



HOUSE OF LORDS

Justice and Home Affairs Committee

Corrected oral evidence: Fire safety in prisons

Tuesday 23 June 2026

10.40 am

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Members present: Lord Foster of Bath (The Chair); Lord Anderson of Ipswich; Lord Bach; Baroness Bertin; Baroness Buscombe; Lord Dubs; Lord Empey; Baroness Hughes of Stretford; Lord Moraes.

Evidence Session No. 3

Heard in Public

Questions 41 - 52

Witnesses

I: Tom Wheatley, President, Prison Governors' Association; Mark Icke, Vice President, Prison Governors' Association.

USE OF THE TRANSCRIPT

This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Tom Wheatley and Mark Icke.

Q41 **The Chair:** I welcome you both to our third evidence session on fire safety in prisons. Before we begin, could you introduce yourselves?

Tom Wheatley: I am president of the Prison Governors' Association and a former prison governor.

Mark Icke: I am the vice president of the Prison Governors' Association and a former governor.

The Chair: Thank you very much indeed.

Q42 **Lord Anderson of Ipswich:** Thank you very much, gentlemen, for coming in to see us. I will start with a very general question but one we would like your prison governors' perspective on. How do prisons currently manage fire risk and what happens when there is a fire?

Tom Wheatley: We are a fairly procedure-rich organisation and there are well-written procedures in which people are reasonably well versed. Not all people are well versed. As you know, a large proportion of our front-line prison staff are relatively new, and although they might have been recently trained, they will not be practised. Governors have control of how they deploy their staff, they have influence over whether their accommodation is suitable to be occupied, and they have the ability, to an extent, to ensure that safety-critical matters are prioritised in terms of training and the operation of the prison.

Lord Anderson of Ipswich: Is there anything you would like to add?

Mark Icke: No, that is perfect, thank you.

Q43 **Lord Anderson of Ipswich:** I think it is right, but correct me if I am wrong, that policies and guidance for staff on fire safety in prisons are established in the prison service instruction—PSI? How effectively are existing policies followed and how is that assessed?

Tom Wheatley: Policies are disseminated and updated through a variety of HMPPS—Prison Service—systems. Governors have responsibility for implementing policy in their prisons and it is fair to say that, as a very policy-rich organisation, there are a number of policies, some of which, subject to resources, may become competing. Governors are in the position where they often have to choose which elements of which policy they will focus on with their limited resources.

With fire safety, for instance, there is a requirement in the fire safety policy to undertake evacuation exercises of all occupied buildings in the course of a year. As you can imagine, prisons look very different. Some of them have lots of buildings; some of them have much fewer. The extent to which that happens in every prison, every year, in every building—I do not think that you would find evidence for that happening in all cases. Some prisons are better resourced, with perhaps more

experienced personnel and better oversight by their health and safety adviser in the prison, who is not one of the governor's employees; they work outside the governor's line. The amount of pressure that they are able to bring to bear and the other choices that the governor has to make will affect the extent to which that happens.

Lord Anderson of Ipswich: You mentioned that policies are sometimes contradictory. I do not want to put words in your mouth, but does that suggest an element of incoherence, and who is that down to? Is that down to HMPPS?

Tom Wheatley: Because we manage every part of an individual prisoner's life, we have a multitude of policies. They are consulted on and we are consulted as a trade union about policy change, but, as you will know, the current PSI on fire safety is from 2015. There have been a number of changes since then. There will have been a number of other policies that have been issued since then that perhaps introduce elements of confusion. Role names have changed and the ability that HMPPS has to keep on top of amendments is limited. It does not do that in all cases.

Lord Anderson of Ipswich: I have one last question on that. How effectively is compliance with existing policies assessed? I know that there is a regulator, but what internal processes are there for assessing that?

