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Public Bill Committee

PRISONS AND COURTS BILL

Third Sitting

Wednesday 29 March 2017

(Morning)

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Sunday 2 April 2017

The Committee consisted of the following Members:

Chairs: † Mr Graham Brady, Graham Stringer

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

Katy Stout, Clementine Brown, *Committee Clerks*

† attended the Committee

Public Bill Committee

Wednesday 29 March 2017

(Morning)

[Mr Graham Brady *in the Chair*]

Prisons and Courts Bill

9.25 am

Clause 1

Prisons: purpose, and role of Secretary of State

Yasmin Qureshi (Bolton South East) (Lab): I beg to move amendment 9, in clause 1, page 1, line 10, leave out "aim" and insert "adopt procedures and practices designed".

This amendment strengthens "aims to" in Clause 1.

The Chair: With this it will be convenient to discuss the following:

Amendment 10, in clause 1, page 1, line 14, after "safe" insert ", decent, fair".

This amendment requires the purposes of prisons to include decency and fairness.

Amendment 11, in clause 1, page 1, line 14, at end insert

"for prisoners and prison staff".

This amendment requires the purposes of prisons to include prison staff.

Yasmin Qureshi: It is a pleasure to serve under your chairmanship, Mr Brady. May I inform the Committee that we will be seeking a Division on amendment 10?

When we heard that this Bill was being introduced, everyone got very excited about it because it was advertised as a once-in-a-generation chance to reform prisons. However, when we actually went through the Bill, we found that it has left out many things that it should be dealing with. Although we welcome certain parts of the Bill, it does not deal with many of the things that are at the crux of the problem with our prison system.

I think everybody is aware of the fact that there has been disorder at Lewes, Bedford, Moorland, Birmingham and Swaleside prisons. Yesterday, we heard from the experts that violence against staff and inmates and suicides are at record levels. Hard-pressed prison officers need more numbers and resources to deal with prisoner violence and to make prisons safe. The Bill does not deal with the issues of overcrowding, understaffing and the proper rehabilitation of offenders.

The probation service is not working, and again the Bill does not address its issues. People should leave prison ready to lead productive and law-abiding lives, but that can be achieved only if prisons are safe, decent and fair places in which those being punished can also begin to rebuild their lives. It is with that in mind that we tabled these amendments.

Rather than simply aiming to deliver the purposes of prisons, we want to adopt prison procedures and practices designed to deliver the purpose of prisons. Therefore, we want to add the words "decent" and "fair" to the clause. We think the prison environment should be decent and fair. That was one of the central conclusions of Lord Woolf's inquiry into the disturbances at Strangeways and other prisons in 1990, which remains the central foundation for everything that a prison might achieve. The link between safety and decency is also recognised by the UN's Nelson Mandela rules, which require that, in addition to safety, prisons must maintain the dignity of every person in custody. To ensure the Bill is compatible with the United Kingdom's obligations, that duty should not be assumed or implicit; rather, it should be made explicit in our legislation.

A lack of confidence in the complaints system among prisoners stubbornly persists. Fewer than 30% of prisoners reported to inspectors that they felt their complaints were dealt with fairly. That view was upheld by the prison and probation ombudsman, which has seen the proportion of upheld complaints rise from 26% to 40% in only five years.

Establishing the minimum standards of safety, decency and fairness in prisons should also be a matter for Her Majesty's inspectorate of prisons. The Prison Reform Trust has argued that, on the purpose of prisons, we should also enshrine in statute the existing case law about what life in prison should be like, as set out in Raymond *v.* Honey in 1982, which states that prisoners retain all civil rights not taken away expressly by Parliament or by necessary implication of the fact of imprisonment, such as voting and freedom of movement. An annual reporting duty will be linked to the statutory duty of prisons.

Amendment 11 would insert the words

"for prisoners and prison staff".

Prison officers work in some of the most challenging conditions, and the Bill needs to focus on protecting them. We must ensure that their safety and working conditions are taken into consideration. In 2016 there were 25,049 assault incidents, which was up by 5,995 or 31%. That included 6,430 assaults on staff, which was up by 1,833 or 40%. No measures in the Bill impact on the likelihood of violence. An official statistics bulletin recognises the role of staffing cuts in the rising violence:

"The rise in assaults since 2012 has coincided with major changes to the regime, operating arrangements and culture in public sector prisons. For example, restructuring of the prison estate including staff reductions, which have reduced overall running costs, and an increasing awareness of gang culture and illicit psychoactive drugs in prisons."

On 15 November last year, members of the Prison Officers Association took national protest action over the failure of the National Offender Management Service to address concerns about health and safety before a court injunction required them to return to work. The POA said:

"The continued surge in violence and unprecedented levels of suicide and acts of self harm, coupled with the recent murder and escapes demonstrate that the service is in meltdown."

Staff morale is low and the statistics show that the number of prison officers continues to fall, and the leaving rate is increasing, in particular after one or two years' service, despite the recruitment efforts. Unless we recognise that prison staff—their rights and working

conditions—must be considered within the scope of the legislation, there is little prospect of prisons achieving their statutory purpose.

The Parliamentary Under-Secretary of State for Justice (Mr Sam Gyimah): Mr Brady, may I say how delighted I am to serve under your chairmanship on this historic day for our country? It is 65 years since the last major prisons Bill.

I am grateful to the Opposition for the points that they have made on the important issues of the debate, in which we are considering the statutory purpose of prison. From the outset, we should remember that prisons are there to deliver the sentences of the courts. As the Criminal Justice Act 2003 makes clear, one of the purposes of sentencing is to punish offenders, and of course this is important; but equally important is what we do with offenders when they are in prison.

The clause will make it clear in statute for the first time that the purpose of prisons should not only be to house prisoners, but include reforming prisoners and preparing them for a return to their community. Given the significance of that, I understand hon. Members' interest. However, before I respond to the amendments individually, it might be helpful if I touch on four opening points to show how the statutory purpose fits within the broader prison landscape, as this will come up with some of the subsequent amendments that we will be debating.

First, we are enshrining the purpose of prisons in statute, to provide a clear common purpose that everyone working in the prison system, whether prison officers, governors, the independent inspectorates or the Secretary of State, can unite behind. Secondly, we have prison rules set out in secondary legislation, and therefore approved by Parliament. The rules are there to ensure the good regulation and management of prisons, and to make provision for the classification, treatment, employment, discipline and control of prisoners. They are also there to ensure that prisons are run fairly and to provide a clear legal basis for any interferences with prisoner rights. I emphasise the importance of prison rules in ensuring that some of the more detailed arrangements of running our prisons are captured in legislation.

Thirdly, our reforms will sharpen accountability through the system. We are clarifying the distinction between the Secretary of State's role in managing the prison system as a whole and the operational running of individual prisons, which is for governors and their staff, as part of a new, operationally focused Executive agency, Her Majesty's Prison and Probation Service. As hon. Members will be aware, the Secretary of State made a written ministerial statement on the introduction of the Bill which set out the standards for which governors will be held to account. Of course, they include security, such as the number of escapes or absconds from closed prisons, but they also include progress made on getting offenders off drugs, progress in health and in maintaining or developing family relationships.

To hold governors to account for these new standards, they must be free to manage. We are freeing them up to deliver change and devolving key operational policies to them, a subject I look forward to discussing further in amendments on minimum standards. The new performance management regime works with the purpose and prison rules by ensuring that a clear line of sight exists between the purpose and the standards.

Fourthly, we are enhancing the transparency and scrutiny of our regime. We already publish data on a wide number of different topics, for example, safety and custody statistics but we will go further because we want the public to understand that progress is being made in our prisons, so we will publish data setting out how prisons are performing. Data on some of the new performance measures will be available from October, as data start to be made public on a quarterly basis, and the performance agreements will be published from the summer. We will also publish performance tables to show how individual prisons are performing against key safety and reform standards. The table will present the data in a format that the user can rank by standard. It will be populated as data become available.

Finally, we will discuss later our approach to strengthening the independent scrutiny of our prison system through the prisons and probation ombudsman and Her Majesty's inspector of prisons. All of that will contribute to assessing how the statutory purpose is being met.

As we consider the proposed additions to the purpose from the hon. Member for Bolton South East, it is important to consider whether they are rightly aims, or better suited to a different part of the new operational framework. I shall consider each in turn. Amendment 9 would replace "aim" with "adopt procedures and practices designed". Although I understand that the hon. Lady's purpose is to strengthen the clause, I am not sure I agree that it would do so. The Government consider that it is implicit in the drafted duty of "must aim to" that prisons must "adopt procedures and practices designed" to achieve those aims. As I have set out, the statutory purpose is designed to provide a common purpose that all parts of the justice system can unite behind. In my view, "aim" is a broader and more inclusive way of ensuring that all the different parts of the system can identify their role in meeting the purpose.

Amendment 10 proposes the inclusion of "decent and fair" in the purpose. I want to stress that of course the Government strongly believe that all prisoners should be treated fairly and with decency. It is absolutely right that decency and fairness are, and continue to be, essential elements of running prisons. That is why there is already a range of legal obligations to ensure that prisons are run in a way that is decent.

First, it is a general principle of public law that the public authority must act fairly with those whom it deals with. Many of the obligations we signed up to under the European convention on human rights, and which were incorporated into domestic law in the Human Rights Act 1998, are relevant to decency in prisons. For example, article 3 of the convention means that prisoners must be detained in conditions that are compatible with respect for their human dignity.

Prisons must, of course, comply with the Equality Act 2010 and ensure that they do not discriminate against a person with a protected characteristic, such as race or disability. That is also an important part of ensuring fairness and decency. Many of the minimum requirements that contribute to ensuring that prisons are run in a decent way are also set out expressly in

[Mr Sam Gyimah]

secondary legislation, in the Prison Act 1952 and principally in the Prison Rules 1999, which are secondary legislation approved by Parliament in the usual way.

