interest and what have you are matters that they would need to account for. But yes, we believe that staff should be supported and that prisons should be safer, and we believe the Bill is a positive measure in supporting that endeavour.

Q41 Holly Lynch: Can I press you on that point? Do you think this is something that you should be looking at in that case? It sounds as if you are collecting the statistical data about frequency, but not doing the follow-up about how violence is investigated to see whether there is evidence about how deterrents should be in place, for example.

Martin Lomas: We look at outcomes. The process of investigation and whether the investigation was competent, whether the police should be more engaged and certainly whether the CPS should have charged—we would not look at that.

Q42 Mr Gyimah: I would like to ask a question and get the panel's views about accountability in the new prison system and how that works. Starting with Mr Lomas, what difference do you think the Bill will make to the effectiveness of the prisons inspectorate? Could you also comment particularly on how you see the notification trigger being used?

Martin Lomas: We think this is an important step forward. We think the Bill is helpful and useful. We have already talked about what it says to those who run institutions, with regard to their purpose and what they are meant to be doing. As far as the inspectorate is concerned, we believe it strengthens our institutional framework. It recognises us formally as an entity and clarifies our powers. At one level, those powers have not changed, but the Bill clarifies them, which is important in terms of asserting our independence and reflecting the public's understanding of what we are about. We believe that the reference to OPCAT—the optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment—is absolutely critical in emphasising the independence of the inspectorate and consequentially its authority and ability to speak to issues and to all stakeholders, including the Government and others.

We believe the specifics around the requirement to respond on recommendations—reflecting current practice, but raising the importance of the process, formalising it,

and making it more accountable—is a very big step forward in terms of our impact. Added to that, the notification arrangement and the significant concerns that are referred to again reflect practice. We would not walk away from a disastrous prison and not do something. We do act, and in fairness to the National Offender Management Service as it is now—Her Majesty’s Prison and Probation Service—it does respond in those circumstances. This is about making that process more transparent and accountable and putting names to the responsibilities. It is most definitely a step forward.

Rachel O’Brien: I agree with all of that. We recommended that stronger role for the inspectorate. There is a question about what happens in between inspections; that is sometimes a bit strange. There are top-level things that drive change for the three or four years in between. That is a question that we did not answer. We looked at the possible role of the independent monitoring boards, for example, to look at the more institutional day-by-day changes in the shorter term, but also new issues that might come up. The danger is that sometimes we say, “Those are the three priorities” and meanwhile something changes over here, in the local drugs market or whatever it is, so there is a question about what happens in between.

My overall accountability freedom issue would be that I worry about the balance. There are a lot of new accountabilities, still from the top-down league tables. Are those governors and new group directors going to have sufficient freedoms to make local decisions? That is the key question. That cannot be defined in primary legislation; it is much more about the narrative coming out from Government and so on.

Joe Simpson: The POA welcomes the changes, but do not think they go far enough, both for the chief inspector and for the Prisons and Probation Ombudsman. We would like to see the same legislative powers given to them as the Health and Safety Executive. If someone is going to inspect prisons, then inspect prisons and everything that goes on. If there are recommendations, someone should turn round and say to the governor “You are not doing something right.” If we are giving governors autonomy, it is not the Secretary of State who is running the prison—it is the governor. He is the employer and the person who is in charge of that prison, so they should get the 28-day notice. What is the point in putting that all the way back up for the Secretary of State, so that she can say, “Yes, we have an action plan”? We would rather see something coming from the chief inspector of prisons go to the governor to improve things, and if they do not improve them, the legislative powers akin to the Health and Safety Executive given to the chief inspector and the PPO. If we are going to have independence—the independent scrutiny of prisons and the independence over deaths in prisons—they should have that legislative power to turn round and make things change, rather than wishing for it.

Q43 Richard Burgon: I have two questions. First, following on from what Joe has just said, should the inspector review the resourcing and availability of staffing in prison, and should this Bill legislate to enable that?

Joe Simpson: Yes, because we have got a chief inspector of prisons and you cannot just go and do some parts of a prison and not do it all. You have got to look at

everything. You have got to look at the safety—are there enough staff, are staff being looked after, are assaults against staff being investigated properly? Then you have to make the recommendations to the governor to get it right.

Q44 Richard Burgon: When you mention staff, Joe, is there a level of staffing beneath which you believe it is dangerous to go?