Tom Wheatley: As I mentioned, health and safety advisers in establishments are not in the governor's line, so they bring an element of assessment of compliance to bear. If they are concerned that an establishment is not in a place where it can effectively respond to fire risk, they would report that up through their line, which would bypass the governor, and would be able to escalate problems that they did not think that the governor was taking seriously enough.

Mark Icke: Tom has covered that well, but to give you some level of assurance, one of the problems that we face is that the Ministry of Justice and HMPPS are slightly disjointed. While some of the concerns might come through, they will end up through the MoJ line rather than the HMPPS line and sometimes that can cause some confusion in alignment.

The Chair: Can we pick that up before we move on to the next issue? You have referred to the lack of alignment between the MoJ and HMPPS, but you have also referred to the fact that there is a whole stack of policies on a wide range of issues and that from time to time they might be contradictory. Can we be a bit clearer on that? What assessment has been made of the contradictions, for instance, within policies that relate to fire safety with other policies that might be conflicting? Can you give us some specific examples?

Tom Wheatley: We would not be best placed to do that, but the way that policy is made and ratified within HMPPS requires a senior sign-off at a senior management level, SCS2 and above, in HMPPS. Of course, the personnel in those roles change fairly regularly, so people do not perhaps

always remember the policy that they were consulted on, or they were not there when a previous policy was consulted on.

The Chair: To help me, because I genuinely do not know, is there somebody somewhere in the whole system who looks at all these policies and says that they do not match up?

Tom Wheatley: I do not think that there is a somebody in the whole system, not a single individual. There will be a number of people, who have head of policy in their title, who look at a subset of those and are probably doing a reasonable job of making sure that policy within their remit matches up, but not a person.

The Chair: Is that a failing?

Tom Wheatley: I think that it is a risk and that there is a potential for failure there.

The Chair: Can I ask you about a second risk? You have said—and I want to pick you up on this—that you acknowledge that the staff working in prison, a large number of them are relatively new. That is hardly surprising when a lot of the people who leave, leave after less than one year. From our previous report, we are well aware of the staffing issues within prisons, but we are equally well aware of the overcrowding that still exists in prisons. Do you believe that all the regulations, the rules, the guidance and everything else in relation to fire safety is written in that context, or is it assuming a well-staffed prison with experienced officers and so on?

Tom Wheatley: My view is that much of the policy that is written is written with a view of a well-staffed prison with an experienced workforce.

The Chair: The governor expects staff to implement a set of policies that in your view are not written for the context in which we currently exist in our prisons today?

Mark Icke: I think that that is right. Tom gave the example earlier about the basic evacuation-type work, where we know that happens in some places but not all. When we have spoken to those governors where it is not, it is because of the staffing level—the competing pressures.

The Chair: We will come on to that because we want to pick up the realities on the ground in more detail.

Q44 **Lord Bach:** I welcome our two speakers. I will ask the question about training. What training is currently provided to prison staff in relation to fires and fire safety? Supplementary to that, how do fire drills in prison work?

Tom Wheatley: There is a huge variety of different elements of training on fire safety provided to different prison staff, depending on their role and specialism. I had a brief look through the online catalogue of fire safety training that was available to staff in the Prison Service, in

preparation for this meeting. It runs to about nine pages of fire safety courses or elements of fire safety courses. There is practical training that is about how to safely, or as safely as possible, rescue people from a cell when there is a fire in the cell. There is a variety of other training courses on maintenance of fire safety equipment and so on. I can certainly leave the committee with that printout so that you can see the range of training that is available.

In terms of fire drills, the requirement in the prison service instruction is to carry out a fire drill—a fire evacuation drill. It is not a firefighting drill. This is not someone saying, “I put the fire out”. This is mostly evacuation drills of inhabited buildings. In some prisons they happen absolutely as per the fire safety instruction, and in some prisons they do not. Where they do not happen, that is often due to availability of staff on a day to do that safely and effectively, because it is a significant change from normal, getting everybody out of a prison wing at once, perhaps into multiple evacuation areas, and that in itself carries risk. If you are doing that as a drill, you have to be mindful of the risk of violence that individual prisoners pose to each other during that process and the risk to staff; governors are balancing those risks.