The provisions are detailed and extensive and cover a wide range of requirements. For example, they include rules on checking cells and cell conditions; the provision of wholesome, nutritious food; hygiene; beds and bedding; and clothing adequate for warmth and health. In order to ensure that prisons are meeting those minimum standards, all prisons have an independent monitoring board that examines all aspects of prison life in order to ensure that prisoners are treated with fairness and decency. I argue that it is better to focus on ensuring that the aspects of a decent regime are included in the prison rules, rather than in the Bill. Prisons are already bound by legislation that requires them to act with decency and fairness.

Turning to fairness, there are a number of safeguards in place in the day-to-day running of prisons to ensure that the regime is fair. There is, of course, the general public law duty on prisons to act fairly and there are statutory requirements in place too. For instance, should a prisoner be charged with an offence against discipline, prison rule 54 provides that the prisoner

"shall be informed of the charge as soon as possible and…be given a full opportunity of hearing what is alleged against him and of presenting his own case".

Prison rule 45, on removal from association, requires extended periods to be authorised by someone who is external to the prison who can scrutinise the reasons for the segregation. Where a prisoner has exhausted the internal complaints procedure, he may direct a complaint to the prisons and probation ombudsman. The Bill puts the PPO on a statutory footing to ensure his permanence and give him statutory powers. I look forward to discussing the role of external scrutiny in prisons in more detail later.

It is, of course, vital that we treat prisoners with decency and fairness if we are to expect them to turn their lives around. I completely agree about the importance of ensuring that we do. However, I believe that it is not necessary to include such a provision in the purpose, because a requirement for a fair and decent regime already exists elsewhere in legislation.

Although amendment 11 raises a very important question, I am happy to confirm that we are confident that the clause already covers prisoners and prison staff without an explicit reference to both. There is a risk that including such a reference may inadvertently omit others working within or with prisons, such as charities, inspectors and civil servants, who also need to take account of the purpose while performing their duties. I therefore beg the hon. Lady to withdraw her amendment.

The Chair: The shadow Minister has already indicated that she wishes to press amendment 10 to a Division; it would be helpful if she indicated whether or not she wishes to withdraw amendment 9.

Yasmin Qureshi: I intend to press amendment 10 to a Division, but I beg to ask leave to withdraw amendment 9.

Amendment, by leave, withdrawn.

Amendment proposed: 10, in clause 1, page 1, line 14, after "safe" insert ", decent, fair".—*(Yasmin Qureshi.)*

This amendment requires the purposes of prisons to include decency and fairness.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 1]

AYES

Arkless, Richard	Qureshi, Yasmin
Burgon, Richard	Saville Roberts, Liz
Lynch, Holly	
McGinn, Conor	Smith, Nick

NOES

Gyimah, Mr Sam	Swayne, rh Sir Desmond
Heald, rh Sir Oliver	Tomlinson, Michael
Jenrick, Robert	Tracey, Craig
Opperman, Guy	Warman, Matt
Philp, Chris	

Question accordingly negatived.

Conor McGinn (St Helens North) (Lab): I beg to move amendment 1, in clause 1, page 1, line 14, at end insert—

"(da) maintain an environment where it is safe for prisoners to practise their faith."

This amendment guarantees the rights of prisoners to practise their faith in prison.

The Chair: With this it will be convenient to discuss amendment 2, in clause 1, page 2, line 7, at end insert—

"(da) ensure family and other supportive relationships are maintained and developed."

This amendment requires the Secretary of State to provide a prison chaplain in every establishment.

Conor McGinn: It is a pleasure to serve under your chairmanship, Mr Brady. This is the first Bill Committee I have participated in from the Back Benches, having sat through five or six on the Front Bench as an Opposition Whip, but I will resist the temptation to speak at length despite that. I should declare an interest of sorts as someone who was previously a prison chaplain and the UK director of the Irish Catholic Bishops Conference commission for prisoners overseas. During two years in that role, I visited dozens of prisons across England and Wales—as far north as Frankland, as far south as the Isle of Wight, as far east as Wayland and as far west as Parc. I am glad to say that I served in that role at the pleasure of His Eminence rather than Her Majesty, and that I was free to leave of my own volition at the end of the day.

9.45 am

I tabled amendment 1 primarily to allow the Committee to talk about the work of the prison chaplaincy, the vital role that it and faith play in our prison system and how we might enhance and support the work of chaplaincies and identify areas where it could be improved. The fundamental starting point for my amendment, which is about freedom to practise one's religion, is that the UK subscribes to the UN resolution of 1981 that

refers to the right to profess and practise religious faith privately and publicly. That wording seems particularly appropriate given the experience of prisoners in both those spheres.

Prison chaplaincy is already on a statutory footing. The Prison Act 1952 states:

"Every prison shall have…a chaplain".

I welcome the fact that the Government do not seek to alter that premise, but they might look at updating the wording slightly. At present, a chaplain or assistant must be a clergyman of the Church of England. As of the end of 2016, 338 full-time chaplaincy staff were employed by the National Offender Management Service. As my experience shows, a chaplain does not have to be a member of the clergy or a minister of faith, although it would be interesting to know what the breakdown is in that regard. It is estimated that between 700 and 800 volunteer chaplains work in the prison system, providing a range of chaplaincy services. Together, those chaplains play a vital role in the daily functioning of our prison system and the lives of prisoners and those who work in our prisons.

Like the prison population they serve, the role of chaplains has changed considerably in the past 20 years. The chaplaincy is now a diverse mix of faiths, cultures, ethnicities and languages. At the end of March 2016, just under 50% of the prison population defined itself as Christian—a decrease of 9 percentage points since 2002. Conversely, the proportion of Muslim prisoners increased from 8% in 2002 to almost 15% in 2016. Meeting those changing needs requires flexibility, co-operation and understanding, both in individual prison establishments and at director and ministerial level in the Ministry of Justice.

A prison chaplain charts a difficult course between being an employee of a prison, or at least there with the authorisation of the prison authorities, and being a confidant and support for prisoners, regardless—this is important—of the nature of their offence. A prison chaplain's role is not just about faith; it is a pastoral role. As one prison officer put it,

"we are there to watch prisoners, chaplains are there to listen to them."

A seminal study on prison chaplaincy by Rev. Dr Andrew Todd and Dr Lee Tipton from Cardiff University's Centre for Chaplaincy Studies stated that

"a core value of chaplaincy lies in the provision of a distinctive humanitarian pastoral care…which stems from the faith understanding of chaplains, rooted in the great spiritual traditions."

That is provided not just to prisoners but to prison staff and prisoners' families. I have seen the value of positive family relationships in helping prisoners turn their lives around. In many respects, the families of offenders, including 200,000 children in 2016, serve a hidden sentence. Chaplains often step into the role of family members for prisoners who are held in isolation or at great distance from their families, but they are no substitute for regular family contact, which well-established evidence suggests reduces the risk of reoffending by almost 40%. The Government must ensure that chaplains are there to support family contact, not replace it.

Prisoners trust prison chaplains. Recent research found that 90% trusted their chaplain in their prison establishment, but almost a quarter had difficulty seeing their chaplain. Much of that is down to timetabling issues or prisoners not being let out of their cells. Prison chaplaincy can often be disconnected from prison infrastructure, centrally and in individual establishments. It is worth looking at better integration across the estate as a whole, and between chaplain co-ordinators and the senior management team in individual prisons.

We are all acutely aware, in particular at this time, of the dangers of radicalisation and extremism in prison. I learned more about other religions and denominations during my work in prisons than throughout the rest of my life. It led me to much greater ecumenism in my own faith. I remember receiving my ashes on Ash Wednesday from a female Anglican chaplain at Downview women's prison—I am glad my daily-communicant grandmother is not alive to hear that, and I hope that the cardinal is not listening. I also learned to understand other faiths that I had not known, Islam in particular. I am not sure that I would have had the confidence to greet my Muslim constituents with "Salaam alaikum", or to talk to them about the great peaceful philosophy of their faith, without learning what I did from imams and Muslim prison chaplains.

The Muslim community and chaplains themselves know, however, that there is a problem with the misrepresenters and malevolents who pervert their great faith to urge young men in prison to pursue a nihilistic and violent path. I urge the Government to look for co-operation between local mosques and prisons, and to ensure that volunteer chaplains, in particular, are properly vetted and monitored, alongside the literature they distribute, and that they play a full part in an integrated, multi-faith chaplaincy.

In closing, I pay tribute to all prison chaplains, who give such great witness each day in their work to the most isolated, the most vulnerable, the most in need, and yes, in some cases, the greatest of sinners. I am sure that the Government have heard what I have said this morning, and I look forward to hearing from the Minister.

Mr Gyimah: I thank the hon. Gentleman for raising this important topic. As hon. Members are aware, there is already legislative provision in the Prison Act 1952 to ensure that every prison has a chaplain. The hon. Member for St Helens North asked for some information at the start of his speech on the amendment, and I will write to him with the breakdown requested.

Prisons are committed to enabling prisoners to practise their religions, and all prisons have multi-faith chaplaincy teams to facilitate and enable them in the practice of their faith. Secondary legislation, in prison rule 15, provides for regular visits to prisoners by ministers of religion. If a prisoner belongs to a denomination for which no minister has been appointed at a particular prison, the governor must arrange for visits by a minister of that denomination.

Instructions and guidance on religious practice in prisons is set out in Prison Service instruction 5/2016, "Faith and Pastoral Care for Prisoners", which includes specific information on a wide range of religions and beliefs. The PSI was developed in consultation with NOMS faith advisers and includes specific information on the requirements to practise each religion. For example, the PSI requires that prisoners have the opportunity for corporate worship for one hour per week led by the relevant faith chaplain. For numerically smaller faith

[Mr Gyimah]

traditions, there is scope for prisoners to meet together under supervision, in the absence of the faith chaplains if needs be.

