

Justice Committee

Oral evidence: [HMP Birmingham, HC 1647/Prison population 2022: planning for the future, HC 483](#)

Tuesday 11 December 2018

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Members present: Robert Neill (Chair); Janet Daby; David Hanson; John Howell; Gavin Newlands; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 557 - 692

Witnesses

[I](#): Michael Spurr, Chief Executive Officer, Her Majesty's Prison and Probation Service, Neil Richards, Head of Custodial Contracts, Her Majesty's Prison and Probation Service, Paul Newton, Governor, HMP Birmingham, and Jerry Petherick, G4S.

[II](#): Rory Stewart MP, Minister of State for Justice, Ministry of Justice, and Michael Spurr, Chief Executive Officer, Her Majesty's Prison and Probation Service.

Examination of witnesses

Witnesses: Michael Spurr, Neil Richards, Paul Newton and Jerry Petherick.

Q557 **Chair:** Good morning, gentlemen. Thank you very much for coming to give evidence to us this morning, both for our inquiry into what is happening at Birmingham, which has been well documented and publicised, and on the broader lessons that might be drawn for our inquiry into the make-up of the prison population going forward, towards 2022 and beyond.

As usual, we have to start with our declarations of interest. I am a non-practising barrister and a consultant to a law firm.

Victoria Prentis: I am a non-practising barrister.

Ellie Reeves: I am a non-practising barrister.

Q558 **Chair:** Can I ask the panel of witnesses to introduce themselves and their organisations?

Neil Richards: Good morning, everybody. I am Neil Richards. I am head of custodial contracts, with oversight of Birmingham, during this period of time and previously. I work for HMPPS.

Michael Spurr: I am Michael Spurr, chief executive of Her Majesty's Prison and Probation Service.

Jerry Petherick: Good morning. I am Jerry Petherick, the managing director of G4S custodial and detention services.

Paul Newton: Good morning. I am Paul Newton, the governor of HMP Birmingham.

Q559 **Chair:** Good morning, everyone. I have to start with you, Mr Spurr, as the head of the Prison Service, in effect. We can take it as a given that G4S was given a contract of about £450 million to run Birmingham. By August 2018, it is pretty clear that the prison had failed. There is no question about that, really, is there?

Michael Spurr: There is no question but that, in August and in the months preceding that, the performance at Birmingham was not acceptable. That is right, but there had been a journey to get to that point.

Q560 **Chair:** I understand. When did you first realise that there was a crisis brewing?

Michael Spurr: To give context, when G4S took over Birmingham, they improved Birmingham's performance for the first few years of the contract. In 2014, an inspection report verified that. There was external scrutiny from the Institute of Criminology that verified it. From 2014 onwards, it became more difficult. Along with the rest of the Prison



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Service, Birmingham faced significant change and external factors, such as psychoactive drugs, which really hit Birmingham hard.

The riot in December 2016 was a massive issue. Birmingham, like a lot of prisons, was struggling to cope with pressures at that time. We had had disturbances in other prisons—for example, Lewes and Bedford. The riot at Birmingham occurred. A published report on the riot indicates that, prior to that, the pressures were telling on Birmingham. It could have been avoided on the day, but sometimes incidents cannot be avoided and things go wrong. They went wrong, and there was a riot.

That has a major impact on any prison. In any prison, that level of disturbance creates significant problems. The population reduced by 550 following the riot, while the accommodation was put back into good order. The inspection team visited in February and said that in those circumstances the prison was doing well after the riot, but that was only a month and a half after the riot had occurred and the prison population was much lower than normal.

We brought the prison population back from April through to June in a measured way—15 a week during that period. When the population came back, the problems that Birmingham had faced prior to the riot had not gone away, effectively. There were still issues about how procedures were operating and about the confidence of staff. Prisoners came back emboldened following the riot, which created additional challenges for the staff at Birmingham. It became clear after a few months that the prison was very challenged by the impact of the lack of confidence of staff. It was losing staff as well at that point. Prisoners themselves had taken more control of the prison than any of us wanted.

I visited the prison on 22 September 2017. There was recognition that there were issues at Birmingham at that point. G4S was committed to trying to improve it. The reality of restoring a prison following a riot is something we are familiar with. Action was taken, jointly with G4S, after that, including reducing the population. In November we reduced the population by 116 places, taking out G wing. That was done outside the contract terms, with agreement by G4S. It cost G4S a significant amount of money—£150,000 a month—to reduce the population there. We did not pay for that. That is over £1 million over the last 12 months.

They took other action to try to restore order. The wing we took out was the main entry point for many of the drugs, so we took direct action to try to stem that and to give staff more opportunity to get on top of the issues at Birmingham. That did not work as well as we wanted, and the issues continued into the beginning of this year. G4S strengthened the management team, changed the director and attempted to bring in more staff, but they were losing staff. That is a problem you can get. Staff were finding the challenge very difficult and were leaving.

G4S deployed staff from other establishments to support the establishment. We recognised that that was not improving the prison



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sufficiently, so we went to formal contractual mechanisms and issued improvement notices requiring further action from G4S in March 2018. They responded with an improvement plan. We reviewed the outcome of that in May. Our view was that it had not improved things sufficiently. We went to the next step in the contract mechanism, including issuing an outstanding issues notice.

G4S's view was that they were improving the prison. To be fair, the IMB, which had written to the Minister in May 2018 raising concerns about Birmingham, has said, and says in its annual report, that there was improvement through the action that we were taking, but it was not sufficient or speedy enough. We met G4S and looked at trying to develop a joint improvement plan that would accelerate that. At the same time, we were concerned, from HMPPS's point of view, that the scale of challenge for Birmingham was potentially too much for G4S to turn around. For that reason, Paul Newton, who is the current governor, was deployed to the project, as a project lead in the contract management team, so we were ready, in contingency terms, to step in, should we need to do that.

The inspection came in August. Prior to that, we had been working through what we needed to do to address the deficiencies at Birmingham. The inspection confirmed the concerns we were already very well aware of. As a result, we determined that we would step in. I think that would have happened anyway. There is a question about the timing, but the inspection definitely gave us external validation of the concerns that we had.

The reason for stepping in then was that I had come to the conclusion—

Q561 **Chair:** Can we break it up a little? In a moment, I will ask you about stepping in, Mr Spurr. You have given me the history, which is quite helpful. We will talk about the grounds for the step-in as we go along. That is useful.

You indicated to me that you went to the prison yourself in 2017.

Michael Spurr: I did.

Q562 **Chair:** Obviously, there are a lot of prisons across the country. When had you previously visited Birmingham yourself?

Michael Spurr: Prior to—

Chair: September 2017.

Michael Spurr: I cannot remember the exact date. It was not in that year. It was prior to the riot.

Q563 **Chair:** Mr Richards, you had more direct oversight of Birmingham. How frequently were you visiting Birmingham during that period?

Neil Richards: Unfortunately, I was not in post at the time. I took up post—



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Q564 **Chair:** You will have your predecessor's notes. How often were they doing it?

Neil Richards: I could not be accurate.

Q565 **Chair:** Are there notes from your predecessor as to how often it was?

Neil Richards: The head of custodial contracts would not normally document a formal visit report. The person who attends on a regular basis is the senior contract manager. The senior contract manager goes there every three months. I would expect the head of custodial contracts to be there ordinarily at least every six months.

Q566 **Chair:** I imagine that you will have had the chance to review those notes. It must have been obvious well before the riot that there were problems at Birmingham, as Mr Spurr indicates himself.

Neil Richards: There are no formal notes of the head of custodial contracts visiting. It is the senior contract manager who makes the notes of their formal visits.

Q567 **Chair:** I see. Was the senior contract manager expressing concern to you, or to pass on to Mr Spurr, about problems at Birmingham?

Neil Richards: Yes. They are well documented, both in contract meetings and in quite a lot of paperwork for discussions that took place locally between the controller and the director. At the time of both voluntary improvement notices and formal improvement notices, there are records of meetings and progress against action plans.

Q568 **Chair:** What was your top team doing about that, Mr Spurr?

Michael Spurr: In the autumn of 2016, we had issues in a significant number of prisons—

Chair: I understand that, but—

Michael Spurr: I will answer, if I may. We had issues with a significant number of prisons at that time in particular. That was before we were able to secure additional funding for additional staff. We were going through a very difficult period of incidents in a number of prisons. Birmingham was absolutely in the top 10 prisons of concern at that point. There is no question about that and we have it documented, but we were managing a number of prisons and knowing which one was potentially going to end up in a disturbance was very difficult. We were trying to avoid disturbances anywhere, across a range of prisons.

Q569 **Chair:** What specific actions did you take in relation to Birmingham?

Michael Spurr: Are we talking about 2016?

Chair: Yes, in the run-up to the—

Michael Spurr: In the run-up to the riot?



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Q570 **Chair:** Yes. It was on your top 10 list of concerns. I understand that you were juggling a lot of problems.

Michael Spurr: We were monitoring stability on a weekly basis—in fact, on a daily basis—across all of the prison sites. We were challenging G4S, in this case, as it was not a directly run prison, about what actions they were taking to assure us about the stability of the prison. G4S were taking their own actions to make sure of that and were assuring us that they were managing the risk well, or effectively. There was a range of measures in place to confirm from G4S what actions they were taking.

At that stage, we did not put in additional resource ourselves or ask for additional resource to go into Birmingham. As I said, we were managing a significant amount of pressure across the whole estate. Therefore, we had mechanisms in place to support oversight of Birmingham, but at that point the main responsibility for ensuring that Birmingham was running well was with G4S.

Q571 **Chair:** Understood. Then there was the riot. We know about that and the steps that were taken. You referred to the inspection report in February 2017, in which the chief inspector said that he was encouraged by the “clear determination” to recover and rebuild.

Michael Spurr: He did.

Q572 **Chair:** That was his assessment in 2017. However, he then made the unannounced inspection in August 2018. He said, “The contrast with our findings at this unannounced inspection could not have been starker. Far from recovering, the prison had deteriorated dramatically and was in an appalling state.” You must have been getting lots of messages about that, mustn’t you?

Michael Spurr: I have just been very clear. We were—

Chair: You were doing the improvement notices.

Michael Spurr: We were clear that the Birmingham position was not acceptable, prior to the inspection. The first learning point for the Committee, and for all of us, that is important is that we should not underestimate the impact of a major riot and how difficult it is for a prison to recover from one. The very point that the chief inspector made in February gave us some confidence that G4S were in a position to be able to recover and go forward. It was a positive report; in some senses, it was probably over-positive, given the issues beneath the surface at Birmingham at the time.

There was no question about the determination of G4S to bring Birmingham back to deliver good-quality services, but the challenge for them became significant. It was not that we were not taking action. The question is about how much action and when. You need to be able to give a provider an opportunity to get on top of issues that occur. As I explained, we were trying to work sensibly with G4S through 2017,



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including by reducing capacity, to give them an opportunity to get on top of the issues and to give staff less pressure. A lot of the staff they were recruiting were quite inexperienced, which is a problem we have had elsewhere.

It was not the case that we were not very well aware of the issues at Birmingham. The question was what you do in those circumstances. It is not straightforward. What we did with step-in was necessary and right, but there is a timing issue about when you do that and how much you give a place an opportunity to improve. Whether we should have gone in earlier is a perfectly legitimate question. What would not be fair would be to say that we had not identified it.