However, it would be fair to say that even where those drills happen, they are happening during times of the day when prisons are best able to respond. They are happening during daytime when you have staff available to undertake the drill process. They are not happening in the middle of the night when you have a handful of staff available to evacuate a wing. The simple reason that that is the case is because those risks, through lack of supervision and control by prison staff, go up significantly. If you have only 11 staff in the whole prison and you are evacuating a wing of 200 prisoners, that carries significant risk.

Lord Bach: Can I ask a quick supplementary? Do staff have access to the equipment that they need to manage fires universally or in part? How does that work?

Mark Icke: We are lucky in the organisation that we have the equipment and it is well placed. The signage is pretty excellent in prison settings, and it is regularly maintained by the health and safety adviser as well.

The Chair: Thank you. Before we move on, I have one other question. You are telling us that sometimes the drills are not done because there are not enough staff in place to do it safely. Does that mean that if there was a real fire, there are not enough staff to evacuate the building safely?

Tom Wheatley: Yes. At night time it means that you would get the prisoners out of the building so you would prevent death from the effects of the fire, but the risk that you would be balancing against that is the risk that they will potentially pose to each other, or the risk that you could not then get them back into the building when you had safely extinguished the fire.

The Chair: What advice would you give this committee as to what we should recommend to the Government to do about that?

Tom Wheatley: That is a difficult balance. There is the extent to which you can rely on the built environment. At night prisoners are locked in cells. If a fire is started in a cell, it is at least contained in a relatively small area and you could evacuate the prisoners who are in the immediate area fairly simply. The issue would be when you end up evacuating a whole accommodation unit. There has recently been an incident at HMP Highpoint, which fortunately happened during the day, where a whole prison wing, about 120 prisoners, needed to be evacuated. That was dealt with very quickly, very calmly, but happened at a point in the day when that could happen effectively. If you looked at that same scenario at night, that would have been far more difficult to do and the person making the decision to evacuate would be balancing one risk against another.

The Chair: It would be enormously helpful if you could give a bit more thought to that and drop us some notes on that issue.

Q45 **Baroness Hughes of Stretford:** It sound like there is quite a plethora, potentially, of fire safety courses. Are all or most of those online, with people expected to do them online?

Mark Icke: They are a good mix.

Baroness Hughes of Stretford: A mix of in-person and online?

Mark Icke: Some in-person and some online, yes.

Baroness Hughes of Stretford: If there is such a range, is each member of staff clear about what courses they need to do and by when and is there a system for keeping a check that everybody has done the courses that they need to have done in the time required?

Mark Icke: One of the courses that governors pay close attention to is the RPE training, as we call it, because when you move into a night state, for example, 100% of the staff on nights need to be trained in order to work in the prison in case they are needed to don the equipment. Yes, we monitor those statistics very carefully to ensure that we can comply at night. On the overall training experience, we have had a number of systems in the past where it has been online; it is recorded online. Managers can access it and can see, and staff can also see their own learning path; previously you could add to those so that staff knew what their journey looked like in terms of what was required for their specific role. For example, in administration there might be one element of fire safety but not the evacuation part for prisoners. There is a balance for each different staff group.

Baroness Hughes of Stretford: Is somebody looking at that in detail across the staff?

Mark Icke: Yes, there is a couple of people in the prison who will do that for you. The head of business assurance will certainly be keeping an eye on the training statistics for you, but you heavily rely on your health and safety adviser for the fire safety training as well.

Q46 **Baroness Bertin:** Can I bring it back to the powers of governors? You said how the lines sometimes bypass the governor, and presumably that works in the other direction as well. Do prison governors currently have the powers that they need to manage fire safety risks effectively in their own prisons? What additional powers or levers, if needed, would be helpful to improve fire safety?