The PSI also makes provision for informal, unsupervised worship, religious study or meditation so that prisoners can also practise their faith in their cell, and they may have key religious artefacts and scriptures in their possession. Prisons will also meet the religious dietary requirements of prisoners, and prisoners are able to observe key religious festival dates. Given that those provisions and existing legal protections are clearly in place, I hope that the hon. Gentleman will withdraw his amendment.

Conor McGinn: I thank the Minister for his response.

Yasmin Qureshi: I just want to say that we support the amendments. Religion is important for many people. Safe provision of and access to religious faith leaders, whether a chaplain, an imam or whoever, are also important.

Conor McGinn: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Michael Tomlinson (Mid Dorset and North Poole) (Con): I beg to move amendment 3, in clause 1, page 1, line 14, at end insert—

"(da) ensure family and other supportive relationships are maintained and developed."

This amendment includes maintenance of family relationships in the purpose of prisons.

It is a great pleasure to serve under your chairmanship, Mr Brady. I am grateful to the hon. Member for Stretford and Urmston (Kate Green) for adding her name to the amendment. On Second Reading I challenged the Minister to consider whether issues of family ties and strong personal relationships should be in the Bill. That is why I have tabled the amendment.

As the hon. Member for Stretford and Urmston said on Second Reading, there was a huge amount of cross-party consensus on the importance that family plays in prisoners' lives. I do not know whether you have had a chance to look at each and every word of that debate, Mr Brady, but the words "family" and "families" appear 80 times—more than the word "rehabilitation" and almost as often as the word "reform". That indicates how important all parties consider the role that families should play in prisoners' lives. There is a strong connection between all three: rehabilitation, reform and maintaining family links.

The hon. Member for St Helens North mentioned research showing the just under 40% rehabilitation rate. That is absolutely right, and it is from the Ministry of Justice's own research that was commissioned in 2008. A very simple question was asked of a sample of just under 5,000 prisoners: did you receive a prison visit from family members? Of those who indicated yes, there was a 39% lower chance of their reoffending than those who had not received a prison visit. That is compelling evidence of the importance of maintaining close family ties.

Hon. Members who attended the Second Reading debate will remember the hon. Member for Bridgend (Mrs Moon) describing the work at Parc prison, also mentioned by the hon. Member for St Helens North. We heard of the life-changing outcomes of the work at HMP Parc, which is being adopted across the world. We want all of our prisons to carry out the work that is done so well in that prison, but family work has been frustratingly elusive to date. I say "frustratingly" because, of course, the issue was pointed out by Lord Woolf when he conducted his inquiry over 25 years ago; the importance of maintaining close family ties was one of his report's 12 recommendations.

Having visited HMP Wandsworth and HMP Coldingley, I am conscious of the impact that reform prisons can play generally and in relation to family work. One of the first fruits of that devolution is that governors will have control over their own family service budgets. I welcome the clear intent from the Ministry of Justice to prioritise family relationships. I also welcome the appointment of Lord Farmer to draw up a much-anticipated report on the importance of family work. I believe that would be greatly strengthened if the Minister considered including that aspect in the Bill.

The Minister mentioned prison rules. Rule 4 already mentions families, so I ask him to consider that there is still inconsistent application of those rules, hence the variance across our prison estate. I would welcome his comments on that. Where respect for prisoners' family ties permeates a prison, that can be instrumental in both prisoner reform and prison safety, which many hon. Members have mentioned. I ask him to consider including this matter in the Bill, but I stress that this is a probing amendment.

10 am

Mr Gyimah: In responding to amendment 3, I stress at the outset that the Government attach huge importance to prisoners, in the vast majority of cases, developing and maintaining supportive family relationships, which are critical to rehabilitation and reducing intergenerational crime. Families can play a significant role in supporting an offender. They are the most effective resettlement agency once a prisoner has been released, and research has found that prisoners who report improved family relationships over the course of their sentence are less likely to reoffend after release. Positive family relations have been identified as a protective factor in helping prisoners to turn their backs on crime.

Lord Farmer, working in partnership with Clinks, was commissioned to chair a working group to investigate how supporting men in prison in England and Wales to engage with their families could reduce reoffending and assist in addressing intergenerational crime. The Government will consider his findings and respond in due course. The evidence that his review has gathered will allow governors to deliver a local offer that best meets the needs of their respective prisoner cohort, thereby helping them to improve family ties.

However, the Government's view is that maintaining and developing family relationships is already covered by paragraphs (b) and (c) of what will be new section A1 of the Prison Act 1952 when the Bill becomes law. Requiring prisons to aim to reform and rehabilitate offenders and to prepare prisoners for life outside prison

is intended to capture a wide range of activity that is rehabilitative and helps to reduce reoffending. Maintaining family relationships is critical to both those aims.

I can also confirm that the role of the family is already contained in secondary legislation, as my hon. Friend the Member for Mid Dorset and North Poole pointed out. Prison rule 4 already ensures that "special attention" is paid to the maintenance of family relationships, so long as they are in the best interests of both prisoner and family. Furthermore, rule 4 ensures that both encouragement and assistance is provided for prisoners in establishing relationships with those outside prison that will best promote the interests of his family and his own social rehabilitation.

An explicit reference to the maintenance and development of family relationships for that purpose ignores the fact that, for some prisoners, such as violent domestic cases, that would not be appropriate and therefore should not be pursued. Family relationships are already covered in the aims, with important detail contained in prison rules. That strikes the right balance between the overarching aim of the system and the detailed way in which the management of the prison should be carried out.

Let me be clear about the importance of family ties and relationships. Lord Farmer refers to that as a golden thread that runs through prison life, which is why from autumn 2017 governors will control budgets for family services, such as visitors' centres, family engagement workers and family learning, which includes parenting skills classes. Those reforms will help governors to improve the way in which prisoners can engage with their families. Governors will therefore be able to respond flexibly to the particular needs of their local prison population in order to put in place the programmes and services that will be of most benefit. They will be able to deliver a local family offer that best meets the needs of their prisoners, helping them to develop and maintain positive family ties and reducing the risk of reoffending.

My hon. Friend rightly said that we need consistent practice across the estate. The ideas that Lord Farmer has generated, which we are considering, will help to deliver such consistency. I hope that I have provided my hon. Friend with the necessary reassurance and ask him to withdraw his amendment.

Yasmin Qureshi: We support the amendment. I assume that the hon. Member for Mid Dorset and North Poole tabled it because although everybody says that it is important for offenders to maintain family relationships, in reality that is not happening. We find that many a time the offender is locked away in a prison about 300 miles away from his or her family, and the families are unable to visit either because of the great distances involved or because they cannot afford to travel several hundred miles or find the time to go—they may have young children or be elderly. There are all sorts of issues. Therefore, in reality families are unable to maintain contact with the offender, and the offender is unable to maintain contact with their family.

A number of constituents have come to me about this. A young woman has just had a second child, the husband has gone to prison and he has never seen his baby. She wants the father and the child to know each other, but because the distance to travel is so great and it is often so costly, in reality that is not happening. I ask the Government and the Prison Service to think about that. It is all very well saying, "Let's maintain family relationships," but we must ensure that the resources are there so that relationships can be maintained. Retransferring prisoners, perhaps to a location near to their home, if possible, should be considered urgently. I know from trying to get prisoners moved from one prison to another that it is an almost impossible task. It is all very well in theory, but we need something in the prison reforms to take place in practice.

By seeking to enshrine this provision in law, the hon. Member for Mid Dorset and North Poole is flagging up the importance of family relationships and ensuring that everyone is mindful of it. That is why we support the amendment.

Mr Gyimah: I want to make a couple of brief points. I acknowledge what the shadow Minister said about prisoners sometimes being located a long way away from their families. One of the facts about prison life is that prisoners often have to be moved. Sometimes prisoners want to be moved of their own volition, for example if they get into debt in prison or they are being bullied, and sometimes they do things that require them to be moved. At other times, for example if there is a major disturbance in a prison, it makes sense to disperse prisoners to deal with it. When that happens, we have the assisted visits scheme for those families who need help.

As we embark on reorganising the prison estate, we will be designing flexible facilities so that families can visit more easily, and the prisoner's journey throughout their sentence will be organised in such a way that prisoners spend as much time as possible close to where their families are. That said, that is not always possible because prison life is incredibly complex. However, I take on board the points made by the shadow Minister.

Michael Tomlinson: I have listened carefully to the Minister and am grateful for his considered response to my amendment. All I ask is that when Lord Farmer's report is widely disseminated, he does not close his mind to the possibility of the amendment's wording being in the Bill. Obviously that will depend on timing. At present I am content not to press the amendment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): I beg to move amendment 4, in clause 1, page 1, line 14, at end insert—

'(e) provide for the wellbeing and healthcare of offenders, including treatment for drug and alcohol misuse and assuring access to continued relevant support upon release.

(f) liaise with the Probation and other relevant services to ensure coordinated rehabilitation of offenders.'.

This amendment ensures that it is within the purpose of a prison to ensure offenders receive the appropriate physical and mental healthcare, as well as necessary rehabilitative support upon release.

The Chair: With this it will be convenient to discuss amendment 12, in clause 1, page 1, line 14, at end insert—

'(da) maintain and promote physical and mental health of prisoners.'.

This amendment requires the purposes of prisons to include the wellbeing of prisoners.

Liz Saville Roberts: The amendment concerns the wellbeing and healthcare of offenders, the relationship with bodies such as probation and the co-ordinated rehabilitation of offenders. Despite reforms, the evidence is clear that the physical and mental healthcare we offer our prisoners still needs to be addressed. The purpose of prisons is undoubtedly to protect the public, rehabilitate and keep prisoners safe and prepare them for a life outside the institution. I welcome the inclusion of those concepts in this part of the Bill. However, it seems to be an obvious omission not to recognise specifically prisoners' healthcare needs, both mental and physical. Equally, although the need to prepare offenders for life outside of prison is stated in the Bill, there seems to be somewhat a lack of foresight when it comes to expressing how prison should ensure a smooth transition into our communities by liaising with external organisations.