Increasingly, the chief inspector visits prisons on intelligence, knowing where there are issues. That is perfectly legitimate. He knew that there were issues at Birmingham, and he visited for that reason. That was not unhelpful from my perspective; it actually reinforced where we were with Birmingham.

Q573 **Chair:** That is what you said at the beginning.

Michael Spurr: If the chief inspector is going to target visits, as he is increasingly doing, based on intelligence about where prisons are struggling, it is not a surprise if, when he goes in, he finds that the prisons are struggling.

Q574 **Chair:** With the intelligence being out there, no doubt the chief inspector's conclusions were not a great surprise to you.

Michael Spurr: They were not a surprise. Indeed, to be fair, the IMB, who were on site, had written to the Minister in May.

Q575 **Chair:** That is right.

Michael Spurr: As I said, we had issued our first improvement notices in March. There was clear recognition that Birmingham was struggling, given the pressures that it was facing through that period. It was not the case that we were not trying to address that. It was about the action that was taken. G4S did not want a 40%-plus attrition rate of the staff they had recruited. That was one of the issues that became clear. They recruited staff and brought staff in from other establishments, but they were not experienced and were not able to have the impact that we would have wanted.

Q576 **Chair:** That is a point you made.

Michael Spurr: It would not have been fair not to give G4S the opportunity to do those things.

Q577 **Chair:** In retrospect, do you think that you were perhaps too easy-going with G4S?

Michael Spurr: No, I do not think that we were easy-going with them. As I mentioned, taking the capacity down at their cost was quite a



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significant thing. It has cost G4S £1 million on that contract over the last 12 months.

Q578 **Chair:** On a £450 million contract.

Michael Spurr: That is over the life of the contract. It is not a fair comparison to use, is it?

Q579 **Chair:** Some people think that it might be, Mr Spurr. You had outsourced the risk, and your department was failing properly to police the risk.

Michael Spurr: It is a 15-year contract. That is the cost over the life of the contract. I have talked about a year; £1 million out of £24 million per year is a fairer comparison. I make that point.

Q580 **Chair:** You have now taken the step-in. What are the principal things where you think that your step-in powers will make a difference? How long is it going to last?

Michael Spurr: The reason we did the step-in was that, despite the efforts that G4S was making, they were not sufficient. We came to the conclusion that, in order to make the change that was necessary at Birmingham, three things had to happen, effectively. We needed to reduce capacity further, and to insist that capacity was brought down, to give the staff a chance to get on top of the issues, and G4S were not able to do that. We needed a higher proportion of experienced staff there. G4S were bringing staff from their other establishments, but they only have five establishments in addition to Birmingham, so there was a limit to the number of people they could bring. Clearly, they could not bring sufficient experienced staff from five establishments. HMPPS has 104 establishments to bring staff in from. We also needed to bring in some more experienced managers, which, again, G4S did not have. For those reasons, we determined that it was necessary to step in.

We have done that. How long will it last? It will last as long as is necessary to give us confidence that the prison is stable. The things we have done by reducing the population and bringing in more experienced staff are beginning to make progress, but Birmingham is not yet in the state we want it to be in.

Q581 **Chair:** Mr Newton, you have been moved in there. We saw you when we visited recently. I was grateful to you and your senior team for their time. Can you tell us what steps you have taken to make changes at Birmingham?

Paul Newton: As I stepped in, I recognised what HMIP had determined. My immediate assessment was to adopt "back to basics" principles, as you saw when you visited: properly accounting for the population and making sure that we are conducting accommodation fabric checks. There are a number of reasons for that. One is around decency, to make sure that men are living in decent conditions and, if not, to do something



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about it. The second is to support vulnerability. The third is making sure that we are safe and secure.

One of the clear priorities for me was to make sure not only that we were looking after vulnerability but that we were recognising it. That was a real concern. It is one of our key priorities and is being underpinned by training for a whole range of staff.

As Michael said, one issue is resourcing—making sure that we have sufficient staffing on a daily basis. The key thing is visible leadership. Ensuring that the senior leaders and managers are there, around the prison supporting the staffing group and the prisoners themselves, is vital.

The next priority for me was to make sure that the place is clean and tidy. It costs nothing to keep the place clean and tidy, so that has been a really big approach. The chief inspector clearly reported that this was an old Victorian prison and that there were too many vermin in the place. A very simple approach, to make sure that rubbish gets into bins and is moved off the site, is really straightforward.

All of those priorities are underpinned by being procedurally just—making sure that we are being just not only for the men, but for our staff as well. We need to ensure that we are procedurally just in procedures such as applications, complaints, adjudications and segregation. That is also really important for the staff. There is far too much violence at Birmingham. There are some green shoots about how that is starting to reduce, with a real focus, but there was an absolute feeling among staff and the men that, if they were assaulted, there was limited traction with anything happening through the courts.

Q582 **Chair:** They did not have a sense that they would be supported by management, by the sound of it.

Paul Newton: Absolutely.

Q583 **Chair:** Do you think the management have been able to turn that around?

Paul Newton: Yes. What has been particularly pleasing is the support from the PCCs and the local West Midlands police, which has been really helpful.

Those were the key factors. The summary is that there has been a back to basics approach.

Q584 **Victoria Prentis:** I want to talk about fabric and the lack of progress between the two reports. For example, the chief inspector said, “the failure to address the appalling state of the windows is inexcusable.” That is the word he used. Almost every window in the older blocks was broken. That is something we saw for ourselves when we came to visit recently. The inspectorate described living conditions “as poor as we have



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seen anywhere," with staff "inured to...decay." Mr Petherick, why did it take so long to agree who would pay for the cost of replacing the windows?

Jerry Petherick: First, I am both professionally and personally as ashamed of the situation at Birmingham as I am proud of the situation at my other establishments. I want to make that clear.

Q585 **Victoria Prentis:** Did you know that the windows in the old blocks were nearly all broken?

Jerry Petherick: Yes. I knew that there was—

Q586 **Victoria Prentis:** You could see that. Did you visit often?

Jerry Petherick: I did. My most recent visit was on the Thursday before the inspectorate arrived. I had picked up some particular concerns, so I walked the landings and spoke to staff and prisoners myself. I was very frustrated and annoyed by many of the things I saw. I spoke to the director and the chief operating officer about that, obviously.

The windows have been an ongoing issue. As a matter of fact, in the period since we took over Birmingham, we have spent £19.7 million on maintenance and refurbishment. That is over £2.6 million more than we had anticipated.

Q587 **Victoria Prentis:** Was the problem with the windows a problem of who would pay to replace them?

Jerry Petherick: No. It is very clear that it is my accountability and responsibility to replace any broken window panes. There was a wider issue with the actual—

Q588 **Victoria Prentis:** Why on earth were they left broken for that period of time?

Jerry Petherick: Because it was an ongoing challenge to us. It was one of the concerns. We had just spent—

Q589 **Victoria Prentis:** How often did you visit? Wasn't it picked up on a daily basis? It was blindingly obvious that windows were broken.

Jerry Petherick: The director was picking it up on a daily basis. He would have spoken to the chief operating officer about that. It came up to my level. In spring this year, we spent £50,000 looking at a better, more substantive, but temporary remedy for replacing the window panes.

Q590 **Victoria Prentis:** Does that mean a plastic solution?

Jerry Petherick: It was, on a more substantive basis.

Q591 **Victoria Prentis:** Why did it take so long? If you knew that, contractually, it was your problem and that you should be paying for it, why did you leave men in inhuman conditions, with no windows?



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Jerry Petherick: It was not a static issue. We would replace windows. They would then be broken, so we were replacing them again. That is why we were looking at a more substantive solution, pending the ongoing discussions about the complete replacement of the window frames to a more modern standard. Those discussions were ongoing at the time of the step-in.

Q592 **Victoria Prentis:** Are you content that you did everything you could have done?

Jerry Petherick: We can all say that we should or could have done more. I sincerely say that. It was an ongoing issue. As I said, it was not a static response. We were continually replacing window panes, which is why we had to look at a more substantive response. My maintenance colleagues were looking at designing the interim solution.

Q593 **Victoria Prentis:** Why did it take so long to come up with an interim solution?

Jerry Petherick: I wish I knew the substantive answer to that. These were some of the discussions I was having with my facilities management colleagues. I was pushing them for solutions to that and some other maintenance issues.

Q594 **Victoria Prentis:** Do you think you have a solution now?

Jerry Petherick: My understanding is that the £50,000 investment we have made is an appropriate interim solution. Whatever happens to Birmingham, one of the major considerations has to be, what is the future? My personal belief is that the Victorian wings need substantive renovation to make them fit for purpose going forward.

Q595 **Victoria Prentis:** Are the windows that are going in today windows that are harder to break?

Jerry Petherick: Obviously, I am not on the site at the moment, but, as I understand it, those discussions are still ongoing, pending wider strategic review of the use and refurbishment of the Victorian wings, which is entirely appropriate.

Q596 **Chair:** Maybe Mr Newton can help us on this matter.

Paul Newton: Yes, I can. B wing is the last remaining old Victorian wing that is open. I can tell you that 81 windows were broken. My determination, working with the FM contractor, was that within a reasonable time, and for a short period, until we close it, the temporary fix should be in place in each of those cells. That has been achieved. It is sufficient to get us through the autumn and the winter, for a period of about 12 weeks, but only for that period. They are all fixed now.

Q597 **Victoria Prentis:** You might have one or two, but, basically, you do not think you have broken windows at the moment in cells that are in use.



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Paul Newton: That is the purpose of doing the daily accommodation fabric checks. If windows get broken, they go back in, because it is the right thing to do.

Q598 **Victoria Prentis:** Are there any other major repairs that need to be done at the moment? Mr Newton, you may be the person to tell us.

Paul Newton: If you walk around G wing, you can see that the refurbishment of G wing is going ahead and will be finished on 21 December. In terms of the other repairs, the determination of what we do with A, B and C will go on long after this forum.

Q599 **Victoria Prentis:** When is the decision about the old wings due to be made?

Paul Newton: Michael or Neil probably knows more about that.

Victoria Prentis: Neil knows.

Neil Richards: We have commissioned a full dilapidation survey of all of the old Victorian wings. We are due to get a report back in January. The reason for the slight delay, or the length of time that it has taken, is the extent of the survey that is taking place. It is not just looking at broken floors or windows; it is looking at fundamental and core systems around heating and ventilation as well. Once we get the report back in January, the intention is to advise Michael on what the options are moving forward and what related costs might apply.

Q600 **Victoria Prentis:** People watching this will not know that it is an unusual set-up, in that many of the wings converge on a central area. Do you have working CCTV on all wings?

Neil Richards: No.

Q601 **Victoria Prentis:** Is that something you would welcome?

Paul Newton: At the moment, we are working through a process that, hopefully, will ensure that we have CCTV throughout the wings that remain open. Obviously, for supporting safety, CCTV would be—

Victoria Prentis: The way to go.

Paul Newton: Absolutely.

Q602 **Victoria Prentis:** Mr Newton, do you feel that you are held back by not knowing which body is responsible for paying at the moment, or do you feel that you have clarity?

Paul Newton: I am a public sector governing governor in a private prison, so the nuance that surrounds that is different. We have a governance structure that we have devised and that we are working to. Things do not happen as quickly as I would like them to, but we get there in the end. It is being respectful of the process that is in place. I know that, if I need to escalate, I have a process to escalate things and to get things done.