Tom Wheatley: Governors are in control of prioritising training, for instance; they are in control of deploying their staff. They are not in control of anything that relates to their built environment in terms of maintenance, repair or what happens when a fire alarm system fails, for instance. They are reliant on contracts that are managed outside the prison. The estates contract and the facilities management contracts are managed by the MoJ, because they are part of maintaining the built environment, the MoJ building stock. That means that when you get a failure of a piece of infrastructure—a fire detection system, for instance—the governor is left with a problem.

The way that you might try to deal with that is by increasing the number of patrols, throwing additional staff at it. However, if you reached the point where you thought that the accommodation that had the failed system was no longer fit for habitation, that is not the governor's decision. That is the line manager of governors. The governor's responsibility would be to say, "The system in building X does not work properly and it is my recommendation that you remove X number of cells from the prison cell certificate, you reduce the population by X number, and then we will be able to manage". But that is not their decision.

Baroness Bertin: Could I push you on that? That strikes me as being highly unsatisfactory. How often, in your experience, would a governor put it higher up the food chain and say, "We have a big problem here"? How quickly and how often is that responded to in reality?

Tom Wheatley: That varies. Certainly, at the end of 2024, when the prison population was at an absolute high and we were desperate in HMPPS to bring every bit of capacity online, a governor who said, "I think you need to take these 100 cells off because I do not think that they are safe" was less likely to get a positive response to that suggestion than in periods of time where they have had significant amounts of space.

Again, it is balancing competing risks. A prison group director would in essence be saying, "No, we have to reduce the capacity and that means that some people who would have come to prison will not be able to come to prison and there is some risk in that for the general public". This is again a competing risks issue, but that decision is not made in the same place. The governor would view themselves as the responsible

person in terms of fire safety, but they would not be the ultimate decision-maker on their ultimate option to manage fire safety.

Baroness Bertin: In the bounds of what is realistic—because obviously we are dealing with a difficult situation—would it be a much better situation whereby the governor had full control over that or is that not something that is deliverable in reality?

Tom Wheatley: Governors would feel more comfortable in that position because they would feel masters of their own ship, for want of a better term, and their ability to say, “No, this is not safe”, either through health and safety or staffing or whatever other measure, “and this means that I am not able to provide this accommodation”. However, the Prison Service as a whole would find that very difficult because that would mean that the availability of accommodation fluctuated hugely and it would potentially expose issues where lack of investment over many, many years means that we are operating at that level far more often than we would like.

The Chair: To be absolutely clear, in our report on prisons generally, we were very keen to give more authority and responsibility to prison governors. You make a very important point in respect of the fire safety, because they might wish to have greater control over it but there are so many issues that would be outwith their control, not least the appointment of staff, over which they have no say, which is, in our view, a ridiculous situation. Can we be clear, so that we can get it firmly on the record, what bits of the responsibility for a governor you would change from what exists now, taking into account all the concerns that you do not want the governor to end up being the person who is pilloried for something that is not necessarily their fault?

Tom Wheatley: It is about moving the mechanism of control and the ownership of the risk as close together as you possibly can, preferably with somebody holding both. In this case, you could have a position where the person who sets the operational capacity of the prison, the person who certifies accommodation as being fit for use, is the responsible person for health and safety and fire safety legislation, because that would put those two things together. They would be very clear that their decisions have consequences for them. At the moment, those two things are separate. The governor is the responsible person in the vast majority of cases, but their manager is the person who sets that capacity.

Q47 **Lord Dubs:** Can we turn to inspection and oversight arrangements? How effective are the current inspection and oversight arrangements for fire safety in prisons?

Mark Icke: The inspection framework is quite useful for governors. They welcome it when the inspectors arrive and feed back the reports. From personal experience, I found them incredibly useful to reassure myself that my concerns were valid, if that makes sense. It gives governors the opportunity to make the case, as Tom described earlier, to the capacity

teams to say, "We would like to take this accommodation off and do this improvement work". The inspections are very much welcomed by governors.