Let me inform the Committee of the statistics on healthcare: prisoners are 12 times more likely to suffer a personality disorder and 16 times more likely to suffer from psychosis; 10% to 14% of prisoners suffer a major depressive illness; two out of three have a personality disorder; seven out of 10 have alcohol abuse issues; and a third have a drug addiction on entry. I shall raise hepatitis C specifically under a later amendment.

The Government's own regulator on the standard of healthcare in prisons, the National Guideline Centre, which is funded by the National Institute for Health and Care Excellence, said last year that it had become clear that healthcare provision in prisons was typically poorer than in the general community and not sufficient to meet prisoners' needs. If we do not recognise that most basic of obligations, healthcare in prisons is likely only to slide. That in turn will mean a risk of significantly worse outcomes, both for offenders in prison and those leaving prison. By not recognising the need for a prison to cater for the basic needs of its inmates, we will continue to fail to address key issues that contribute to criminal and disruptive behaviour inside and outside prisons, which of course will only burden the state further in the long run.

The amendment would add new paragraph (f) to proposed new section A1 of the Prison Act 1952; that relates to the need for prisons to look outwards as well as inwards, to properly reintegrate offenders back into communities. The Bill indicates that it is entirely within the prison that an inmate will become proficient in skills and learn to deal with demands in the way that reintegration requires. The reality is of course very different. A prison must liaise with a plethora of organisations across the public, private and third sectors to ensure that offenders have the best possible chances of reintegrating. New paragraph (f) would ensure that that reality was reflected in the Bill.

I recognise, of course, that clause 1 could become a list as long as my arm; however, I feel that the two relatively modest additions in the amendment would reflect the necessity and reality of the way modern prisons function, which is not, of course, in isolation. I will not press the amendment to a vote now, but I hope that the Government will give it proper consideration and a full response.

Mr Gyimah: The Government are very aware of the serious challenges that mental health, drug and alcohol issues pose for offenders and the prison system. The Ministry of Justice is committed to working closely with my colleagues at the Department of Health, NHS England and Public Health England, to help to provide the right support and healthcare in prisons.

There is already a statutory underpinning to the health of prisoners; ensuring that prisons are safe is already one of the aims contained in the statutory purpose. Our duties under the Human Rights Act 1998, which, as I have said already, incorporates the European convention on human rights, are also relevant to prisoner wellbeing and healthcare. For instance, under article 2 we must take active steps to prevent suicide and self-harm in custody. Under article 3 prisoners must be detained in conditions compatible with respect for their human dignity and not be subjected to distress or hardship that goes beyond the suffering inherent in detention; the article also requires that, given the practical demands of imprisonment, prisoners' health and wellbeing should be adequately secured.

There are also already many processes and protections in place in prisons to protect prisoners' health. For example, health needs assessments help to ensure that accurate information is available on the provision of healthcare needed in each prison; and we are introducing new training for prison staff, including awareness training on supporting prisoners with mental health issues, so that governors and staff better understand the mental health issues of the prisoners they are helping to support.

As set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012 and regulations, healthcare in English prisons is commissioned directly by NHS England. That is important because it is right that healthcare in prisons should be delivered by clinical experts. Governors do not have the qualifications or the capability to make clinical decisions about patients, so it is right that responsibility for those decisions should lie with those professionals who can ensure that patients receive the best care.

Governors are already under a legal duty, under prison rule 20, to work in partnership with local healthcare providers to secure access to the same quality and range of services as the general public receive from the national health service. Part of that involves making sure that governors facilitate access to the healthcare provided by NHS England, including giving security clearance to the right people and providing escorts to appointments. However, as set out in the Government's "Prison Safety and Reform" White Paper in November 2016, we want to go further.

10.15 am

Governors need to be able to work alongside NHS England to commission and tailor services to fit the needs of their prison. That is why we are putting in place enhanced co-commissioning arrangements, to ensure that NHS England continues to secure universal parity of healthcare for prisoners and that clinical decisions are properly overseen by those qualified to make them, while ensuring that governors work in partnership with health commissioners to commission services that fit their own prisoners' health and mental health needs. Co-commissioning enables governors to influence commissioning decisions where they have identified particular needs related to their prison, while ensuring that NHS England retains overall responsibility for universal healthcare and maintaining clinical standards.

My Department will always have a considerable interest in the health of offenders, and I assure the Committee that this area will remain an important priority for the Government.

Listed under "Purpose of prisons" are:

"(b) reform and rehabilitate offenders,

(c) prepare prisoners for life outside prison, and

(d) maintain an environment that is safe and secure".

It is my view that three of the four purposes cannot be achieved without regard to the health, wellbeing and mental health of offenders; it is implied in the Bill. Rehabilitating offenders includes, for example, looking at drug and alcohol misuse: anyone would want to do so to rehabilitate them. It has to happen in prison but often also when offenders leave prison and are supervised by the probation services.

More broadly, preparing prisoners for life outside prison has to take these things into account. The Bill focuses on the system as a whole—the "what". The "how" is how governors and other agencies in the system deliver the purposes. So I hope that hon. Members will agree that the prison purpose already requires us to take offenders' physical and mental health seriously.

As we heard in the evidence session yesterday, all the panellists agreed that having a long list here would defeat the purpose of having a common aim in statute. A prison that aims to be safe will ensure that offenders' physical and mental health needs are addressed, and a prison that aims at rehabilitation and preparing prisoners for life outside prison will ensure that offenders are given the support they need to address their health, substance abuse or alcohol dependency issues. I hope that hon. Members will be persuaded that the Government are committed to prisoners' mental and physical health and that they will withdraw the amendment.

Yasmin Qureshi: Although everyone is aware that, theoretically, prisoners are treated for drug or alcohol misuse, in reality it is not happening. In reality, substance abuse is leading to more disturbances in prison and, of course, causing much reoffending. We are spending something like £16 billion tackling reoffending, so something is not going right. Many people are coming into prison because they are addicted to drugs or alcohol. I remember from my 20 years of prosecuting and defending in the criminal law that many of my clients and some whom I was prosecuting, often involving domestic violence, for example, were there because one partner was normally drunk and, in an argument, would start hitting out at their partner.

Young people I would see, who were often committing what we would call low-level offences—although I do not like to use that term—were often addicted to drugs. So, for example, they might be walking past a car with a door open or a window down, and if they saw a purse, they would take it; or they might break a window, take a purse and run off with it because they needed the money; or a mobile phone, which they could sell to get money to feed their drug addiction. In the same way, if they walked past a house with an open door and nobody seemed to be there, they often thought it was an ideal opportunity to go in and steal. I am not making excuses for anyone, but that is the reality of how things happened.

Why did those people do those things? Because they were addicted and they needed to find money quickly. They needed to sell something and get their next fix, to use a colloquialism. Therefore, as I think everyone knows, a lot of people who come into prison already have substance or alcohol abuse problems, and they still have those problems when they leave prison. It is therefore appropriate for the Committee properly to consider this issue, so we very much support the amendment moved by the hon. Member for Dwyfor Meirionnydd. It is one thing to say what should happen in theory, but that is not happening in reality. In reality, there is not enough provision in the Prison Service to deal with substance and alcohol abuse, and we know that that causes reoffending and violence. This really important issue needs to be addressed.

Mr Gyimah: I thank the shadow Minister for her points; I will make a couple of brief points in response. I agree that the level of violence—particularly violence related to the use of new psychoactive substances such as spice and mamba—is too high. In September, we rolled out a new drug test for psychoactive substances—the first and only such test in the world—so we are aware of the issue and we are dealing with it.

We are all aware that prisons are difficult places with some very difficult people to manage. The question is whether we need provision in the Bill to manage these issues. I contend that we need effective practice. When it comes to mental health, for example, we should ask whether processes work well in every prison and whether our prison officers are properly trained to identify how people present when they have mental health problems. I spoke to one of the people who works in our prisons about these issues, and they said that when a prisoner has a mental health problem or is considering taking their life, they enter a dark place and seek to cover their tracks and not really show what is happening internally. These are issues that we really need to train people on the ground to deal with.

I suggest that the amendment be withdrawn. This is about effective practice on the ground. We are alive to these issues, and we will get to grips with them by empowering governors to work closely with the agencies that matter, rather than by adding another list to the Bill.

Liz Saville Roberts: I thank the Minister for his comments. I note that he referred exclusively to NHS England. Healthcare is devolved in Wales; prisons are not. That in itself raises the question: to what degree are we consistent in our approaches, and does this issue really need to be raised?

Others eloquently made the point that mental health problems and alcohol and drug addictions are so significant among the prison population that their treatment is surely critical to both rehabilitation and reducing reoffending. The Bill refers to prisons aiming to

"maintain an environment that is safe and secure."

That does not seem to fully reflect the gravity of the situation, which we need to respond to. I hope that the Government will consider that. However, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 12, in clause 1, page 1, line 14, at end insert—

'(da) maintain and promote physical and mental health of prisoners.'—*(Yasmin Qureshi.)*

This amendment requires the purposes of prisons to include the wellbeing of prisoners.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 2]

AYES

Arkless, Richard	Qureshi, Yasmin
Burgon, Richard	Saville Roberts, Liz
Lynch, Holly	Smith, Nick
McGinn, Conor	

NOES

Gyimah, Mr Sam	Swayne, rh Sir Desmond
Heald, rh Sir Oliver	Tomlinson, Michael
Jenrick, Robert	Tracey, Craig
Opperman, Guy	Warman, Matt
Philp, Chris	

Question accordingly negatived.

Yasmin Qureshi: I beg to move amendment 13, in clause 1, page 1, line 14, at end insert—

'1A Cooperation with agencies

(1) The Secretary of State has a duty to co-operate with other agencies and bodies whose functions are relevant to the purpose outlined in section (A1).