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Q603 **Victoria Prentis:** Mr Spurr, there are many other problems with the fabric of Birmingham aside from the windows. The NAO tells us that there are arrangements in the contract for you, or your organisation, to inspect cells and to deduct money from G4S if repairs are not carried out as appropriate. Did you do that?

Michael Spurr: People on site did it. The NAO say they have seen records of that from March onwards. It was being done before, but we certainly increased the amount of inspection post-March linked to the improvement notices that we had set in place.

Q604 **Victoria Prentis:** Were you aware, for example, that all the windows were broken in the Victorian blocks?

Michael Spurr: I was not actually aware that all the windows were broken. I am very aware that broken windows in Victorian jails are an issue. You will be well aware that we have had that discussion before. I would have been surprised were there not issues around broken windows in Birmingham because of the particular cells that they are, but, no, I was not personally aware of all the windows in each of Birmingham's wings.

Q605 **Victoria Prentis:** Do you feel there is sufficient clarity about what the acceptable standard is for a cell in the contract?

Michael Spurr: Going forward we need to make that clearer, not just for this contract but more generally across the estate. The reality is that the Victorian wings that G4S took on in 2011 were not in a great state when they took them on—let's be frank about it—and they had had little investment for the previous 15 or 20 years, other than toilets being put into cells.

The arrangements for serving meals below ground were pretty poor in 2011. G4S did not create that; it is what they inherited. The reality is that over the last seven years, since they have had that contract—this is true across the estate—the challenges the service has faced have accelerated the deterioration of the estate, with more vandalism and a whole range of issues that have caused us more problems. We have not had investment in the fabric of the estate to improve it, which is why the commitment to 10,000 new places is so important to us.

Equally, the reality is that what was acceptable in the 1990s, and which we have lived with since then, is no longer acceptable going into the 2020s. That is true for Birmingham's Victorian part. It is true for other aspects of the estate.

Q606 **Chair:** I understand that. There is just one specific part on contracts before we move on. As you know, the National Audit Office has done some work for us around this. I am told that there is an ability in the contracts to say that cells are unavailable if they do not meet suitable standards for habitation. It is very clear that some of those did not. You can withdraw them from availability, if you like, and if they are not rectified by G4S you can withhold payment. Was that done in the case of



Birmingham?

Neil Richards: I took up post at the beginning of May. The first meeting I went to was a G4S meeting about the current improvement notice and action plan they were working to. It was a meeting chaired by G4S talking through what actions had been taken so far according to the plan. That was my first visit to Birmingham.

I spent a couple of hours walking around some of the old Victorian wings—A, B and C—just prior to that meeting. When I went into the meeting, what I heard was a lot of discussion about progress against the action plan. The controller locally had produced a wealth of evidence—quite a big portfolio actually—and challenged the meeting at the time about broken windows, cleanliness and the standard of all the cells. He had an information pack demonstrating the concerns that had been raised and what had or had not been addressed.

My point at the meeting at the time, albeit my first one, was that we were talking about an action plan but we were not managing to gain the outcomes that the action plan was designed for. When I walked around the wings and saw what was happening, which I suppose was not particularly different from what the chief inspector would have seen—I saw an action plan that was not working at the time. That was the point I made at the meeting.

I spent some time with the controller's team afterwards talking about what the approach had been until that point about taking cells out of action. Historically, there had been a routine approach not of withdrawing cell certificates, but of working in a supportive way with G4S and trying to take cells out of action when they saw them locally, which is allowable within the contract. There is a 72-hour period for G4S to take corrective action.

Following that visit, I felt assured in some ways by what the meeting was trying to achieve and the words of both Jerry and the director at the time about their commitment to rectify some of the issues that I had seen on A, B and C wings. I was determined to go back on 31 March. In fact, there was a meeting just prior to that when I tried to reiterate my point and the plan of withdrawing 300 cell certificates. That is the next stage: I would formally have withdrawn all 300 cell certificates. We had quite a long discussion about that and whether I was allowed to do it or not.

Q607 **Chair:** It was a discussion with G4S, I suppose.

Neil Richards: Yes.

Q608 **Chair:** They were pushing back on you and saying, "You can't do that."

Neil Richards: Yes.

Q609 **Chair:** And you insisted that you could.

Neil Richards: Yes.



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Q610 **Chair:** Mr Petherick, what was the objection to that? It was clear enough in the contract, wasn't it?

Jerry Petherick: I absolutely accept under the contract the right to withdraw cell certification where appropriate. In actual fact, at that time we took out a number of cells on Charlie One landing as a result of us not being happy about the accommodation, in the same way as we had taken out the cells on G wing at the end of 2017.

Q611 **Chair:** You had had that conversation.

Neil Richards: I then revisited on the 31st, which is I think what Jerry is referencing, and walked around A, B and C wings again. I took out six cells in line with a senior contract manager. I went back and informed the director of it at the time. That probably prompted the next conversation I had on where we were going, and planning for step-in. That is why we appointed Paul Newton, who took up post supporting Birmingham from the beginning of July.

Q612 **Chair:** That is very helpful. The position therefore is this. Until your arrival in post and those discussions, although that provision had been in the contract, it had historically never been used, for whatever reason.

Neil Richards: The withdrawal of cell certificates, yes. Cells were taken out of use by the controller's team in partnership with G4S for allowing them to rectify the issues that had been raised.

Q613 **Chair:** But for the attributes of that procedure they hadn't been.

Neil Richards: Yes.

Q614 **Chair:** Is that something that had been discussed at the top management level, Mr Newton?

Michael Spurr: We certainly discussed it during the period Mr Richards is talking about. The aim in any contract is to get delivery of the service you want. The idea of not having cells available, particularly through the period when G4S took its population back after the riot, when we were under particular population pressures, was not the desired outcome we wanted.

Q615 **Chair:** It would have made life difficult for the service as a whole.

Michael Spurr: It would make life difficult for a whole range of services if we did not have places to hold prisoners from court. We took cells out of use; the aim was to try to get them fit and back into use. That was the approach. We changed that approach because of concerns about where we were with the performance of Birmingham at the time.

Q616 **David Hanson:** I am still not quite clear, Mr Petherick. What exactly did you do when those concerns were brought to your attention? You said that you met the director. You said you had discussions with the staff. What did you do?



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Jerry Petherick: Through the period post disturbance, which we were particularly aware of, we looked at a number of issues. Attrition increased, as we know. One of the issues about attrition is that a member of staff can give a maximum of a month's notice and leave. It can take at least three months to replace that member of staff.

We looked at bringing in staff from our other establishments on a short-term basis because I wanted to get more stability into there. We took the decision to recruit additional staff at both Altcourse prison and Parc prison. Colleagues who were recruited would spend the first six months of their career at Birmingham to give a degree more stability. We looked at the terms and conditions for staff at Birmingham because we were aware that that was an issue. We changed the terms and conditions for the staff in an attempt to get more stability.

We absolutely looked at what we were doing and how we could do things better. I brought in a safer custody taskforce.

Q617 **David Hanson:** How much time did you personally spend at Birmingham prison with the director dealing with those issues over the period of time we are discussing today?

Jerry Petherick: A significant amount of time, because of my concerns. I was working in large part during 2017-18 through my chief operating officer, who was the director's line manager, so I was having discussions with both those people. I have an office that I utilise in the training unit adjacent to Birmingham. I spend a lot of time there talking to staff, sometimes informally in the training unit to pick up issues. I talk to the director. I go in very often on an ad hoc basis to walk around, to listen and to talk to people.

Q618 **David Hanson:** This is an important issue. If you are walking around talking and listening to people, how come it collapsed as it did? Ultimately, it is your responsibility, isn't it, to manage the service?

Jerry Petherick: Yes, it is, and I do not shirk from that fact. Ultimately, it is my responsibility.

Q619 **David Hanson:** I am still trying to get to the bottom of what specific actions you took with the staff to avert the potential taking over by colleagues, and Mr Newton running the prison.

Jerry Petherick: Specific actions were looking at recruitment and retention issues, and trying to address them to reduce attrition and the amount of sickness; talking to directors and the senior management team, making sure there was clarity of expectations; and looking at bringing in additional expertise to support the management team. We looked at and revamped all our selection and training processes for new staff, because one of the issues was very much about giving staff confidence.



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As has been said, this has been a period when there has been a change in dynamics, particularly in inner-city local prisons, with increasing criminality of the cohort. During the summer last year, we identified the fact that we were carrying an exceptionally high number of sentenced mainstream category B prisoners at Birmingham; at one stage in May, we were holding 161 of that cohort. In comparison, we discovered that Liverpool was holding 81. I raised that with Michael, who took immediate action to address it. We were addressing the issue in a number of ways.

I said earlier that we were spending money as swiftly as we could to address the maintenance issues. We took the action in November 2017. We approached HMPPS to reduce the population by shutting G wing, with the commercial hit that Michael referred to, but because we were concerned about staffing levels we proactively raised that with the authorities.

There was a range of things. I fully accept that it is my responsibility. There are responsibilities at a number of levels. Ultimately, it is my responsibility and I have already expressed my personal feelings about that.

Q620 David Hanson: It is your responsibility, but ultimately it is the Government's responsibility to manage the contract. One of the issues I want to explore, if I may, is this. As I understand it, there are only six contract delivery indicators in the contract, and the issue of violence and cleanliness does not feature as part of the contract performance issues.

Mr Spurr, is that right for future contracts? As the NAO report says, throughout 2017 and 2018 your controller reported high levels of violence, low levels of purposeful activity and poor cleanliness in the prison. We have had findings from the HMP inspector that said blood was not cleaned from the cell floor of a prisoner who had self-harmed two days previously; rubbish was not removed; fleas, cockroaches and rodents were present; and vomit was left overnight. I could go on. None of those things was being managed in the contract in holding Mr Petherick and his team to account.

Michael Spurr: I do not think that is entirely fair. You are right to say that the number of indicators for the Birmingham contract is below the number of indicators we set for a lot of the new prisons that have been opened, but that was trying to get the best way of driving the quality of performance we wanted. It is not the case that within the contract we are not clear that we expect a prison to be delivered safely, with decency and cleanliness. That is there.

The fact that it is there is what allowed us to issue improvement notices, and outstanding issues notices when they were not addressed. The issue about what you have as indicators and what you link as a penalty or a financial response is tricky. For example, in early contracts we had providers potentially open to fines for finding a mobile phone; but we want providers to find mobile phones if they come into the establishment.



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We had the potential to fine establishments on the number of self-harms that occurred, but actually we do not want that to drive people to do wrong things that have perverse outcomes.

We had set the contract to be very clear about the quality of delivery. G4S were not meeting that quality. That is why we issued improvement notices.

Q621 David Hanson: I appreciate that, but it is clear that the contract management team at local level were raising those issues. The NAO report says so and the HMIP says so. That was throughout 2017 and it was only in March 2018 that you served the contractual improvement notice on G4S.

Michael Spurr: That is true, but in the autumn following the issues being raised and my visit in September, we took action with G4S to drive the improvement. Because they were agreeing to that action, they reduced capacity in G wing. They recognised that they had challenges. We did not need to issue a formal improvement notice—our view at that time—because they were taking action. Our judgment was that that was legitimate for a provider who, to be fair, was delivering good services in other prisons. They have had good inspection reports for Oakwood and Altcourse, quoted by the chief inspector to this Committee previously as a good example of a prison. It was not unreasonable for us to say in the autumn, when we got clarity from G4S about what actions were being taken, including reducing capacity and bringing in additional staff, that we would give them an opportunity to demonstrate that that improved the prison. It did not improve the prison, so we went to formal contractual mechanisms in March.