Joe Simpson: There is, yes. You have to have enough staff to do what we call the basics—to ensure that prisoners are safe and getting their meals, access to medication, access to education and access to fresh air and exercise. That is the basic minimum we can give, and everything above it is what we term the fluffy parts of prison. At the moment we are operating at that level. We believe that if the chief inspector has that legislative power things will change, because the governor becomes accountable and so does the Secretary of State.

Q45 Mr Gyimah: The role of the Secretary of State in the Bill is to be responsible for the whole system and accountable to Parliament. Just to make it clear, are you arguing that somehow the Secretary of State should not be in this loop at all, and that it should all be about the governor? In which case, how is the Secretary of State responsible for the system?

Joe Simpson: What I am saying is that if the chief inspector goes in and has the 28-day order, the notification to change something comes to the Secretary of State—it does not go to the person who can make that change. The Secretary of State gets it, and then you have a three-month intervention. They then come back down to the governor to say, “This is what is wrong. What are you going to do about it?” They give the plan, it comes back up to the Secretary of State, and then the Secretary of State announces it to Parliament. Why do we not just give it to the governor and, for want of a better word, copy the Secretary of State in so that they know what is happening? Then if things are not improving, the Secretary of State intervenes once the chief inspector turns around and says they need to do that.

Q46 Mr Gyimah: There is a line management structure that goes from the Secretary of State through HMPPS and the governor. If a prison is failing—for want of a better word—it makes sense to have the person who is accountable for the system, and the line managers of the prison, be aware of it and take action with the governor.

Joe Simpson: My answer to that is, why has not anyone done anything about HMP Featherstone?

Q47 Richard Burgon: The prisons and probation ombudsman touched on this earlier, and I just want to give everyone on the panel the opportunity to respond. The Howard League, the Prison Reform Trust and the Prison Officers Association have all highlighted the need for the purpose of prisons to commit to decent and fair conditions. The wording comes from Lord Woolf, who set it out in 1991. Would the panel members prefer the Bill to clarify that with reference to “decent” and “fair”, as set out by Lord Woolf in 1991?

Nigel Newcomen: Having made that point previously, I have to repeat that it merits consideration at least. I stick with my previous balancing point: we need to

minimise the verbosity of the statements and limit the words, although maintaining an environment that is safe and secure will not necessarily ensure an outcome that is a “decent environment”, let alone a “fair environment”—again, Lord Woolf’s phrase. I hope that as the Bill goes through Parliament that will at least be explored.

Martin Lomas: I agree with that. In the inspectorate, one of our key judgments is “return of respect”. It is essentially saying the same thing and we see it as significant in defining a healthy prison.

Rachel O’Brien: I agree. For a long time, “decent, safe and secure” has been the vision, if you go into most prisons. Having that vision should be absolutely fundamental for institutions. How the new stuff is interpreted and kept simple and straightforward is what really interests me, as we talked about before.

Joe Simpson: We welcomed it. I was at Strangeways when it was done and we welcomed everything that was said. Yet again, it is another report that is gathering dust. We have seen this with different reports since I joined in 1987. My colleague has already had a go at the Corston report; it is 10 years old and nothing has happened. There has been the Mubarek report and the Woolf inquiry to end over-crowding—nothing has happened with any of that. If we are going to have a report, let us do what it recommends.

The Chair: We are coming to the end of the session. Two Members are indicating a wish to speak. We will take their questions and, if any Members wish to declare any interests, they can do so before we wrap up.

Q48 Mr Gyimah: On deaths in custody, I would like to hear Nigel Newcomen’s thoughts on how putting the PPO on a statutory footing is beneficial and what difference it could make to your investigations.

Nigel Newcomen: I am very clear that this is a step-change improvement in the situation for the prisons and probation ombudsman and I hope my successor benefits from it. It is quite astounding that a body tasked with investigating some of the most sensitive and secretive contexts in looking at deaths in custody and complaints in custody is basically dependent on the goodwill of those whom it is investigating for access to places, people and documents. The Bill rectifies this. This is something that not just I but parliamentarians of many hues have been calling for for many years.

There have been two previous attempts. You will note that there has been very little objection in any of the materials I have seen from NGOs. I think it will enhance the actual and perceived independence of the office, but more particularly it will improve the practical and investigative capacity and, I hope, contribute to the outcome of greater safety and fairness in custody.

Q49 Nick Smith (Blaenau Gwent) (Lab): I want to touch on the point about the education and health needs of offenders. I will refer to the written evidence submitted by the Royal College of Speech and Language Therapists today that there is a high prevalence of speech, language and communication needs in the criminal justice system. It says that “over 60% of young offenders have speech, language and communication needs”—and that this affects offenders’ ability to engage with “verbally mediated physical and mental health assessments effectively including suicide risk screening”

and their health and rehabilitation programmes. Will the Bill help to address these issues, particularly in commissioning health and education professionals to support offenders with these needs?