(2) For the purposes of subsection (1), agencies and bodies must include—

(a) local authorities,

(b) the National Probation Service,

(c) Community Rehabilitation Companies, and

(d) any agency which provides to offenders the following—

(i) housing,

(ii) education,

(iii) employment,

(iv) health care,

(v) treatment for addiction,

(vi) mentoring for offenders, or

(vii) support to families of offenders.'

This amendment requires the Secretary of State to co-operate with other agencies to fulfil the purpose of prisons.

It is vital that agencies work together to provide the best context in which to avoid reoffending. Many of the solutions to offending lie outside prison walls, in education and training, health and social care, accommodation and family support. A duty to co-operate introduced under amendment 13 would establish clearly in statute the vital importance of agencies working together to achieve the purposes of prison, and bind them to it.

The newly formed community rehabilitation companies are responsible for "through the gate" provision, but a recent joint inspection by Her Majesty's inspectorates of probation and of prisons into the through-the-gate resettlement services found that the CRCs

"are not sufficiently incentivised under their contract arrangements to give priority to this work. Payment is triggered by task completion rather than anything more meaningful. Additional financial rewards are far off and dependent on reoffending rates that are not altogether within the CRC's gift. CRC total workloads (and therefore income) are less than anticipated when contracts were signed. As CRCs continue to develop and adjust their operating models accordingly, CRCs are hard-pressed and are generally giving priority to work that is rewarded with more immediate and more substantial payment."

Most concerning, the report also found:

"Too many prisoners reached their release date without their immediate resettlement needs having been met, or even recognised."

The problems associated with CRCs are only exacerbated by the lack of co-ordination between relevant agencies. For example, housing is a crucial issue, with up to two thirds of prisoners requiring support to find housing once released. However, the inspectorates' report found that prisoners did not know who would help them, what that help would consist of and when they would know what had been done. Many applications for housing made by those responsible were standard applications to local authorities.

At a recent meeting of the all-party parliamentary group for ending homelessness, however, when we were considering prison leavers, all the witnesses agreed that local authorities regard housing former inmates as a low priority. Furthermore, the APPG found:

"Local authorities do not record people who become homeless immediately after leaving prison and we do not know the scale of prison leavers who are hidden homeless."

The Bill should attempt to overcome such lacuna by mandating closer co-operation between all relevant agencies.

On mental health, it is crucial to consider the effect of leaving prison on former inmates. A report published in 2013 found that

"those leaving prison are almost seven times more likely to commit suicide than the rest of the population".

Michael Tomlinson: The hon. Lady mentioned the APPG for ending homelessness. Has she had a chance to consider the Homelessness Reduction Bill, on the Bill Committee for which I had the privilege to serve? It was a private Member's Bill, and I believe that it has just completed its passage through the Lords as recently as last week.

Yasmin Qureshi: Any additional legislative reform is welcome, but problems still exist, which I am speaking to. In April 2016, the Centre for Mental Health published a report, "Mental health and criminal justice", which called for a new concordat between different Government agencies, so that they can join together better to help people leaving prison.

10.30 am

Mr Gyimah: The amendment is about a duty for the Secretary of State to co-operate with other agencies and bodies whose functions are relevant to the purpose outlined in the Bill. There are already well-established ways of working between governors and different agencies and bodies, some with their own pre-existing legislation. For example, the multi-agency public protection arrangements provide a process through which the police, probation and prison services work together with other agencies to manage the risks posed by violent and sexual offenders living in the community, in order best to protect the public. Probation is one of the represented

bodies, along with the police, local authorities, fire and rescue authorities and health, represented on community safety partnerships, which were set up under the Crime and Disorder Act 1998. The responsible authorities work together to protect their local communities from crime and help people feel safer.

Chris Philp (Croydon South) (Con): Will the Minister confirm whether the Prison Service also works closely with the Home Office to ensure that we act quickly to deport foreign national offenders at the end of their sentences?

Mr Gyimah: I assure my hon. Friend that we work closely with the Home Office, which is ultimately responsible for deportation. The Prison Service has to facilitate its work in prisons. There is a lead Ministers group, including Ministers from the Home Office, the Foreign Office and the Department for International Development, which meets regularly to discuss all the issues about moving foreign national offenders under various schemes.

New legislation is not needed to ensure that co-operation between governors and other agencies and bodies continues; governors do that on a daily basis to ensure that different services, from education and employment to healthcare, are carried out. That can be seen in the relationships with employers, such as Timpson and Halfords, which run academies within prison to train offenders for employment on release, and in formal arrangements with NHS England to ensure that prisoners have access to the healthcare they need. We are introducing new performance measures to hold governors to account for their performance in a wide range of areas, including education and housing, and we expect governors to work closely with other agencies and bodies to do that.

The hon. Member for Bolton South East mentioned probation and, in particular, the community rehabilitation companies. I assure her that we are going through a probation system review and will publish the results shortly. That will deal with some of the challenges she outlined. Furthermore, the National Probation Service—as opposed to the community rehabilitation companies—is already covered by Her Majesty's Prison and Probation Service, so the amendment would have the effect of creating a duty for the Secretary of State to co-operate with herself. We already have a formal contract with CRCs, so it would be unnecessary to create an additional duty to co-operate. I therefore urge the hon. Lady to withdraw the amendment.

Yasmin Qureshi: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Yasmin Qureshi: I beg to move amendment 14, in clause 1, page 2, line 7, at end insert—

"(2A) The Secretary of State must by regulation set minimum standards required to achieve the purpose as detailed in section (A1).

( ) Minimum standards in subsection (3) set under these regulations must in particular include, but shall not be restricted to, the following—

(a) overcrowding of prison cells,

(b) prison staff to prisoner ratio,

(c) access to appropriate and education,

(d) access to health care,

(e) access to time in open air,

(f) weekly time spent in locations other than cells, and

(g) Equality Act 2010 requirements."

This amendment requires the Secretary of State to set minimum standards to achieve the purposes of prisons.

The Bill should require minimum standards in relation to the purposes of maintaining safety and decency. According to Silvia Casale's 1984 publication "Minimum standards for prison establishments: a NACRO report", the setting of those standards by the Secretary of State should establish

"certain basic conditions of life to which any human being is entitled as of right as bare minima while taking into account that a prisoner has forfeited for a period the right to liberty and that the punishment consists in, and is defined as, that deprivation".

The two areas of major concern to us are overcrowding and understaffing. At the end of February 2017, 77 of the 116 prisons in England and Wales were overcrowded. Overcrowded prisons currently hold 9,676 more people than they were designed for. People have to double up in cells to accommodate the additional numbers, and that means that almost 20,000 people—nearly one quarter of the prison population—still share cells that are designed for fewer occupants, often eating their meals in the same space as the toilet they share. The prison system as a whole has been overcrowded every year since 1994. That is largely driven by a rising prison population, which has nearly doubled in the past two decades.

It is also concerning to note that in February the Ministry of Justice stopped the publication of the monthly overcrowding figures; for many years it has published monthly figures on individual prisons' populations. The term "overcrowding" has already been rebranded as "crowding" by the Ministry, and now that vital indicator has been downgraded to an annual publication. The Government's White Paper on prison safety and reform outlines the ambition for a "less crowded" estate, but contains little by way of concrete proposals to achieve that aim. Giving evidence to the Justice Committee, the chief executive of the National Offender Management Service, Michael Spurr, said that overcrowding would not be resolved in this or the next Parliament.

Analysis conducted by the Prison Reform Trust shows a correlation between levels of overcrowding and prison performance. In the past three years the proportion of prisons rated "of concern" or "of serious concern" by the Prison Service has doubled—the number now stands at 31 establishments. The number of prisons rated "exceptional" has actually plummeted from 43 in 2011-12 to just eight in 2015-16. Overcrowding can affect the performance of prisons in a number of ways, and it can impact on whether activities, staff and other resources are available to reduce the risk of reoffending. Inspections regularly find a third or more of prisoners unoccupied during the working day because prisons hold more people than they should. Overcrowding makes it more likely that basic human needs will be neglected, with key parts of prisons such as showers, kitchens, healthcare centres and gyms facing higher demand than they were designed for.

Overcrowding also has a significant impact on where prisoners are held and their ability to progress in their sentences. Every day, prisoners are bussed around the country to more remote locations just to make sure that every last bed space is filled. Prisoners progressing well

[Yasmin Qureshi]

are suddenly told that they have to move on, regardless of their sentence plan or where their family and loved ones live. Overcrowding is not just a case of two people being forced to share a space and toilet facilities designed for one; it also affects whether a prison has the appropriate activities, staff numbers and other resources necessary for the size of its population and to reduce the risk of reoffending.

The Government need to deliver a comprehensive strategy on prison reform to reduce overcrowding and the pressures on the system. The amendment would require the Secretary of State to develop one, and to outline the progress in meeting it. If the Secretary of State does not do that, there is little hope of prisons meeting the statutory aims outlined in the Bill. One of our top priorities is that we believe it is absolutely necessary to establish an appropriate ratio of prison officers to inmates.

Michael Tomlinson: Has the hon. Lady had the chance to consider the evidence of Martin Lomas, who was specifically asked about that yesterday? He said that a ratio would be "a crude measure" and that instead it is the quality that matters. Has she had a chance to reflect on that evidence?

Yasmin Qureshi: I sat through the sitting yesterday and heard what he said. With respect to him, I think that is quite a simplistic approach. Of course we recognise the fact that different categories of prisons might require different ratios, but that does not mean we cannot aim for one. Let us face it, it is common sense that if there is one prison officer looking after 12 prisoners, that is not right. Trying to work out a ratio is, in fact, very important.

Conor McGinn: I wonder whether the deputy chief inspector of prisons would think differently about the crudeness of the measure if he had to do a shift on a wing, rather than a visit.

Yasmin Qureshi: That is absolutely right. The reality is that prisoner ratios can be worked out. Obviously, I accept that the relationship might be different for category A and category C prisons. However, if we think about how many prisoners there are, the kinds of prisoners and the offences they are in for, it is not beyond human imagination to work out realistic figures.