Q622 David Hanson: How bad would it be before a contract was lost by a private sector provider? What is your measure of failure?

Michael Spurr: Termination was absolutely an issue that we were contemplating in that case. We were going through the process. The desire of all of us was for G4S to be able to successfully improve Birmingham because that would be better for everyone. We were genuinely trying to work with G4S to achieve that, but, to be absolutely clear, the challenge was significant. I came to the conclusion, as did colleagues, that in the end additional support was necessary that could only be provided from the public sector. Termination was definitely on our agenda if necessary to improve what was required at Birmingham. We were in the middle of the process when the inspection team came. It was helpful because it reinforced our concerns about where Birmingham was.

Q623 David Hanson: I understand that you have altered the respective roles of the MOJ and HMPPS in looking at and revising performance measures. Tell us what that is.

Michael Spurr: Are you talking about the structures?

David Hanson: Yes.



Michael Spurr: Effectively, at the moment, setting the performance measures has been the responsibility of the policy performance group in the centre of the MOJ. That will revert to HMPPS directly, set by Ministers through to HMPPS, under revised arrangements that the current Minister is putting in place, and following the restructure that is occurring now in preparation for a new chief executive in April.

Q624 **David Hanson:** Ms Reeves will talk about financing issues in a moment. I want to ask one question that arose from our visit. There is an awful lot of clean-up work going on at the moment. There is a cost to that clean-up work. Who is going to be responsible for that ultimately?

Michael Spurr: The costs that have been incurred through step-in will be met by G4S.

Q625 **David Hanson:** What is the total amount of that to date?

Michael Spurr: It is yet to be determined. We are in the middle of discussions at the moment, but the principle is accepted by G4S. The reason it is not entirely straightforward is that if you were to work through precisely what the costs are for all the prisoners we have sent elsewhere, and what is a reasonable and proper cost to be paid for the prisoners who have been displaced, there is an issue about what the cost is for the additional staff and what is legitimate for that. Depending on what we get from the conditions survey, there is the cost we would have legitimately expected G4S to meet on that. The conditions survey will not be complete until January, but there is no question: the taxpayer will not pick up those costs. Those costs will be met by G4S, and that has been accepted by G4S.

Jerry Petherick: Those discussions are going on in a very positive and constructive fashion.

Q626 **David Hanson:** Can you give us a ballpark figure of what that figure would be?

Jerry Petherick: I cannot give you a ballpark figure at this particular time.

Q627 **David Hanson:** Is that because you cannot or it is not available?

Jerry Petherick: I could invent a number in my head, but I don't have the note so I can't give it to you.

Q628 **David Hanson:** But "can't" could mean, "I'm not able to," or, "I haven't quite got a figure yet."

Jerry Petherick: I have not got the figure so I cannot give it to you; I am sorry.

Q629 **Ellie Reeves:** Further to some of the issues Mr Hanson touched on, this Committee has seen copies of G4S improvement plans from March 2018, which were submitted in response to the contractual improvement notices. They were very administrative in nature. For example, there are



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things like providing specific job descriptions for cleaners. We know from the HMIP report that cleanliness did not improve. Why weren't those action plans focusing on results?

Michael Spurr: It was for that reason that our view was that those action plans were not sufficient, which was why we issued formal outstanding issues contractual notices to say that we were not happy with the outcomes. As Mr Richards absolutely identified, the action plans were not driving the outcomes we wanted, which is why we had not accepted them as discharging the responsibility of G4S to improve the prison. That is why we were into outstanding issues notices and further improvement requirements.

Q630 **Ellie Reeves:** Was there no process of agreeing the plans with G4S? If you are saying that you do not think they were right because they were not focusing on results, what was the process of agreeing those with G4S? Things went on for a long time before the urgent notification. Surely, there was time for those discussions to take place.

Jerry Petherick: There were those ongoing discussions. I absolutely see the point you make about some of the administrative words. As Paul Newton said earlier, for me, one of the real issues is about driving cleanliness. I have never had to have a job description to tell me what is clean or not clean. It is about leadership, particularly on the landings, to get that done. The discussions were ongoing in support of colleagues from the authority.

We were being challenged about that, and that is why they were ongoing. We were having discussions about the outstanding issues notice, but that did not stop us doing our utmost to drive things forward. I accept that there were not sufficient improvements swiftly enough. That comes back on my shoulders.

Neil Richards: I reiterate the point I made earlier. At the action plan meeting I went to I could see very clearly at that moment in time, that despite all the efforts that had been made up to that point, they were definitely not having the desired outcomes. That is why we issued the outstanding issues notices, as Michael said. That is why the next action plan that we were in discussion with G4S on, which was never actually agreed before step-in took place, took so long. We were very determined to have an output measurable improvement notice next, because we had learned the lesson from that.

Q631 **Ellie Reeves:** Mr Spurr and Mr Petherick, are G4S still being paid to run the prison?

Michael Spurr: They are being paid for the staffing and all the work for the contract. It is still a G4S contract that we have stepped into. The additional cost that we are incurring as a result of the step-in, as I explained to Mr Hanson, will be met by G4S as well.

Q632 **Ellie Reeves:** Are G4S profiting from the contract?



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Jerry Petherick: Can I make it very clear that we do not profit from Birmingham? We have not made a profit. Some of the reasons for that are, as I said earlier, that the maintenance has cost us much more money than we anticipated. It is our job actually to deliver, and we deal with the commercial aspects thereafter. We are not profiting from Birmingham.

Q633 **Ellie Reeves:** Mr Petherick, it seems inexplicable that G4S could report to HMPPS in 2017 that the action plan for addressing the inspectorate's recommendations was progressing well when the inspectorate found in August 2018 that very few of the recommendations had been resolved. What have you learned from that about the approach to implementing inspectorate recommendations?

Jerry Petherick: That is a really significant issue for me. The learning I have taken is that you actually need more than one measure. Very often with a recommendation you can deliver the action for that recommendation, but it is about making sure that the maintenance of that change and checking downstream that whatever change was required and delivered is still in place. It is about getting the continuity right.

What I have learned from this and the changes that have been made to my business structure is very much that we measure whether the recommendation has been delivered on time, and then at three months, six months or whatever period is determined, we go back and measure that the change is still in place. As Peter Clarke said to the Committee a few weeks ago, some of it is about who is marking the homework. One of the lessons I have learned, and one of the changes I am making to my structure, is to have an independent audit/inspectorial team to go in at my behest, where I have concerns or on a regular basis, to make sure that the change is still in place and is having the required impact.

We measure that the delivery took place. We measure downstream that the change is still there. That independence of view is very important. That is my major learning from it, and I think it echoes what Peter Clarke said to the Committee a few weeks ago.

Q634 **Ms Marie Rimmer:** What is the ratio of prison officers to prisoners prior to the August inspection, the 2016 riot and now?

Michael Spurr: I cannot tell you that off the top of my head, I am afraid; I do not have that figure.

Q635 **Chair:** Do you have that, Mr Petherick?

Jerry Petherick: I don't, off the top of my head.

Q636 **Chair:** G4S were running it at the time. I thought you might have the figure.

Jerry Petherick: I would be hesitant to state it off the top of my head here. I will obviously provide that information.



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Q637 **Ms Marie Rimmer:** How quickly can you provide it to us, please?

Jerry Petherick: I would have thought within the next week.

Q638 **Ms Marie Rimmer:** I would also like a comparison with other private prisons and with public sector prisons. Mr Spurr, can you do that for us and let us have that?

Michael Spurr: Yes. We can provide some information. We need to clarify the right way of looking at that comparison, but, yes, we can do that.

Q639 **Ms Marie Rimmer:** Can you provide it quickly, please?

There appeared to be serious health and safety conditions when inspectors arrived. Some prisoners were intoxicated with spice. Cars were set on fire. Prison injuries in the last seven years have risen from 59 in 2010 to 434 in 2017. How many times has the on-site prison controller directly reported to the HMPPS concerns about health and safety at Birmingham? Were those concerns acted on?

Neil Richards: I cannot put a number on it off the top of my head today, but it regularly features in both informal and formal meetings with the director. It features in visits from the senior contract manager and at quarterly contract review meetings.

Q640 **Ms Marie Rimmer:** Do you record the actions taken?

Neil Richards: One of the actions we took, for example, was to fund a Rapiscan machine, which helps to detect substances.

Q641 **Ms Marie Rimmer:** Could you please provide to the Committee the number of times reports were made and what actions were taken? Surely there is a record. I am a health and safety professional; you must record it.

Neil Richards: In terms of the context of what that will actually look like, we would have to go through the records of the minutes of the meetings.

Q642 **Ms Marie Rimmer:** Please supply it. We have seen that there are many opportunities to take control at the early stages of passive protest. Prison officers could have taken control. Why were the windows of opportunity that have been highlighted in inspections not acted on?

Neil Richards: Michael has outlined the journey that was taken right the way from the disturbance in 2016, all the way through. It was about trying to work in partnership and in a supportive way with G4S to get past that moment in time. There was escalating action right up to the moment in May when we issued an outstanding issues notice against the formal action plan that was in place at the time, and through to taking the decision to step in.

Q643 **Ms Marie Rimmer:** I am particularly concerned about the delay in



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locking down wings. To what extent did a financial consideration influence the decision about locking down wings? It was a passive protest at first and there could have been more control taken to prevent it getting to the stage it did. Why were those windows not taken?

Jerry Petherick: May I just clarify—

Ms Marie Rimmer: Let me cite the report. "There were several windows of opportunity in the early stages of the incident, where it was no more than a passive protest, when a hold could have been established preventing the subsequent escalation." That was in the official report of the riot in December 2016. Why did G4S management miss those windows and instead decide not to lock down the wings until it was too late?

Jerry Petherick: May I take that because it obviously refers to the December 2016 disturbance? In the initial stages of the disturbance, my belief was that there were two issues that could have prevented further escalation. Looking at the body-worn video coverage that I have seen, the first of those instances was when the staff on the wing decided to withdraw under the threat from the five prisoners who were there. That was their decision. I am not here to second-guess that. They decided that they needed to withdraw to a place of safety. They did that and secured the wing. The five prisoners were on that wing.

One of the middle managers decided, because he believed he had a relationship with one of the prisoners, to go and talk to the prisoners and to try to stop it. That was an entirely appropriate and reasonable decision by the middle manager involved. He went and talked to the prisoners. He decided he was not getting anywhere and turned to leave the gated area. He was on the safe side of the gate in relation to the prisoners. As he turned, one of the prisoners, who had secreted himself against a wall, put his hand through the gate and grabbed the keychain of my colleague, which is designed to break over a certain load for health and safety reasons. That happened and we lost a set of keys. In many ways, that was the real game changer.

A manager took an appropriate decision, as many of us have done in the past, believing that we had a relationship, but it turned against us. The prisoners then decided to unlock further prisoners. A colleague took an incredibly brave decision. He went to get a special key to secure the area. He did that while coming under copious amounts of debris being thrown in his direction. It was incredibly brave. That secured the area for a period of time, as it was designed to.