Tom Wheatley: That is absolutely right, but the fact that the Fire Safety Inspectorate has moved into what it is calling the step-away process means that where HMPPS has been unable to rectify issues that it has identified, it is not in a position to enforce that. Therefore, you could argue that in a very small number of cases where it has issued step-away notices, the inspection does not have sufficient enforcement to enable those changes to be delivered.

Q48 **Lord Dubs:** May I ask a supplementary and turn to Crown immunity? Given that Crown immunity covers a lot of this, what levers can be pulled to ensure that the Government do act?

Tom Wheatley: I am really not sure. I would love to be able to come up with a structure by which one part of government could, in effect, sue and penalise another part of government. Perhaps exposing the issue in Parliament and having a formal process for doing that and making that subject to debate could be something that is explored. But I really do not now know. I am not constitutionally aware enough to come up with a solution for that.

Lord Dubs: I have one other supplementary. You mentioned enforcement notices or step-away notices. Do you want to add anything else? What happens when such a notice is issued and are you happy about the process?

Tom Wheatley: The process by which it is issued by the CPFSI is clear and governors know what they are getting them for. They come to the governor in the first instance. The governor is also now clear that in the majority of cases, because they are to do with building work, remedial work, systems and infrastructure issues, they cannot be held to account for that because they are not in control of the management of their infrastructure. The step-away notices end up going to the chief executive of HMPPS, who ends up being the named person in them. At that point, once it has gone to the chief executive, governors feel that they have sufficient top cover. Everybody knows exactly what is going on in their prison and what efforts they are making to try to manage fire safety effectively within the constraints that they have.

Lord Dubs: Are you bothered by this? Do you think this is a satisfactory system?

Tom Wheatley: No.

Mark Icke: No.

The Chair: Let us think this through for a second. At the moment we have other inspection systems. We have the Chief Inspector of Prisons, who produces reports and often gets very frustrated that his recommendations are ignored by HMPPS. Do you confirm that that is the

case?

Tom Wheatley: Correct, yes.

The Chair: Regardless of Crown immunity, what could the inspector do anyway, unless we have a requirement that the department or HMPPS is required to follow the recommendations of an inspector, regardless of whether it is Crown immunity or not?

Tom Wheatley: As you know, in the case of the chief inspector, letters of urgent notification will go to the Secretary of State. The Secretary of State will be required to respond within a timescale. That adds more structure, potentially, and more oversight and produces more focus. However, as you will be aware, there are a number of prisons recently that have had repeat urgent notifications. So, unless something more fundamental changes in the resourcing of some of this—I hate to keep going back to the fact that this is in some ways a factor of a prison estate that has run under significant pressure for a very long time because lots of people are being sent to prison. That is what we have decided that we would like to do in this country. That means that our prisons are full because we have not kept pace with building new places. Not only have we not kept pace with building new places, we have not kept pace with updating our existing places to meet current standards. That is the issue.

Fire detection systems in prisons were not a requirement at the point that quite a lot of our estate was built. There was no requirement to have any automatic fire detection in the Victorian era. You have to keep pace as regulation changes and as technology changes. You have to keep pace and invest. That investment is significant and there is a huge deficit in the amount of money that has gone into maintaining and updating the prison estate over the decades.

The Chair: Thank you. I will move to Lord Moraes, who might be able to pick up some of that more generally. I would hope very much that by the end of Lord Moraes's question, you might be able to give us some thought as to whether, at least in terms of fire inspection, the procedure that applies for the Chief Inspector of Prisons might apply for fires, in that there is a report and a requirement for the Secretary of State to respond.

Q49 **Lord Moraes:** You are starting to touch on some of the answers to this question, but for the sake of the report and to be a bit more specific, what are the main barriers to improving fire safety infrastructure across the prison estate?