The prison population has been stable, at around 85,000. At the same time, a number of prisons have closed and prison officer numbers have reduced from around 25,000 to less than 18,000. The latest National Offender Management Service workforce statistics, published in February 2017, show that there was a reduction of 6,450 band 3 to 5 officers between 31 March 2010 and 31 December 2016. The White Paper proposes recruiting 2,500 new prison officers. However, the chief executive of the National Offender Management Service, Michael Spurr, confirmed to the Justice Committee in November that the service would need to recruit more than 8,000 officers over two years to achieve a 2,500 increase, due to failure to retain staff.

NOMS statistics show that there has been a fall in officer numbers over the past 12 months. The latest calculation of the leaving rate among band 3 to 5 prison officers is 9%, which is an increase of 1.5 percentage points compared with the year ending March 2016. The shortfall of band 3 to 5 officers in post to the target staffing level at 31 December 2016 was 983, an increase of 1 percentage point from 4.3% in September 2016. Over half of prison establishments had a deficit of 5% or more.

Clearly the Government's supposed recruitment drive is failing. Statistics show that only 18 establishments employ a full complement of band 3 to 5 officers. Some 89 prisons are operating with frontline staffing below that set through the benchmark process, and the data show that only 14 establishments are operating above their benchmark level for operational support grades, with 93 operating below that. Without a sufficient number of officers, there is no possibility of each prisoner being allocated a designated member of staff who will be responsible for their welfare while in prison.

In his annual report, Her Majesty's chief inspector of prisons, Peter Clarke, said:

> "Some prisons still operated temporarily restricted regimes to cope with chronic staffing shortages".

Staff reductions mean regular use of restricted regimes, preventing prisoner access to recreational and rehabilitation services, such as physical exercise, education and training. That would lead to a number of prisoners facing depression and mental health issues, exacerbated by the fact that they are being locked up for, say, 23 hours a day. There are no measures in the Bill to deliver better rehabilitation services in prison or to address problems in the probation service. The major point is that without more staff, the statutory purposes of prisons will be unachievable.

Most alarming of all are the increasing levels of violence that have accompanied reductions in staff. Prisons have become dangerous places to work and dangerous for inmates. That is not acceptable. There were 37,784 reported incidents of self-harm to June 2016—up by 6,967, or 23%. We know that more and more assaults are happening in prisons. We need to ensure that the rise in assaults is dealt with. Overcrowding is causing so many problems in the Prison Service. We will revisit that subject when we come to new clause 8.

10.45 am

Richard Arkless (Dumfries and Galloway) (SNP): Setting a benchmark in relation to prison cell overcrowding is an admirable objective, but will the hon. Lady be so kind as to delve into the policy aspects that would make that benchmark obtainable? We would need to create more prisons, let people out or have some kind of assumption against short sentences, which we think is a good idea.

Yasmin Qureshi: How many people we send to prison is clearly an issue. Many argue that there has been sentence inflation in the last number of years. There are two approaches. The Secretary of State could say that she does not want to look at prison sentencing reform in the sense of either reducing prison numbers or sentence inflation. In that case, we need to build a lot of prisons and recruit a lot of people to man them. The other option is to look again at sentences and the question of whether people who are in custody should be. As a senior judge recently said, community service orders, which could be stringent, could be made more widely

available. Presumably that would require the Sentencing Council to revisit sentencing issues, which of course is one of the political issues.

It would be good if the Government thought about sentence inflation. We know from the last number of years that more offences now have longer custodial sentences than 20-odd years ago when I started work. As a result, there are more people in prison. If we want to have a policy of incarcerating people, we must ensure that there are enough prison spaces and enough people there to look after them—and to deal with the rehabilitation side, because we spend £16 billion a year on reoffending. Those issues need to be looked at, and there is nothing in the Bill to address them.

I apologise to colleagues for using statistics, because sometimes people can be blinded by them, but I use them to demonstrate a point. The fact is that there has been a large rise in assaults on prison officers and inmates since 2012. There has also been a large rise in self-harm and many incidents of people committing suicide. It is not surprising that every few weeks it seems a prison riot happens in some part of the country. I know from speaking to prison officers, the Prison Governors Association and other people about how they feel really depressed when they go to work in the morning, because they do not know what challenge there might be; who might assault them or what might happen. That must be addressed.

We are asking for the principles to be crystallised in statute. When that is done in statute, rather than put somewhere in prison policies or rules, or some manual tucked away that says, "This is the right way of doing things", people have to be aware of it. By having that in the Bill, the measures that need to be achieved are there for everyone to look at.

Mr Gyimah: The amendment would require the Secretary of State to set a series of minimum standards to achieve the purposes of prisons. As I outlined, we want to put the governor at the heart of reform, ensuring that they have the ability to make decisions, innovate and be more responsive in meeting the needs of their prison. We are moving away from a centralised bureaucracy mandating the processes by which that should be achieved.

We are empowering governors by giving them the levers and controls they need to drive forward reform in their prisons. However, at the same time we are strengthening how we monitor and take leadership into account. That will include a more prominent role for Her Majesty's inspectorate of prisons in specifically reporting on the effectiveness of leadership in a prison. We are giving freedom while sharpening accountability. From April, we will give governors greater authority to do their own workforce planning and design their regime to fit the needs of their prison; greater power over service provision in their prison, such as work in partnership with health commissioners to plan health services; and greater authority to decide how to spend their budget to deliver their strategy.

It is important that the Bill should not inadvertently take away control from those who are best placed to run our prisons. However, the amendment raises important issues. I am pleased to confirm that many of them are already addressed by secondary legislation. The Prison Rules 1999 include measures to deal with crowding, or overcrowding, which—to be absolutely clear—means having more prisoners per cell than it was originally designed for: two people in a cell designed for one, or three in a cell designed for two, which is happening in 25% of the prison estate. Section 14 of the Prison Act 1952 provides that every prison will have

"sufficient accommodation…provided for all prisoners."

It further states:

"No cell shall be used for the confinement of a prisoner unless it is certified by an inspector"—

an officer acting on behalf of the Secretary of State—

"that its size, lighting, heating, ventilation and fittings are adequate for health".

Rule 26 of the 1999 rules states:

"No room or cell shall be used as sleeping accommodation for a prisoner unless it has been certified in the manner required by section 14 of the Prison Act 1952… A certificate…shall specify the maximum number of prisoners who may sleep or be confined at one time in the room or cell to which it relates".

Access to appropriate education is governed by rule 32:

"Every prisoner able to profit from the education facilities provided at a prison shall be encouraged to do so."

Rule 31 provides that a prisoner

"shall be required to do useful work for not more than 10 hours a day, and arrangements shall be made to allow prisoners to work, where possible, outside the cells and in association with one another."

Access to healthcare is governed by Rule 20, which ensures access to the same quality and range of services that the general public receive from the national health service. Rule 30 governs access to time in the open air:

"If the weather permits and subject to the need to maintain good order and discipline, a prisoner shall be given the opportunity to spend time in the open air at least once every day".

Rule 29 governs weekly time spent in locations other than cells, allowing one hour of physical activity a week. As part of the privilege systems set out in rule 8, prisoners can also get additional time to associate. Like all public authorities, prisons are legally bound to comply with the requirements of the Equality Act 2010, including the public sector equality duty. There is therefore already a statutory framework for the sorts of issues that the amendment covers.

On the ratio of prison staff to prisoners, I agree that we need the right numbers to provide a secure and safe regime, increase staff confidence and have the resilience to deal with unexpected incidents that take staff away from duty, such as hospital escorts. We are therefore investing £100 million to increase staffing by 2,500 officers. However, that is only the start of what is necessary to provide a properly rehabilitative, supportive regime that engages with prisoners properly. We know from many sources of evidence that the relationship between staff and prisoners is fundamental in helping prisoners decide to turn away from crime, and that having the right support and challenges from a trusted prison officer can help them come to that decision.

Having a positive relationship with staff can also help reduce the drivers of self-harm and self-inflicted deaths. We are therefore changing to a key worker model, as mentioned in Lord Harris's review into self-inflicted deaths on the youth estate. There will be a dedicated prison officer, on the landing, for each prisoner across the closed estate, on the basis of one officer for six

[Mr Gyimah]

prisoners, on average. They will spend 30 to 45 minutes each week with their prisoner to deal with complaints, talk about issues that affect them, encourage them to engage with wider regime activities and challenge offending behaviour. Probation will also be involved for higher risk individuals, case managing the prisoner, including sentence planning. That will be done by other prison staff, not officers. The governor will manage the levels of staff in their own establishment, tailoring the model to the needs of the population and regime availability. They will be empowered to vary the staffing regime as they see fit.

It is deceptively simple to propose a fixed staff-to-prisoner ratio. We will ensure that we have the right staffing levels to run safe regimes, but setting out a ratio in primary legislation would not be meaningful. That is partly because the ratio varies from prison to prison, and also because even within a prison it will vary from day to day. I have been in prisons where more staff were needed because they had prisoners on bed watch, and I have been in prisons that needed more staff on the vulnerable prisoner unit at a particular time because of a problem there. To have a fixed ratio would not exactly fit with a prison's practical needs, and the prison governor, who understands the needs and is designing the regime, should be the one looking at that.

A future Secretary of State could meet the proposed ratio by, for example, filling prisons with staff acting as turnkeys and guards rather than key workers. That is why I agree with what the deputy chief inspector of prisons that a fixed staff-to-prisoner ratio would be "a crude measure". The most important thing, as we look at the system that the Bill will set out, is to look at the outcomes from prisons. I hope that explains why we do not believe that it would be appropriate to include this measure in the purpose, and I beg the hon. Member for Bolton South East to withdraw the amendment.

Yasmin Qureshi: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Liz Saville Roberts: I beg to move amendment 5, in clause 1, page 2, line 12, at end insert "and

(b) steps taken in relation to meeting health targets specified by the Secretary of State on—

(i) blood borne viruses, and

(ii) substance abuse,

including the provision of testing and treatment for hepatitis C."