As the response teams were being brought together from around the country, there was a time lag to effect entry to the area, and the physical barriers eventually gave way. It is a wee bit like the layers of an onion. That is perhaps the best way to describe it. Colleagues at Birmingham, again incredibly courageously, held line after line. In those disturbances, one of the most painful issues is the time it naturally takes to get



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sufficient resources from other establishments. I seriously declare my admiration for the sheer naked courage shown by people.

Ideally, we would have re-entered the wing very quickly and dealt with the five prisoners. The fact that a colleague had lost a set of keys changed the dynamics enormously.

Q644 **Ms Marie Rimmer:** In hindsight, from your investigation into the incident, have you learned any lessons? The prison officer who tried to talk with someone he had a relationship with seems to have missed. That will not happen in the future, will it?

Jerry Petherick: I do not think any of us can give categorical assurances on that.

Q645 **Ms Marie Rimmer:** I am looking for lessons learned.

Jerry Petherick: Absolutely. One of the prime things that should have happened, and would normally have happened but did not in this instance, is that, if someone goes into that position at a forward area, ideally, he would make sure that his keys are not on him. It is those kinds of lessons. We on this panel have all been commanders in such situations. Those are the kinds of practical controls that should be put in.

Q646 **Ms Marie Rimmer:** I accept what you say. Giving evidence to the Committee in September, Mark Fairhurst of the Prison Officers' Association explained that private sector management have an obsession, highlighted in the Birmingham report, with running regimes at all costs. They keep the prisoners' routine going because they get fined if they restrict the regime.

Strikingly, a further witness—Serco's managing director of justice—appeared to agree and said, "Yes, we are encouraged at all costs to keep the regime running." Private prison operators are under intense economic pressure not to disrupt prisoners' routines, even when a disturbance starts to unfold. Does the profit motive create a perverse incentive not to act immediately, putting staff and prisoners at extra risk?

Jerry Petherick: Absolutely not, no. I have worked in this environment for over 37 years. My main aim is the safety and the security of our colleagues and the prisoners. We should not take foolish risks. Yes, there is inevitably a drive to make sure that we keep prisoners occupied. I believe very strongly in making sure that prisoners are as busy and active as possible. There is a tension about this, and it is not a profit tension. I firmly believe that it is an operational/control tension.

Q647 **John Howell:** Mr Spurr, I seek some clarification. I think you said earlier that you had reduced the prison population in Birmingham. Is that correct?

Michael Spurr: In November 2017, we reduced the number of places there by 116, closing G wing, in discussion and agreement with G4S.



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Q648 **John Howell:** But then, within six months of the riots, the prison population was back up to maximum capacity.

Michael Spurr: For clarification, the population was reduced after the riot by 550-plus prisoners, as work had to take place in the wings that had been affected by the riot. That work was completed in April 2017. We built the population back up to the contractual level of 1,450, at about 15 a week, from April through to June.

Running at its full capacity created challenges for G4S. I mentioned that I visited myself on 22 September, when that was raised by controllers. We saw that the challenges were becoming very difficult for G4S to manage. We discussed with them what we needed to do. As a result, we took the population back down again by 116 in November 2017, in response to the stability concerns we had about Birmingham at that time.

Q649 **John Howell:** With all the adjustments, you had not solved the problems of purposeful activity, the high staff shortages, the recruitment problems, the drug abuse and the use of electronic systems, yet you were still adjusting the prison population.

Michael Spurr: We built the prison population back up post-April because the contract required G4S to provide those places and the places were ready. We needed the places. If you recall, I have told the Committee before that we went up 1,600 in population between May and August 2017. We were at a point where we almost ran out of places across the estate, so having places available at Birmingham that were fit for use—it was the modern accommodation—with an inspection report that was positive about the response G4S had made to the dreadful riot of 2016, meant that it was not unreasonable for us during that period to allocate prisoners to Birmingham. In fact, not allocating prisoners to Birmingham through that period was causing significant disruption for the Birmingham courts.

We did that, and, having done it, we recognised pretty quickly that running at full capacity was causing problems. We took action in response by reducing the population in November.

Q650 **John Howell:** But you still had not solved the problems that I illustrated.

Michael Spurr: The problems were not solved; absolutely, I am accepting that. There will always be issues, challenges and problems in running a prison, but the extent of those challenges at Birmingham gave us significant concerns from September 2017 onwards. We took a range of actions, which we discussed earlier with the Committee, in order to resolve them, leading eventually to the step-in that occurred in August.

Q651 **John Howell:** The inspectorate reported that many G4S staff lacked both confidence and competence in key prison skills. How does the contract allow you to influence the number and the experience of prison officers?



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Michael Spurr: The contract itself gives responsibility for running the prison to G4S. Our focus is on the quality of service they are delivering. The quality of service was not sufficient. We had many conversations with G4S about how they were going to address that. We recognised, as they did, that one of the issues was having sufficient staff and sufficiently experienced staff to deal with the challenges they were facing, as I described earlier.

G4S took action. They brought staff from other establishments. They brought some experienced managers from other establishments, but in the end what they were able to do was not sufficient to deal with the challenge they were facing. That is why in the end, for the reasons I explained earlier, we stepped in.

Q652 **John Howell:** Mr Petherick, what support did you give from G4S for the quality of the prison officers who were there?

Jerry Petherick: As has been said, we were bringing in some experienced staff from elsewhere to give mentoring support. We recognised that one of the issues was that members of staff and colleagues go through their initial training and are then exposed to some of the realities. Despite the fact that we try to educate them in those realities, we are not alone in seeing a degree of attrition post-training as people get into the environment.

What we have increasingly done across my estate is to introduce mentor officers to give support, encouragement and learning. As Michael said, one of the issues was the scale. The increased attrition post the disturbance, alongside the attrition in the rest of the prison estate in many ways, meant that we were losing staff too quickly. We tried to address that, and we did address it in part by changes in terms and conditions. That helped to a degree, but we needed to do additional work; hence my authorising extra recruitment at a couple of my establishments where recruitment is more straightforward, to bring a number of people down for a sustained period. Ultimately, it is about the scale of my estate compared with the scale of the wider estate in being able to find additional resources.

One of the other things I obviously have to bear in mind is the stability of the home establishment I am drawing staff from. We moved into extra recruitment at a couple of the establishments, to make sure that I was not disturbing the stability of my other prisons.

Q653 **John Howell:** Mr Spurr, is the challenge the number of prison officers or the training that they receive?

Michael Spurr: Both are important. We have to have the right number of staff to run effective regimes in prisons and to maintain appropriate supervision, order and control. Clearly, having the jailcraft required and the skills to be able to work effectively with prisoners is crucial if we are to run really good prisons. Some of that obviously requires good-quality



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training, and we are looking to improve on that. It also requires experience and support on the ground when people take up post.

The challenge we have had over the last couple of years is that we have recruited a significant number of new staff, and the support we are able to give them is inevitably less, given that there are many more of them than we would ideally have liked. We lost more experienced staff over the previous years than we would have wanted. That has created a challenge for us over the last few years, and Birmingham is a microcosm of that challenge for the wider service.

Q654 John Howell: Could you describe to us what help in training you provide to G4S in those circumstances?

Michael Spurr: G4S are responsible for training their own staff. We have to approve that the quality of training G4S are giving is equivalent to the training given to public sector staff.

Jerry Petherick: That is absolutely correct. We train to those standards. We have just revisited all our training at Birmingham and elsewhere, and are in the process of rolling out some new approaches. It is a much more interactive training than it has been in the past, using IT and so forth. There are ongoing training developments, both initially and subsequently. We obviously send staff away to specialist Prison Service or HMPPS training courses, be that control and restraint, hostage negotiation and so forth. The initial training is done by us to the standards expected and agreed by HMPPS.

Q655 Janet Daby: In August 2018, the inspectorate conducted an unannounced reinspection of the prison. It identified a deterioration in the prison's condition. How do you respond to the concerns about the potential of the inspectorate to become a substitute for the management of the prison service?

Michael Spurr: I think I answered a lot of that earlier. It was not a surprise to us that the performance at Birmingham was not acceptable. We were very clear that it was not acceptable, and we had been taking a whole range of measures. I also said earlier that inevitably the inspectorate are, through other means, identifying prisons that they think are struggling, but it is inevitable when they go in there that they will report where we are already trying to address issues. On the urgent notification procedure, in the last 12 months or so, I would say that there is not one prison that the inspectorate have gone into and issued an urgent notification that we had not already identified as a prison of serious concern. Every one of them had been identified under our own arrangements as a prison of serious concern, and that had been published externally.

In a number of cases, we have been able to take sufficient action to avoid the inspectorate issuing an urgent notification. In Wandsworth, The Mount, Woodhill and Chelmsford the inspectorate found prisons that were



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genuinely of concern, and were of concern to us, but they were satisfied that the amount of action we were taking was sufficient for them to feel that they did not need to issue an urgent notification. In Nottingham, Exeter, clearly Birmingham and Bedford, although we were taking action—action was being taken in all of those cases; they were not prisons where we had not identified issues—their view was that even more needed to be done, and it is perfectly legitimate for them to take that independent view. That is why they invoked the urgent notification procedure, writing to Ministers.

In one sense, the procedure and process is working as was anticipated. It is not the case that management had not identified which prisons were causing problems. We absolutely know which prisons give us concern. We have published that. The inspectorate comes to look at the action we are taking in response to those concerns. In some areas, they are saying that it is sufficient although still very challenging. In others, they are saying that we need to do more, and are using the procedure given to them to identify that and to notify Ministers directly.

Q656 Janet Daby: Mr Spurr, I suppose the question then is that to avoid urgent notification you need to be able to ensure that you are on top of the situation, so that you prevent it from getting to that stage. The riots took place in 2016. The unannounced reinspection identified similar or continuing issues. How do you assess the impact of the urgent notification, but, even previous to that, what were you doing to try to prevent things from getting to that stage in the first place?

Michael Spurr: I do not want to repeat an awful lot of what I said before, but I think all the actions I described earlier were what we were doing. The reality of prisons is that they are dynamic establishments and institutions, and things change. It was not wrong for us to bring Birmingham back to full capacity during the period we did. It was not wrong for us to use the places that we are paying for to be able to house prisoners.

When that created difficulties, we took action. There is a legitimate challenge about whether we should have taken earlier action or whether we should have done more. I have been pretty robust in defending the action that we took as being right and proportionate at the time.

One of the issues about urgent notification that I sometimes think can be problematic for everyone is that it suggests an immediacy in being to solve what can be very deep-rooted problems. There is no question but that we have to respond when an urgent notification comes. The chief inspector is careful about how many of them he issues because he recognises that there is a challenge for us in being able to solve issues urgently and immediately.

At Birmingham, we took decisive action. We reduced the population significantly and put in a significant number of additional experienced staff. We had taken action in a number of places, just like at Birmingham.



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At Wandsworth, we reduced the population numbers and we put some more experienced staff in. We had done similar things at Bedford; it was not enough. We are doing more now.

These are judgments. We have a whole estate to run. We must not run places that are at risk of immediate crisis and disorder, and we are looking to avoid that, but it is challenging in some of our sites to manage that on a daily basis.

Equally, the inspectorate are finding a significant number of prisons that are beginning to improve. That needs to be said because inevitably we are rightly focusing on the prisons where we have particular problems, but the inspectorate are also finding—I get this regularly—prisons that are increasingly delivering better regimes and beginning to improve. That will accelerate over the next 12 months.

Chair: Thank you very much, gentlemen. We are grateful for your evidence and we will be producing our report in due course. Thank you very much for coming.