Mark Icke: There are probably two parts to that. One would be the prison population and the capacity pressures, taking the accommodation offline in order to complete the work, because in a prison setting—in the last prison I governed, for example, to do the work that was required would have meant to decant the whole wing, because you are eating into some of the security defence measures—the difficult work. So capacity is one big issue. Capacity pressure is the big pressure.

On the financial side, we saw the collapse of a large supplier recently, so a lot of that money was tied up, which then meant that it could not be spent in the financial year. Some of the financial controls cause problems as well when you are trying to complete some of this work in prison.

For me, there are two aspects to this. First would be the prison population, the capacity pressure, in order to take the pressure off. Secondly, the way we manage our contracts across the wider ministry probably needs some improvement in the way that we can move the money around and facilitate some of the work to be completed.

Lord Moraes: It is population and contracts.

Mark Icke: Yes.

Q50 **The Chair:** Can we formally on the record have what you nodded at? Do you believe that there should be similar arrangements for the report from the fire inspector as we get from the prisons inspector?

Tom Wheatley: Yes, there could certainly be that approach, that same approach, of a letter to the Secretary of State where the CPFSI is stepping away from a particular issue on a particular site. The other thing that could be done uses an existing mechanism, because the chief inspector reports on safety. Safety is an element of the chief inspector's reporting, and the chief inspector liaises with a number of other inspectorates when they are carrying out their inspections. Ofsted and the health inspectors are all part of that inspection team. If that were to include fire safety inspection and the chief inspector were to use their existing measures to write to the Secretary of State on the basis of fire, that might be an elegant way around that particular problem.

The Chair: The Chief Inspector of Prisons will love you for giving him yet more to do.

Q51 **Baroness Buscombe:** Thank you, Tom and Mark, for your helpful responses so far. We know that the vast majority of fires are deliberately started by prisoners. What steps do you believe we should take or could take to reduce the number of incidences?

Mark Icke: There are a few parts to this. The organisation has responded quite well on deliberate fire-setting caused by the vapes. They have brought in a safer vape, which they have been designing for some time. That gives me confidence that there are some officials in the headquarters who are examining ways to reduce the ignition source. I believe that we are almost there in terms of a new part that will suppress them from tampering with the electrics. That is also welcome, and we have been listening to HMPPS talk about that for a while, so to see that delivered would be excellent.

On deliberate fire-setting, there should be a report or commissioned work on who sets those fires, because our intelligence would suggest, from talking to members and experienced governors who have had fires in their prisons, sadly, that the people who cause these are vulnerable,

distressed, unwell. I would ask whether prison is the right setting for some of these individuals. They deliberately set out to cause harm to themselves, not necessarily the majority. When you are in that period of crisis, my understanding is that it becomes a very insular view. So there should be a piece of work that examines those people who set the fires and whether prison is the right place for everybody.

Baroness Buscombe: You have been in the Prison Service for a very long time and you both have extensive experience. Twenty years ago, when you started, it was smoking. At the time, the assumption was that smoking would calm prisoners down. We now know that smoking does the opposite and I suggest that vaping does as well. Instead of it making people feel better about themselves, they will be hyped up and more likely to commit damage. Is that something that has been discussed?

Tom Wheatley: It has certainly been discussed. There has been much discussion about vapes, which were originally introduced as part of the smoking cessation, part of taking tobacco products out of prisons. Vapes were seen as a safer alternative. We have seen that change from a position where tobacco was routinely traded by prisoners on the black market to pay for things, to that being now vape capsules. It has simply taken over. Where prisoners would once have used matches and lighters to start fires, they are now using the element in vape pens. HMPPS has sensibly taken an approach to make a safer vape pen that is much more difficult to tamper with, but I do not think that it is blind to the fact that removing vapes altogether may be seen to be beneficial from a number of different viewpoints—fire safety and bullying and the prison black markets that rely on something to be traded. That is at least being considered.