This amendment ensures that the Secretary of State's annual report on prisons includes targets on blood borne viruses and substance abuse and analysis of whether they are being met.

This probing amendment seeks to create an obligation on the Secretary of State to include in the annual report on prison governance an analysis of progress in meeting health metrics on blood-borne viruses and substance abuse, including the provision of testing and treatment for hepatitis C.

Hepatitis C is a blood-borne virus affecting the liver that can cause fatal cirrhosis and liver cancer if untreated. Around 214,000 people are chronically infected with hepatitis C in the UK. Around 90% of cases arise through injecting drug use, although there are other potential causes including overseas medical care, tattooing and receipt of a blood transfusion in the UK prior to 1991. People are able to live without symptoms for decades after infection, but untreated cases can lead to severe liver problems. Liver disease is one of the five big killers in the UK, and the only one of those where mortality is rising, and hepatitis C is the third most common cause of it.

Why are prisoners particularly at risk? Hepatitis C disproportionately affects disadvantaged and marginalised communities, and around half of people who inject drugs are estimated to have the virus. With around a third of the people in prison having injected drugs, rates of hepatitis C infection are particularly high among prisoners. A 2012 study from Scotland estimated rates of hepatitis C among prisoners to be almost 20%, and we might expect that rate to be similar in other prisons. Offering testing and treatment for hepatitis C is therefore a highly effective way of contributing to prisoners' rehabilitation; indeed, by allowing them to focus on improving their health and wellbeing it is often found that they are better placed to address other issues contributing to their offending, such as substance misuse. It is also essential that this is carried out if prison governors are to meet the commitment to improve health outcomes.

In October 2013, the UK Government agreed to implement blood-borne virus opt-out testing in prisons. Testing rates for hepatitis C in prisons have improved as a result, rising from 5.3% in 2010-11 to 11.5% in 2015-16. That figure is still too low, however, and progress needs to be made on fully implementing the opt-out testing policy.

The prison environment is an ideal one in which to test and treat people who lead chaotic lives and may not have previously been in contact with healthcare services. With new oral drug treatments becoming available in recent years, which have considerably shorter treatment durations and markedly fewer side effects than previous treatments, the opportunity to treat people in prison is greater than ever before. Achieving a cure for hepatitis C can be a trigger for long-term addiction recovery and help people to take control of their lives. Offering treatment for hepatitis C can therefore be an important step in helping to prepare prisoners for their release.

I prepared that speech with the help of the Hepatitis C Trust, and I would very much like to hear the Minister's response.

11 am

Yasmin Qureshi: We entirely support the amendment and agree with the points that the hon. Lady made.

Mr Gyimah: This is a probing amendment concerning a duty on the Secretary of State to include as part of her annual report to Parliament the steps taken to meet targets on blood-borne viruses and substance abuse.

Healthcare in prisons is provided by NHS England, which already uses health and justice indicators of performance and other data to report the performance of substance misuse services and blood-borne viruses. Those data inform NHS practice in commissioning and providing healthcare to prisons. For example, Public Health England, NOMS and NHS England introduced opt-out testing for blood-borne viruses for people in

prison in the first national partnership agreement published in 2013. Full implementation across the whole adult prison estate in England is planned by the end of the 2017-18 financial year.

Data on the offer and uptake of testing and referral for treatment are measured through the health and justice indicators, which are based on information provided directly by healthcare teams in prisons to NHS England and shared with Public Health England. Additionally, data on people treated for substance misuse in prison and in the community are collected by Public Health England through the national drug treatment monitoring system.

Using those data, under the programme of co-commissioning that the Government are implementing, prison governors will be able to work with NHS England to commission healthcare services that meet their individual prison's needs. That, of course, can include elements that provide testing and treatment for blood-borne viruses and substance misuse. I hope I have provided sufficient assurance to the hon. Member for Dwyfor Meirionnydd that placing this requirement on the face of the Bill is unnecessary, as a programme of work is already under way in this area.

Liz Saville Roberts: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Mr Gyimah: We have had a full and detailed debate on clause 1. It will not surprise hon. Members to know that in drafting the clause, the Government thought long and hard about what it should contain in view of the fundamental changes it makes to the current legislative framework.

The clause reforms the framework of the prison system, providing aims for the system as a whole to unite behind, clarifying the role of the Secretary of State and sharpening accountability. It modifies the Secretary of State's overarching responsibility for prisons, removing the outdated duty to superintend prisons. The clause also reforms and modernises the Secretary of State's accountability to Parliament for the performance of prisons. It replaces the existing archaic requirements to report on operational detail, such as hours of work completed in each prison and number of punishments, with a requirement to account to Parliament for the extent to which prisons are meeting the statutory purpose created by the clause.

Yasmin Qureshi: We have raised our concerns about the issues we think are important and should be covered in the clause. We hope that the Minister will reconsider some of those things on Report.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

HER MAJESTY'S CHIEF INSPECTOR AND INSPECTORATE OF PRISONS

Liz Saville Roberts: I beg to move amendment 6, in clause 2, page 2, line 18, leave out "a" and insert "an independent".

This amendment ensures the person appointed as Her Majesty's Chief Inspector of Prisons has the necessary independence from Government and associated bodies.

The Chair: With this it will be convenient to discuss amendment 15, in clause 2, page 2, line 18, at end insert—

'(1A) Before Her Majesty makes an appointment under this section, the Chair of the Justice Committee of the House of Commons shall recommend for Her Majesty's consideration an appropriate person who in its view could satisfactorily carry out the functions of the Chief Inspector by moving a name on the floor of the House."

This amendment provides that the Justice Select Committee should make a recommendation on the appointment of the Chief Inspector of Prisons.

Liz Saville Roberts: At the moment, there is no statutory obligation for the person appointed as Her Majesty's chief inspector of prisons to be independent of Government and associated bodies, and I think we would all agree that it is essential that the chief inspector of prisons is independent. There are provisions in the Bill to empower prison governors to deliver on extra responsibilities, so it is more important than ever that independent chief inspectors of prisons are able to scrutinise and hold prison governors, as well as the Ministry of Justice, to account in a way that is beyond any question of bias.

We already have the Independent Police Complaints Commission, which in legislation is clearly stated to be just that—independent. In the Police Reform Act 2002, through which the IPCC was created, there are stringent tests precluding candidates with particular backgrounds, which might bring into question their independence, from becoming a chairman or member of the commission. The Government must recognise that that imposed, and legislated for, distance between any appointee to the IPCC and a body that that person might investigate is required also for senior prison inspectors. The inspectorate is already advertising itself as an independent body. Surely now is the time to enshrine this common-sense policy in law, both transparently and explicitly.

I will not press the amendment to a vote at this stage, but I hope that the Government will give a detailed answer explaining why they have not chosen to include this wording in the legislation and whether on reflection they might be amenable to a more specific and stringent statement.

Yasmin Qureshi: We support any attempt to ensure the independence of the inspectorate from the Government, so we support this amendment.

Mr Gyimah: These amendments concern the role of Her Majesty's inspectorate of prisons. Increasing the inspectorate's impact is one part of our plan to have in place effective mechanisms to monitor and improve performance. There will be new performance measures, on the outcomes of which governors will be held to account. We will create new three-year performance agreements, which will be phased in over the next two years.

If we are to hold governors to account for meeting the new standards, they must be given the power to deliver change. We are devolving key operational policies to give governors greater flexibility, and have already cancelled 101 policies to help to reduce bureaucracy for prisons.

[Mr Gyimah]

We are empowering our leaders, but at the same time strengthening our monitoring of leadership. That includes a more prominent role for HMIP: for the first time in legislation, the chief inspector will be required to report on the effectiveness of leadership in a prison. We will set up a new quarterly performance committee, chaired by the permanent secretary. The committee will reach evidenced assessments of performance, both at individual prison level and across the system. We will also make data available so that the public and governors can see how prisons are performing across different measures. This monitoring is supported by other assurance activities, such as internal audit, providing a complete view of prison performance. It is clear that we will not be waiting around for the inspectorate to signal problems, but within this framework, external scrutiny is vital, too. We need independent, objective assessments of our prisons to hold the governors to account.

We are seeking in the Bill, and specifically in clause 2, to achieve a number of aims for HMIP. I will set those out before turning to the amendments. First, we are making changes to what the inspectorate is required to report on. Importantly, the chief inspector will continue to set his own inspection criteria and report to the Secretary of State on the treatment of prisoners and the conditions in prison, but in addition, when preparing inspection reports, the inspectorate must have regard to the statutory purpose of prison. That will align inspections with the new statutory purpose of prison. As I have set out, inspections will also be required to consider the effectiveness of the leadership in a prison.

Secondly, we are seeking to increase the inspectorate's impact: we want inspection reports to lead to improvements. There is a requirement for the Secretary of State to respond to the findings of an inspection within 90 days. Where the chief inspector has significant and urgent concerns about a prison, he can trigger an urgent response from the Secretary of State, but as I have outlined, the system will not be waiting for an inspection in order to ensure that proper oversight takes place in our prisons.

Thirdly, we wish to enhance the statutory footing for the inspectorate to conduct inspections. For the first time, it is established in legislation that there is an inspectorate of prisons supporting the chief inspector. The clause also gives the inspectorate new powers to enter prisons and to request information so that they have the right tools to do their job.

Finally, clause 2 provides statutory recognition of the inspectorate's role in meeting the objectives of the optional protocol to the United Nations convention against torture and other cruel, inhuman or degrading treatment of punishment, or OPCAT.

The final point is relevant to amendments 6 and 15 and is about independence. We have above all in the Bill sought to maintain the independence of HMIP. I hope the chief inspector would agree with me that his role includes being able to report freely on what he sees. We believe the Bill reinforces such independence.