Mr Spurr, you are going to stay with us for the next panel with the Minister. Mr Richards, Mr Petherick and Mr Newton, thank you for your time and for your evidence today. We will write to follow up various issues.

Examination of witnesses

Witnesses: Rory Stewart and Michael Spurr.

Q657 **Chair:** Minister, good morning. Thank you for your patience. You were listening to a good deal of that evidence. You have talked to us about Birmingham before. From what you have heard in the course of today and elsewhere, and in terms of our broader inquiry into planning for the future of the prison population, what are the lessons to be learned, although I suspect you already know anyway? What does what has happened at Birmingham and the problems there tell you about how this feeds into your broader strategy and planning for the future of the prison population and how we handle it?

Rory Stewart: Now that we have the extra 2,500 prison officers in place, the key is to establish minimum standards, to have reliable standards right the way across the private and public estate. We have to accelerate towards stabilising our system. The foundation for that is making sure that we have clean, decent and safe prisons. That is the foundation from which we do all the other things we want to do—in particular, rehabilitate people, change lives and ultimately protect the public.

Birmingham is one example, but one example among other examples, of a place where, for a range of different reasons, but in particular through that riot or disturbance, we lost stability. It is a classic example of the way in which restoring stability is vital to moving forward.



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Q658 **Chair:** That is very helpful. Realistically, is it possible to do that with the current levels of population, or is the real answer that something has to be done to address that issue? Otherwise we are spending huge sums of public money and, as Mr Spurr said—I do not want to put words into his mouth—you are having to firefight all the time because of the pressures the system is under.

Rory Stewart: There are huge pressures. I take this opportunity to pay tribute to Michael for the work he has done. He has been an extraordinary public servant for a very long time.

Chair: Indeed.

Rory Stewart: He is obviously managing a system that is extremely challenging. One of the things he has demonstrated is that it is possible to stabilise the system. As he said in his evidence, we are now beginning to get more positive inspection reports coming through.

I hope to demonstrate through the 10 priority prisons I am focused on that we can actually turn this around. Why am I confident of that? I am confident that once those 2,500 officers are in place, and once we have invested in training them and re-establishing the culture on the landings, we can get back to safe, clean and decent prisons. That is not a crazily ambitious target; it is quite a practical and achievable target. The more ambitious stuff then follows, which is the reducing of reoffending and the rehabilitative culture. I am fully confident that Michael and his team can, with the resources that are now in place and with an enormous amount of energy—because at any time in his career he has had to show an enormous amount of energy—produce clean, safe and decent prisons.

Q659 **Chair:** Those are clearly the immediate priorities, and I understand that. Our concern is the risk that so much of the focus of the Ministry and Mr Spurr's department inevitably has to go into those that there is not the opportunity to look at the broader strategy for whether we are using prisons as efficiently and effectively as we might, and what might be the alternatives that we as politicians have a responsibility to put in place to make the task of Mr Spurr and other professionals easier.

Rory Stewart: The key is that it is not an either/or; it is an and. There is no point talking about the other stuff unless you have clean, safe and decent prisons. One of the problems is that people somehow imagine it as a trade-off—that you can somehow choose to run kind, rehabilitative prisons without getting a grip on violence and decency. You cannot. In fact, if you were a prisoner, you would get pretty irritated by somebody saying, "I'm being kind and rehabilitative, but this place is a filthy, violent environment."

Those things go together, because cleanliness, safety and decency is the foundation of the relationship between the prison officer and the prisoner. That is the contract between the state and the prisoner. That is the contract between the state and the public. It then gives you the opportunity to do what we are actually doing at the same time.



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Obviously as you have picked up, Chair, I am obsessive about the safety and decency stuff, but I assure you that Michael and his team are also doing an enormous amount. They are pushing ahead with an education and employment strategy. They are pushing ahead with a new approach to rehabilitation. They are designing new NHS partnership contracts that the governors are central to, all of which is about rehabilitation. Finally, they are bringing probation officers into prison to work with long-term prisoners in order to address questions of reoffending. It is an and, not an either/or.

Q660 Ms Marie Rimmer: In 2015, the National Audit Office said that Government Departments believed that "by contracting out services they had transferred the risk to the provider through financial penalties," whereas in reality with contracts the provider can walk away and the Government cannot. It is the same with anything else. You cannot contract out; you are still responsible. Given the impact of a failing prison on the lives of prisoners and the wider community, how does the Ministry decide which prisons to contract out and how to go about doing it?

Rory Stewart: First, I agree with that statement; you cannot contract out your risk. That is true right the way through. I disagree with Michael Howard's idea that somehow Ministers could contract out risk by creating an independent agency. In the end, the risk is held here. That is true whether you are talking about HMPPS or the private sector. Our responsibility is to make sure that these things are properly run for prisoners and the public.

What does that mean for private provision going forward? The first thing is to recognise that we have now been running private prisons for 25 years. By and large, that experience has been pretty positive. In fact, if you look at G4S itself, its performance at Oakwood, Parc and Altcourse has been impressive. They are good prisons. Thameside, which is a busy local prison in London, is a good prison run by the private sector.

Birmingham suggests that that is not always the case. Birmingham was a bad prison and it was badly run. My view is that this is not about an ideological choice between the private and public sector, because unfortunately there are also public sector prisons that have gone wrong. It is about the point at which I or my successor, or Michael or his successor, decide to step in. That is the human judgment at the core of the story.

I would like to confirm that Michael could not have been clearer from the moment that I came into this job at the beginning of January and onwards that he was worried about Birmingham. We have sat down at meetings repeatedly to talk about Birmingham. I have sat down with Jerry Petherick on a number of occasions. That is why the improvement notices were issued. That is why he was sending in Paul Newton. That is ultimately why it was Michael who actually came to me before the inspection report proposing that we take it back in-house.



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The debate is whether we could have acted sooner, but realistically we are talking about a matter of weeks, I am afraid. We are talking about whether it was that moment in August or whether potentially we could have done it in July. It is also true, whether I am talking about a private sector prison or a public sector prison, that as a senior manager you have to try to give the people on the ground an opportunity to sort themselves out. They come up with a plan; new leadership is put in place and you have to try to trust them enough to see if they can do it. Then, if they cannot, you have to take it back in-house.

Q661 **Ms Marie Rimmer:** Minister, will you be handing the prison back to G4S on 20 January as planned?

Rory Stewart: Not if that prison is not a stable, clean, safe and decent prison. We will not be handing that prison back unless we are absolutely confident that it is now fully under control and G4S is able to run a safe, decent and clean prison in the future. I give an absolute undertaking to this Committee that we are not rushing to hand it back in any way at all. Our priority is the safety of the prisoners, and ultimately the safety of the public. If we are not ready in January, it is not going back.

Q662 **Ms Marie Rimmer:** But at some time in the future it could be, if you are satisfied that they could do it. You will not do it if you are not satisfied.

Rory Stewart: Exactly. The condition is that we should be satisfied that they should be able to run it at least as well as we are currently running it.

Q663 **Victoria Prentis:** I know that you are obsessed by clean, safe, decent prisons and that is a good place for you to be. However, the latest safety indicators, published at the end of October, are not going in the right direction for those of us who are very keen to keep you as Prisons Minister well into next year and beyond. Do you think you are making sufficient progress?

Rory Stewart: You are absolutely right. The graph on violence is very worrying; it is rising. As you know, I have promised to resign unless we turn that graph around on violence in those 10 key prisons. At the moment, the graph is going in the wrong direction for me. In fact, over the last 12 months—in fact, if you take it from 2012—the graph is almost going straight up at the moment. If you were to project it forward, unless we manage to grip this, it will continue to rise.

How are we going to turn it around? I believe that we will turn it around by focusing, first of course, on drugs; secondly, on the conditions; but thirdly, and most important of all, on supporting our staff on the landings, to restore confidence and appropriate relationships between prison officers and prisoners. In the end, it is about behaviour, and behaviour comes out of 10,000 interactions every hour between prison officers and prisoners up and down our estate. It is the culture that will turn it around.



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I believe there are green shoots. I was very impressed by the interactions I have had with the 10 governors. In fact, one of the things that has really reassured me in this whole process is that the closer I get to the governors, the more reassured I am, but it is going to be a tough fight.

It is going to be a tough fight because we have to work with a situation that is not just violence in our prisons. Assaults on police officers are going up. Assaults on ambulance workers are going up. As Michael can reflect over decades of his own service in the Prison Service, the prisoners we are dealing with now are quite different. In fact, I might invite Michael to reflect on what it was like taking prisoners into exercise yards when he first began and how prisoners treated female prison officers when he first began compared with the changes in cultural attitudes today. Let me quickly hand over to Michael.

Q664 Victoria Prentis: Can I put a supplementary? Could you tell us very briefly, Mr Spurr, what you would have done if you were staying over the next four years?

Michael Spurr: Briefly? I will start with the societal issues. There is undoubtedly a whole range that this Committee and its predecessor Committees have looked at, such as reduction in resources, and changes and the closing of prisons. At the same time, the change in society, particularly over the last 10 years, which inevitably reflects on prisons, is significant.

We talk about the change that our young people face today, with different social media and technology. That plays into younger people coming into custody. Norms that would have been much more respectful of authority are much less so today. A Birmingham officer summed it up for me. Five years ago, you would say to a prisoner, when he asked you for something, "I'll find that out," and go back a few days later and that would have been fine. A couple of years ago, you would have said, "I'll find that out," and they would expect the answer within the day. Now there is an expectation of an answer immediately, and frustration if it is not there.

Social interaction is not as it was. People are so used to engaging through media, and so on. There are prisons where traditionally we had lots of unstructured time. When you allowed people out of cell, unstructured time with adults engaging with one another was the norm. Younger prisoners find that much more difficult.

For a long time, male prisoners would not hit female members of staff. Over the last 10 years, that has changed. There is pure equality. If you are in the wrong place at the wrong time, you get hit for things that are quite trivial today compared with previously, when they would have been dealt with potentially by an expletive rather than a punch.

Those are the norms that are changing. The issues around mental health for young people in the community, which the Government are trying to



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tackle, play into custody. The whole issue of drug use outside plays into custody. That has definitely changed the dynamic, and we are having to respond. We have been too slow to respond.

Thinking about what I would do for the next four years, the answer is that the direction in which we are going, and which the Minister has set, is right. Getting the basics right must be absolutely right. I am keen to see what we can do in the 10 prisons, and then to be able to take that forward. I hope we can demonstrate through additional staff, discrete searching teams and so on, that we can get on top of drugs, alongside investment in treatment—some of the stuff the Government are looking to do to tackle mental health and drug use in wider society. Some of that funding needs to come into prisons because we have significant issues with people who end up in prison, and then go back into the community with significant risk to the community. There must be investment in the prevention of drugs coming into prison and investment in treatment.

The other big area I know the Government are committed to is tackling the estate long term. The estate requires improvement, as we talked about earlier. The 10,000 new places are really important because we cannot continue with the state of some of our Victorian and '60s and '70s-built establishments for the future.

Q665 Chair: Part of that underpinning philosophy was previously intended by the Government to be set out by giving a statutory basis for the purpose of prison, in the Prisons and Courts Bill, which was one of the many victims of the early Dissolution. Have the Government changed from that philosophy? Would you like to see it back in legislation?