Martin Lomas: The Bill sets out the purposes of imprisonment, which are meant to take account of specific needs and rehabilitative agendas. If a needs analysis of a particular population group confirms that view—and I believe it—then that is a priority that the governor will need to emphasise.

If the Bill works, and that is to be seen, it gives opportunities for governors to make decisions locally based on their understanding of what is going on around them and the connectivities they can create with local providers and services. What applies to the specific case you have identified also applies to a range of other things to do with—for example, education or mental health intervention, partnerships with health authorities, safeguarding initiatives and all sorts of opportunities in that regard.

Rachel O’Brien: Yes, I think the implication of that key change is profound, but the prison system does not communicate well, generally, I would say, from top to bottom. It is a huge and complex system. We had Nils Öberg from Sweden over recently. He said the most important thing they had changed was how they communicate across the system. That goes right down to that level of forms and communication on the wings, how you do education, and so on. In my experience the best way to change that is not top down. Again, often the prisoners will say, “The way we are going to try to engage people in this is through a different format”—very visual, very simplistic. They will be best placed, often, alongside officers, to know how to do that, rather than that being mediated from above.

I am doing some work at the moment on something called the New Futures Network, which will look at how you drive innovation through the system. A key part of what we want to look at is the way we use animation, visuals and so on, right across the piece. That requires technology questions to be answered, but absolutely it is about innovation and fairness, and sensitivity in thinking about the audience. I do not think that is a kind of legislative issue in that way.

The Chair: A final brief question, because I want to give time for declarations, and a brief response, please.

Q50 Yasmin Qureshi: I have two little questions.

The Chair: Just one.

Yasmin Qureshi: Mr Lomas, in response to a question about the educational aspect of things you said, “Look at the intention of the Bill and the purpose of prisons.” Bearing in mind we have been hearing about issues of self-harm and about suicide rates increasing, what about enshrining prisoners’ mental and physical health in the statute book, in clause 1, giving it parity with the four other things?

Martin Lomas: I have not really anything more to add to what has been said already. Yes, possibly: it is an issue and a priority. Whether that specific issue of detail should be one of the stated purposes of imprisonment is a judgment call. It could be. As an inspectorate we will inspect it whether it is a stated purpose or not.

There will be an obligation to meet that need if you are genuinely meeting the purpose of being rehabilitative and reforming. Mental health, for example, is fundamental. It is a priority. It is in a sense a subset of the stated purposes already. As to whether or not it should be elevated into being a stated purpose itself and whether that will impact all the issues that Nigel referred to earlier—of course we would like it to be stated in those terms, but what about other things of importance? Her Majesty's inspectorate of prisons has its own criteria. We operate to independent criteria and will look at health outcomes, including mental health.

The Chair: Are there any hon. Members who want to declare an interest before the end of the sitting?

The Lord Commissioner of Her Majesty's Treasury (Guy Opperman): I declare an interest as a non-practising former barrister. I am still owed certain fees by the state and insurers even after seven long years, and I wrote a book called "Doing Time", which unaccountably has not sold out, on prison reform—so I declare its existence.

Richard Burgon: I am a former practising solicitor—I am non-practising now. I used to be an employee of Thompsons solicitors who have an interest in matters discussed this afternoon.

Yasmin Qureshi: I was also a practising barrister. I stopped practising in 2010 but I have recently become a door tenant and I can now practise and may choose to practise.

Nick Smith: I am pretty sure it is not declarable, but I used to work for the Royal College of Speech and Language Therapists.

Nick Thomas-Symonds: To add to the point made by the Lord Commissioner of Her Majesty's Treasury, the hon. Member for Hexham, I am still owed thousands of pounds in fees, some of which I think may be from insurers.

Sir Oliver Heald: I am a barrister, not currently practising, and I am the legal aid Minister, so I apologise, boys.

Robert Jenrick (Newark) (Con): May I also declare an interest? I am a solicitor, not currently practising, and a prison visitor at HMP Lowdham Grange in my constituency.

Craig Tracey (North Warwickshire) (Con): I chair the all-party group on insurance and financial services and was an insurance broker for 25 years.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee. I thank the witnesses on behalf of the Committee for their evidence.

Ordered, That further consideration be now adjourned.—(Guy Opperman.)

11 am

Adjourned till this day at Two o'clock.