Amendment 6 seeks to make it explicit that "an independent" person is appointed as chief inspector. The independence of the chief inspector derives from how the inspectorate is set up and how it operates. The chief inspector sets his own inspection criteria, so he decides what matters he wishes to look at and report on. He decides where and how inspections will be conducted. That includes, for example, whether inspections are announced or unannounced and the frequency of visits. The chief inspector publishes his own inspection reports, so the findings are not restricted in any way.

Following interest from the Justice Select Committee, we have just finalised a protocol between the Ministry of Justice and HMIP setting out the terms of engagement between the two organisations. Taken together, we consider the chief inspector's independence is clear, and I am therefore not persuaded that amendment 6 is necessary.

Amendment 15 concerns the appointment of the chief inspector. Like other chief inspector posts, this role is subject to the Cabinet Office's governance code on public appointments, which is overseen by the Commissioner for Public Appointments. The Commissioner regulates the processes by which Ministers make appointments to public bodies. The appointment therefore follows an established transparent process for public appointments. We agree that Parliament should play a role in such an important appointment. The Justice Select Committee is consulted on the job description and criteria prior to a recruitment being launched. The chief inspector appointment is subject to pre-appointment hearing by the Justice Select Committee. This allows the Committee to assess the preferred candidate and provide its views to the Secretary of State before any appointment. The Cabinet Office guidance on pre-appointment scrutiny states:

> "In relation to the findings of the Committee, Ministers should weigh the views of the committee carefully against the evidence from the appointments procedure to reach a final view to ensure that the decision is made fairly and taking all relevant considerations into account."

There is, therefore, an important role for the Committee, but, overall, I consider that the choice for this critical role should rest with the Secretary of State, who is accountable to Parliament for prison performance.

I hope that I have been able to set out our plans for strong, external scrutiny of the prison system, with an empowered, independent inspectorate at its heart. The Bill strengthens the independence of the inspectorate, and on that basis I hope that the hon. Lady is able to withdraw the amendment.

The Chair: I call the shadow Minister to speak to amendment 15.

Yasmin Qureshi: We are asking for this provision because we think it is important that the chief inspector of prisons is independent from the Government and other associated bodies. I will therefore press the amendment to a Division in a few moments.

The Justice Select Committee looked at this issue and recommended that the Committee should be able to move the name of the person from the Floor of the House. This corresponds with many other independent bodies who have also expressed concern about the apparent lack of independence of the chief inspector of prisons. One of the former chief inspectors, Nick Hardwick, has publicly said that the question of independence is affected when the person somebody is reporting on is the person who will extend their contract, so there is a question about whether they carry on being employed by that person. We therefore say the independence aspect in this particular appointment is very important.

The Prison Reform Trust has said that the independence of Her Majesty's inspectorate of prisons should be bolstered by having the chief inspector appointed by the Justice Select Committee. The Royal Society for the Encouragement of Arts, Manufactures and Commerce has stated:

"If the Secretary of State now has a statutory duty to support rehabilitation, with the prisons inspectorate charged with assessing this, then surely there is a logical and ethical argument for Her Majesty's Chief Inspector of Prisons to be appointed independently?"

The Prison Governors Association has also said that giving new powers to the chief inspector of prisons is welcome provided he is able to hold the Ministry of Justice to account. So we welcome the changes in the legislation which bolster the powers of the chief inspector of prisons, but we think that going one step further and making him completely independent would make the system even better.

11.15 am

Liz Saville Roberts: It is right, I am sure everyone will agree, for the chief inspector of prisons to be beyond any doubt in relation to the independence of his role and of his judgment. It seems to me that this should be stated explicitly in the Bill. Amendment 15 would make changes to the appointment procedure. That would put what is proposed into effect and on to a robust footing. There would then be no doubt in that respect. I have some difficulty in understanding the Minister's response, particularly in relation to the explicit use of the terminology of independence. None the less, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: No. 15, in clause 2, page 2, line 18, at end insert—

"(1A) Before Her Majesty makes an appointment under this section, the Chair of the Justice Committee of the House of Commons shall recommend for Her Majesty's consideration an appropriate person who in its view could satisfactorily carry out the functions of the Chief Inspector by moving a name on the floor of the House.*"—(Yasmin Qureshi.)*

This amendment provides that the Justice Select Committee should make a recommendation on the appointment of the Chief Inspector of Prisons.

The Committee divided: Ayes 7, Noes 9.

Division No. 3]

AYES

Arkless, Richard	Qureshi, Yasmin
Burgon, Richard	Saville Roberts, Liz
Lynch, Holly	Smith, Nick
McGinn, Conor	

NOES

Gyimah, Mr Sam	Swayne, rh Sir Desmond
Heald, rh Sir Oliver	Tomlinson, Michael
Jenrick, Robert	Tracey, Craig
Opperman, Guy	Warman, Matt
Philp, Chris	

Question accordingly negatived.

Yasmin Qureshi I beg to move amendment 16, in clause 2, page 2, line 30, leave out "The provisions in this Act about" and insert "The operation of".

This amendment requires the work of HMIP to be compliant with OPCAT.

The Chair: With this it will be convenient to discuss amendment 17, in clause 2, page 2, line 31, leave out "are in accordance" and insert "must comply".

This amendment requires the work of HMIP to be compliant with OPCAT.

Yasmin Qureshi: The purpose of amendments 16 and 17 is to say that the work of Her Majesty's chief inspector of prisons should be compliant with OPCAT, the optional protocol to the convention against torture, a treaty that supplements the 1984 United Nations convention against torture. It establishes an international inspection system for places of detention and requires "national preventive mechanisms" to be independent. Her Majesty's inspector of prisons is one of 21 statutory bodies that together make up the UK's national preventive mechanism. We know that the Government consider that the UK's national preventive mechanism is already OPCAT compliant, but the previous chief inspector of prisons, Nick Hardwick, voiced concerns, as I mentioned earlier, that having to apply to the Government for reappointment compromised his independence. Amendments 16 and 17 would make this commitment to OPCAT explicit and have been welcomed by John Wadham, chair of the UK's national preventive mechanism. To assume OPCAT compliance is not sufficient.

Mr Gyimah: Clause 2 provides statutory recognition of the chief inspector's role in meeting the objectives of OPCAT. In the context of making changes to the provisions in the Prison Act 1952 on the chief inspector, we consider it helpful for the statute expressly to recognise the role of the chief inspector in relation to OPCAT. The UK is, and has always been, a strong supporter of OPCAT and we consider that we are fully complying with the international obligations contained in the protocol. OPCAT requires states parties to establish a national preventive mechanism to ensure regular, independent inspection of places of detention to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Clause 2 captures the role of Her Majesty's inspectorate of prisons in relation to OPCAT. However, the obligations contained in the protocol are aimed at the states parties to the protocol—thus, the UK—not the organisations that are designated by those states to be members of the national preventive mechanism. It would therefore be inappropriate to place upon the inspectorate international obligations aimed at the UK, as amendments 16 and 17 seek to do. In addition, the inspectorate alone would be unable to fulfil all the OPCAT obligations. The UK national preventive mechanism is in fact composed of 21 members from across the UK.

The statutory recognition of the inspectorate's OPCAT role is an important change that I know is strongly welcomed by the chief inspector. Given the difficulties that I have highlighted, I ask the hon. Lady to withdraw the amendment.

Yasmin Qureshi: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Yasmin Qureshi: I beg to move amendment 18, in clause 2, page 4, line 19, at end insert—

'(3A) In preparing a section 5A(2) report, the Chief Inspector must also consider the effectiveness of practices and procedures in the prison in relation to the protection of the rights of prisoners."

This amendment requires the Chief Inspector to report on the rights of prisoners.

The Chair: With this it will be convenient to discuss the following:

Amendment 19, in clause 2, page 4, line 22, leave out "90 days" and insert "60 days"

This amendment requires a response from the Secretary of State within a set timeframe when a HMIP report makes recommendations.

Amendment 20, in clause 2, page 4, line 23, at end insert—

'(5A) The response must set out the actions that the Secretary of State has taken, or proposes to take, in response to the concerns described in the report."

This amendment requires the response from the Secretary of State to set out actions.

Amendment 21, in clause 2, page 5, line 2, leave out "28 days" and insert "14 days"

This amendment requires a response from the Secretary of State within a set timeframe when a HMIP report giving rise to significant concerns makes recommendations.

Yasmin Qureshi: Amendment 18 would require the chief inspector to report on the rights of prisoners. That is really important, because it would ensure that prisons are safe and decent places to be, based on the set of minimum standards in prisons that we have proposed are set by the Secretary of State.

Amendment 19 would require a response from the Secretary of State within a set timeframe when Her Majesty's inspectorate of prisons makes recommendations. We believe that 60 days is a more appropriate timeframe and allows any problems to be dealt with a lot more quickly.

Amendment 20 would require the Secretary of State to set out what actions they will take to deal with issues raised by the inspectorate. It is not clear in the current legislation what should happen as a result of an adverse report from the inspectorate. Although there are protocols on what prisons and other inspected institutions should do, there is no requirement at the moment to accept the inspectorate's recommendations. In line with agreed protocols, inspected bodies should produce an initial action plan, approved by the Secretary of State, in response to inspectorate recommendations. The action plan should set out the consequent action taken or planned, approved by the Secretary of State.

Amendment 21 would require a response from the Secretary of State within a set timeframe when an inspectorate's report gives rise to significant concerns. That is really important, and the response should be given within a shorter period—14 days, instead of 28.

The idea behind the amendments is to ensure that when the inspectorate's report is produced, the turnaround period is shorter, there is a shorter time limit on action being taken and an action plan is put in place to deal with the problems in a prison quickly and effectively. That would avoid further deterioration in the prison or institution and ensure that prisoner and prison staff safety is taken much more seriously. There should be a much quicker response.

Ordered, That the debate be now adjourned.—*(Guy Opperman.)*

11.24 am

Adjourned till this day at Two o'clock.