Rory Stewart: We just have to accept where we are. You have put your finger on it, Chair. It is difficult getting legislation through with the parliamentary arithmetic at the moment. There are a lot of priorities. My view is that we need to do this. We do not need primary legislation to do it. The primary legislation was to underscore duties that I believe are incumbent on us anyway as public servants.

Q666 Victoria Prentis: You know my obsessions in life, which are concentrating on the other end of the prison experience: the through-the-gate experience and how we prepare people for release and work after prison. I feel that there is more we could do without legislation to make that experience a more useful one for everybody. Is that one of your obsessions, or are you still more focused on the safety, cleanliness and decency?

Rory Stewart: The answer is that we have to think about that. Obviously almost anybody we have in prison is not with us for the rest of their life; that individual returns to the community, which means two things. First, we need to understand that sometimes prison can be an opportunity to help change lives in a way that is more difficult to do outside prison. I would like to see the NHS really embrace the fact that many of our prisoners struggle to interact with health services when they



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are outside prison. This is an opportunity to find an extremely vulnerable population in relation to hepatitis, mental health and addiction, and to treat them under our care.

The second thing you point to is the question of somebody's journey when they leave. There again, we have to think through the factors that will define their life once they leave the prison gate: their education, their employment, their accommodation, their addiction treatment, their mental health and their family relationships—those six in particular.

We can do a great deal, both through the way we think about sentence planning and the education plan in prison and through the use of probation officers—we are increasing the number of probation officers—in prisons through the OMiC model, including a senior probation officer in each prison, to really work on making sure that prisoners come out the other end with a clearer sense of where they are going. But—but, but, but—we also have to bear in mind that the six things I mentioned are not within the control of the Ministry of Justice. When somebody leaves the gate of a prison, their accommodation comes from the local authority; their addiction treatment will come from the NHS; and by the time you get to family relationships, you are into something that stretches beyond Government into society.

Q667 Chair: Fair point. There is one small thing I was going to ask. You talked about safety and our broader obligations. Of course, we have obligations with the UN committee against torture and our international obligations. I know that you have taken the national preventive mechanism very seriously. They are going to do their review of this country in April 2019. Do you have concerns about that? What do you think of the issues?

Rory Stewart: We have enormous respect for the UN committee against torture, as indeed we do for the comparable European institutions and the ECHR rulings both on cell size and on treatment of prisoners. Both Michael and I are determined to work to reduce crowding in our prison estate. Our hope is that, by building the 10,000 new uncrowded places, we will get into a situation where we will really be able to guarantee that we can meet not just the minimum standards, which is what we aspire to at any time, but good, decent, humane standards.

It is unlikely that I will be lucky enough to stay in this job for 20 years, but I hope that my successor and Michael's successor will continue the push to keep building prisons. We have to end up in a situation in which ultimately we house people in decent, humane conditions, and expectations in 20 years' time will be different from what they are today. Things like slopping out, which seemed normal in the 1980s, now seem horrifying. In 20 years' time, conditions in prisons today will also be seen as retrograde. We need to make that investment. The UN visit will be a very important ally to me and Michael in our campaign for that.

Q668 Chair: There are specifics, aren't there? There is the whole question of an ageing population in prisons due to historical sex offending and other



things. In effect, you are having to run secure geriatric establishments, for want of a better word.

Rory Stewart: Looking forward to 2030, the big strategic questions are around changes in society. One of those big changes is demographics in society, particularly demographic changes within prisons. Yes, we are getting older as a society, but prisoners are getting older much more quickly than society is getting older because of the number of historical sex offenders who are being put into prison and the length of sentences being awarded.

In developing a strategy, yes, we have to take into account that population, but we also have to take into account a point that Michael has made here on a number of occasions, which is that it is not as simple as saying that somebody in prison aged 50 is old. It depends. If they came into prison when they were 20 and they are now 50, they may well, I am afraid, in many ways seem very old compared with a normal 50-year-old. If they come into prison for the first time aged 50, they may well be fit, well and very active. We have to think about not somebody's technical birth age but indications of ageing in their physical and mental condition. We need to adjust for that.

Q669 **Chair:** Do we have to think, "What is the appropriate way of sentencing?" in many of these cases?

Rory Stewart: Yes, I believe we do. That is a bigger issue. I am very pleased that the Sentencing Council has now commissioned an agency to investigate public opinion in relation to that. We need to win the debate in the public before we can win the debate in Parliament.

Q670 **Ms Marie Rimmer:** Minister, you have set out your vision for the involvement of the private sector in future prisons policy and operations. Why was the decision taken to give private providers precedence for new builds and existing prisons once contracts come to an end?

Rory Stewart: The first thing is that we believe in a mixed economy. We are going to remain in a situation where the majority of our prisons will continue to be run by the public sector, but the private sector has particularly delivered, yes, some cost savings but, perhaps more importantly, new approaches that have been really impressive. We are learning from the private sector all the time.

At Thameside, which is a prison run at the moment by Serco, you will see impressive use of technology. Every prisoner has a screen in their cell. Prisoners say, "I would much rather be in Thameside than in Pentonville." You can go to Parc and see them doing really interesting things around family visits and family connections. That is another G4S private prison.

Birmingham is a difficult example because it is a prison built in the 1840s that the public sector was struggling to run before it was handed over to the private sector. Particularly with new builds, we have seen in places such as Altcourse that not only have the private sector done it well but



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they have managed to maintain those new buildings in very good condition. Altcourse is nearly 25 years old, but it looks almost brand-new. That is not because there is any great difference between private and public sector individuals, but the nature of the contract ensures that they return it to us in the state in which they found it.

It makes sense to me that for the next couple of prisons we give the private sector a chance to bid, but we have set a public sector benchmark. We have explained what the public sector could run a prison for, and obviously if they are not able to come in below our benchmark, we would look again at the public sector running those prisons.

Q671 **Ms Marie Rimmer:** The prison estate transformation programme gave advice to Ministers about whether the public sector should be allowed to bid to renew prisons. Why have the Government not released that advice?

Rory Stewart: I am not sure what specific advice it is. I am very happy to look into that and write to you.

Michael Spurr: I am very happy to say, if it would be helpful. As chief exec, I would not want the public sector to bid for prisons in that way. It is a strategy that was used previously; effectively, you set up a public sector bid unit to bid against the private sector. We have a more mature position at the moment. We know what it would cost to run a public sector prison. We know the sort of regime we would be able to deliver. We have demonstrated that at places such as Berwyn.

It is now a straight choice. Do we want a public or a private prison, or to retain a mixed market? It is not that the public sector are not contributing to that. We would be very clear in setting the minimum quality thresholds at which we could run a prison in the public sector. As the Minister said, it would then be a choice. That is a much more straightforward and honest way of dealing with it. If it is to go to the private sector, it is better that the private sector competes against a threshold, rather than the public sector competing on that basis. If it is to go to the public sector, as with Berwyn, it can be given directly to the public sector to run from the outset. That was the rationale, and that was actually the summation of the advice.

Q672 **Ms Marie Rimmer:** What is your vision for the involvement of the voluntary and community sector in prisons?

Rory Stewart: It is very important. One of the sadnesses of the last few years is that, although we have 15,000 charities in Britain that have prisoners or prisons in their charitable objectives, we have not managed to get as much involvement from the voluntary sector as I would like, or indeed as Michael would like. There are a number of reasons for that. One is that during the last five years, when prisons have been in a very challenging situation, it has sometimes been quite difficult to provide the stable access to prisons that the voluntary sector would want, because



there are many other priorities. There have been some challenges around the transforming rehabilitation contracts—the probation contracts—and some of the voluntary sector stepped back from those contracts and have not engaged in the way that they have with probation trusts.

There are two ways of addressing that. In the prison estate, we must make sure that we have somebody within the prison who is clearly designated to work with the voluntary sector and whose job, day in, day out, is to make sure that we get the very best from the voluntary sector into that prison and have a clear programme of activities available to prisoners to engage with the voluntary sector. That is something we have piloted through Clinks in Wandsworth. It has gone quite well and is worth learning from across the estate.

In relation to transforming rehabilitation, in the redesign of the contracts, one of our big focuses now is making sure that it is much easier for the voluntary sector to engage. The final thing I would like to do—we are only at the early stages of developing it—is to model ourselves on what some NHS trusts and schools have done, and set up a charitable foundation alongside the public prison estate. In a hospital, the charitable foundation might support the children's area or a particular ward. I would like an opportunity to have a charitable foundation that could, particularly in London in relation to Wormwood Scrubs or Pentonville, give the often quite wealthy communities living around prisons a chance to contribute philanthropically, perhaps to support family areas, a library or specific activities for prisoners in a way that works alongside the Government but where the Government still deliver the basic public duties of Government.

Q673 Ms Marie Rimmer: What is your vision for the involvement of prisoners and their families?

Rory Stewart: This is something where we have been driven by the Farmer report, and we continue to work very closely with Lord Farmer. Lord Farmer has demonstrated very powerfully that retaining relationships with families is one of the single largest contributors to a reduction in reoffending. It is really dramatic. In fact, one of the only things that really seems to shift the behaviour, particularly of adult male prisoners, is the fact that in many cases they desperately want to retain their family contacts. They want open visits. Being able to redevelop a relationship with a child and commit to a child is a really important way of changing behaviour.

Some of our prisons—Berwyn, for example, which is a public sector prison—get children in to do homework with their fathers. That has worked very well as a way of building connections. There is much more we can do in this space. Putting in cell telephony will be really important in giving prisoners a chance to speak for serious long periods every day to their families. Ultimately, it will make sure that they return to their families when they leave.

Q674 Chair: That is very helpful. You talked about the philosophy of approach,



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Minister, including the involvement of the private sector or not. You very helpfully talked, Mr Spurr, about the advice on strategy and contracting.

May I put this proposition to you? If there is a lesson to be learned from Birmingham, it is that, if you are going to lay off risk by contracting out, you have to do it in a way whereby the contractor is able to have all the tools in hand to meet all the targets. Perhaps in retrospect, would you now contract out a prison like Birmingham with so many problems, where perhaps it was very difficult for any contractor to meet all the controlled order services? Is that a lesson to learn, perhaps?

Rory Stewart: Yes, it is a very sensitive point, but I think there is something really worth reflecting on. It may be that the lesson is not private against public, but that a very old, troubled prison built in the 1840s, which had significant problems, even under the public sector, may be a tough thing for the private sector to take on board for the reasons you discussed at huge length while I was watching the session.

Q675 **Gavin Newlands:** You told the Committee in June that, in order to achieve sustainable finances, you can either predict the future prison population and provide capacity or look at the drivers of that population and try to influence them. What options are you pursuing other than seeking to secure additional resource from the Treasury? I am not doubting your powers of persuasion, but what will you do if that bid fails?

Rory Stewart: We are succeeding at the moment—touch wood—in securing extra resources from the Treasury, but, as you point out, Mr Newlands, we may not be able to do that every year. This year, we have managed to get a very substantial amount—hundreds of millions of pounds’-worth of commitment from the Treasury to build a second prison with public money. That is not private finance; it is public money. We also have extra money from the Treasury to put into cleanliness, decency and drug scanners.

As you say, in order to overcome crowding, we would have to do that every year for about the next 20 years. I am not in a position to promise that the Treasury is going to give us that money every year for the next 20 years. What does that mean? It means that we have to have serious conversations about sentencing. It means that we need to restore the faith of the judiciary in community sentences, and encourage them to use community sentences more when appropriate.

Q676 **Victoria Prentis:** And make community sentences available.

Rory Stewart: And make community sentences available, yes.

Q677 **Victoria Prentis:** That is the problem with the confidence of the judiciary. If they thought there really were sentencing options, they would use them, but they do not feel that the options are there.

Rory Stewart: Clarify and develop the options.



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There are things we can do, Mr Newlands, around technology. One of the things, Chair, which has just happened and which I am able to announce to the Committee, having not really had a chance to discuss it in public, is that we have now gone live with an electronic tag that allows us to do GPS monitoring. In other words, it allows us not just to put someone on curfew in their home but to find their location in the broader community. It is a smart bit of kit. It is keeping up with technology, and it should give us another tool in our arsenal for reassuring the judiciary when they give someone either a suspended sentence, a community sentence or some form of order.

That brings us to the question around short sentences, which we have discussed at the Committee in the past and which we continue to explore and discuss with magistrates, the judiciary and the Ministry. My position on that is very clear. In fact, the last time I testified to this Committee I was lucky enough to find myself on the front page of the *Daily Mail* with—

Chair: I am sorry to have put you in that position, Minister.

Rory Stewart: We continue to look at the evidence very clearly. The point we have to keep re-emphasising to the public is that the wrong kind of short sentence actually endangers the public, because the wrong kind of short sentence increases the chance of reoffending. The wrong kind of short sentence destabilises a prison. In terms of what we really care about, which is preventing the misery of crime and the suffering of the public, the wrong kind of short sentence may feel good in the short term because you feel you are banging someone up, but just putting someone in prison for a few days or a couple of weeks is long enough to damage them, but not long enough to change them.

Q678 **Gavin Newlands:** As a Scottish Member of Parliament, I could not agree more with that sentiment, obviously. You spoke in the last set of questions about testing public opinion. Could you tell us a little bit more about that? It is worth remembering, if you look back at the Scottish experience, that public support in Scotland would not have been too dissimilar to that in England and Wales with regard to giving convicted criminals non-custodial sentences and CPOs. It essentially required political leadership to be proactive. Would you agree with that? Are we relying too much on public opinion and the opinion of the judiciary changing in this regard?

Rory Stewart: You are tempting me down to difficult ground, Mr Newlands. From a personal point of view, I think the work you have done on showing that this is about smart justice and not soft justice is something we can really learn from. I was very happy to sit down with officials from the Scottish Government to learn about what they are doing. One of the things that is driving us forward in this is learning from what is happening in Scotland. I think you are right. You have shown political courage in doing that.

Q679 **John Howell:** I have just one question, Minister. Taking you back to



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sentencing for a moment, are you looking at a complete review of sentencing right across the board as part of the objective of trying to get a sustainable prison population?

Rory Stewart: We are trying to be pragmatic. This is not a Government with a huge majority, and public opinion is, to put it mildly, very divided on the issue. We are going to focus in particular on examining whether we have options around short sentences, particularly for people who have not committed violent or sex offences, and whether there are things we can do that can help protect the public without putting a huge burden on the public purse, which is what happens if you put too many people in prison. I am not going to pretend that it feels at the moment as though the mood is for a wholesale rethink of our entire criminal justice system, but if we are smart about it we can strike a moderate balance that will make the public safer and reduce the pressure on our prison estate, and achieve that by targeting shorter sentences.

Q680 **Chair:** Of course, we have the reducing reoffending board chaired by Mr Lidington, the former Justice Secretary, albeit briefly. Do you represent the Department on that, or is that done by the Lord Chancellor?

Rory Stewart: It is done by the Lord Chancellor.

Q681 **Chair:** But obviously you are involved. Do you think you have the data and the tools necessary to turn it into a proper strategy? Is it the intention that there should be a proper cross-departmental strategy on reducing reoffending?

Rory Stewart: At the moment, the reducing reoffending board is not functioning as a generator of some new strategic document. It is an opportunity for David Lidington, the Lord Chancellor and other Cabinet Ministers—it is represented at Secretary of State level—to bang heads together in Departments. To take one example that they discussed in a recent meeting—housing—it is really sitting around the table with MHCLG, the Chancellor of the Duchy of Lancaster, the Secretary of State and others to make sure that we work out what exactly in the Homelessness Reduction Act the obligation on the local authority would be. Are they delivering? How do we drive it? Where is the money going to come from and what is the Treasury's contribution?

It is a classic and very senior Secretary of State-led board designed to break down silos within Government. In the end, I think that is where reducing reoffending is going to come from.

Q682 **Chair:** An example was when your very welcome female offender strategy was published. The evidence we had suggested, in quite a striking phrase, that we needed to look at it through the complex needs end rather than the justice end. Is that the sort of thing that the board is tasked to deal with?



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Rory Stewart: I am going to say, unfairly, that I really focus on the adult male estate, with the small proviso that complex needs is a way of describing broader societal issues. I will bring Michael in.

Michael Spurr: On the specific question about the board, I think that is exactly why the board has been put together. It is Mr Lidington very much recognising, from his short time with us, that we have to bring together cross-Government approaches, and indeed local authority services, if we are going to make an impact.

Q683 **Victoria Prentis:** Earlier, Minister, you mentioned the problems that affected reoffending rates, one of which was family. You went on to talk very passionately about how family ties could be increased while adult males in particular are in prison. Do you feel that there is sufficient bandwidth in the Ministry at the moment for really looking holistically at these complex issues and working out how what we do while people are in prison can affect what happens to them on their release?

Rory Stewart: The answer is probably somewhere in the middle. We are doing a lot of work around it, but they are very complex social things. By the time you are talking about somebody's education, their housing, their family and their employment, these things stretch into so many facets of their life. They are quite tailored to the individual, so I do not think we are ever going to get to a stage where we can say that we are absolutely certain we have been fully holistic and have joined up everything.

There has been a lot of drive towards it. A lot of our governors are passionate about changing lives and about rehabilitation. There has been a long-standing commitment, from NOMS through to HMPPS, to bring probation and the Prison Service together, thinking about the offender's journey, as you say, in a holistic way.

Remember that in the end it will be easier in our longer-term estate. It goes back slightly to Mr Newlands's point. At the moment, almost half of the people passing through our doors in a year are in there for short sentences. Many of those people are barely in. In Durham, I believe the average length of stay at the moment is down to 10 days.

In 10 days, you also have to do the stuff that I keep banging on about quite boringly. You have to make sure that they are safe, particularly on their first night. You have to make sure that they have their pillow and their blanket. You have to make sure that they are not causing behavioural issues with other prisoners. Then you have to start preparing them almost immediately for release. It is important not to confuse what you might be doing in a cat C training establishment, where you might have somebody with you for a number of years and you really can invest in their education and development, with what you are doing in a remand or busy local prison where again you are trying to keep them clean, safe and decent.

Q684 **Victoria Prentis:** We come back to that again. David Lidington has said



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that he is committed to ensuring that the reducing reoffending board “develops deliverable and measurable proposals that will result in public announcements.” That is always good. Do you think we can expect to see an overarching cross-departmental strategy for reducing reoffending, and some sort of timetable to go with that strategy?

Rory Stewart: It is a board chaired by David Lidington, at which the Secretary of State represents us.

Q685 **Victoria Prentis:** But it goes to what we have been talking about.

Rory Stewart: I am slightly talking out of turn and pontificating about what Mr Lidington will or will not wish to achieve. My expectation is that at least in the short term it is largely about knocking heads together and overcoming gaps between the partners rather than producing some grand strategy.

Q686 **Chair:** Obviously, Mr Spurr was confirming that earlier, as I understand it.

You have talked about the financial side. It assumes that the ambitious investment in the 10,000 places and the technology we have talked about has continuing flexibility, which Mr Driver, the financial officer, and others talked to us about when they gave evidence. I suppose it cannot be guaranteed, but that is going to be the working assumption.

Finally, you made a point about tackling maintenance backlogs as part of the clean and decent agenda—the back to basics agenda. I think you had to revise up the figure on the prison backlog as a result of an audit of the estate. We heard that from Mr Driver. I do not know whether you, Minister, or Mr Spurr can help us about that? Are those audits now complete?

Michael Spurr: We are getting them this month. The emerging evidence is not surprising. About 40% of establishments need major work within the next few years in order to address the significant investment backlog in the older estate.

Q687 **Chair:** We have heard in ballpark figures that it takes about half a million pounds to refurbish one wing.

Michael Spurr: It depends on the type of wing, but it is not cheap. Going back to Birmingham, the crucial issue we will have to determine is what we are going to do with a Victorian site that we have now emptied, all but B wing. Do we invest to make it fit for the next 50 years, or do we determine that it is not a sensible use of money? What is the alternative? Can we run them as single cells rather than crowded cells? It is things like that.

Rory Stewart: To break that down, if a wing had 250 people on it, £500,000 is only £2,000 a cell.

Q688 **Chair:** It is not a massive sum in the overall scheme of things. There was a proposal, of course, to dispose of a lot of the old Victorian prisons and



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realise the capital value.

Rory Stewart: We are still pushing ahead with that, but it is important to understand that even with the most valuable of our sites—probably some of the London sites theoretically could be worth a lot of money to build houses on—there are always existing buildings on them. Often, those buildings are listed. They would have to be converted. In the very best-case scenario, selling one of those sites would never generate the amount of money required to build a new prison. It would help, but in the best-case scenario you might get, let's say, £75 million from selling one of those sites. A new prison would cost you north of £200 million.

Michael Spurr: The extent of the challenge is set out, again, with Birmingham. Replacing the windows on the Victorian site in Birmingham, as set out in the NAO's helpful report, is £6.1 million. That is just for replacing the windows.

Q689 **Chair:** I understand. The idea that it would self-fund out of the capital sales was never really going to wash.

Rory Stewart: We are trying to get rid of a site on the Isle of Wight at the moment. We are very keen for the Isle of Wight Council to have it and for them to build affordable houses on it. We are currently offering it to the Isle of Wight Council for £1, and they were still not certain about it, by the time they had done all of their investigations. I would be happy to pay them £1.

Q690 **Chair:** To take it away.

Rory Stewart: When you look into the logistic difficulties of refurbishment, planning and location, these places turn out to be not as valuable as perhaps some people thought in the past.

Q691 **Chair:** I suppose the local government finance settlement is going to come up at some point. That might help.

Minister, thank you very much again for your evidence. We do not want you to have to end your term prematurely, even if 20 years might be a long time. We want to make sure that the indicators go the right way for you.

Rory Stewart: I am sure, knowing the Committee, that Mr Spurr will be in front of you again, but in the situation that he is not I reiterate how much we owe him for many decades of service. He has shown incredible leadership. He has taken the Prison Service through probably the most challenging period it has experienced in its entire existence, and we owe him a huge debt of gratitude.

Q692 **Chair:** You are absolutely right. I hope that we will not need to have Mr Spurr in front of us to give evidence again. This is the last of our sessions on this particular inquiry on the prison population, so barring the unexpected, you are quite right.

When I wrote to the permanent secretary when the restructure was



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announced, I set out a record of the Committee's respect for what Mr Spurr has done and I want to say it directly to you, Mr Spurr. You have been a great public servant over many years and have been very dedicated in the work you have done for the Prison Service. We are grateful to you. We are also grateful to you for the courtesy you have shown the Committee, and we wish you every success and happiness for the future.

Michael Spurr: Thank you, Chair.

Chair: The session is concluded.