When we talk about the vast majority of fires being started deliberately, it really is the vast majority. I spoke to a colleague in HMPPS and asked for some data on the number of fires during the last three years that were viewed as being genuinely accidental. That removes everything that was a fire started on purpose by an individual and removes those people who had been trying to cook something in a kettle, which they should not do, and had inadvertently started a fire. The number for prisons in England and Wales from April 2023 until today was nine. There had been nine truly accidental fires where something has malfunctioned, a piece of electrical equipment has gone wrong or something has happened. Of those nine fires, none of them resulted in serious injury to anybody. They were all dealt with fairly quickly.

The majority of these cases are fires that are deliberately started or started by people who are distressed. Because the purpose of starting the fire is sometimes to harm themselves, sometimes to cause disruption to other people, they will attempt to defeat whatever automatic fire detection is in place, if they can, so that they can get the fire going rather than just set the alarm off very quickly so that it is dealt with very quickly. This is a problem with the behaviour of individuals, not just the systems that prisons have to deal with the aftermath.

Baroness Buscombe: I put to you, and I would love it if this could be taken forward, that there should be a rethink about whether they should be having vapes at all. They are not allowed for those under 18. I note that a deterrent, in a couple of instances, has been tried in terms of destroying people's belongings when they are caught setting fires. That deterrent has had a marked effect; for example, at Lindholme, particularly in the last three months. There have been no fires at all. A deterrent plus rethinking the health policy as well as the reality, the reaction of people on vapes, I suggest, could make a real difference.

Mark Icke: Yes, we are currently consulting one part of HMPPS in the north, where it is examining removal of vapes in that region. We are currently working in conjunction with it and going through what that would look like for the wider prison estate. It is very early days and very early consultation with us, but we are pleased to see that it is being considered, because we share your views, Lady Buscombe.

Q52 **Baroness Hughes of Stretford:** We are interested also in any differences in fire safety between public and private prisons. Does the PGA represent governors in private prisons?

Tom Wheatley: We do indeed, yes.

Baroness Hughes of Stretford: Have you ever worked in a private prison?

Tom Wheatley: I have, yes.

Baroness Hughes of Stretford: One of the things that we understand is that despite prisons in the private sector universally having AFD, and despite not having category D or category A prisoners—those at the ends of the spectrum, if you like—relative to the number of private prisons, there is a disproportionate number of fires in private prisons. First, do you have any reflections on why that would be the case? Secondly, despite that disproportionality, we also understand that almost half of the fires in private prisons occur in three prisons. Do you know which those are and why?

Tom Wheatley: No, I do not know which ones those are and why. The fact that all the private prisons have automatic fire detection would be one of the reasons why the greatest number of fires are seen to occur in private prisons, because if you are automatically detecting them in cells, rather than people who set a fire in a cell and then change their mind—if they have started a fire in the bin and they change their mind about it because it is producing too much smoke and put it out themselves—we would never find out about it in a prison without automatic fire detection. It would happen and be undetected.

Baroness Hughes of Stretford: So the numbers that we see generally will be affected by the fact that a number, who knows how significant, of fires in public prisons will not be detected?

Tom Wheatley: They will be undetected. The other thing that is the case in private prisons is that private prisons all have in their contracts—or they did in my day so I am assuming they still do—measures that are designed to ensure that all incidents are reported, no matter how minor. I would guess in the case where there has been a small fire started in a cell in a bin, which was put out by the prisoner, that that fire would be reported; whereas even if it was known in the public sector, where there had been no ramifications beyond that individual who had started the fire and immediately put it out, I am not sure that the mechanism for ensuring that that went through the reporting on to the incident reporting system would be as rigid and as structured.

Baroness Hughes of Stretford: That is interesting. We have not heard that one before.

Mark Icke: I concur with Tom.

The Chair: The obvious question is: should it be logged?

Tom Wheatley: It is a question of what you are trying to find out. If you have a prisoner in your custody who sets fire to small bits of paper and that never spreads beyond there, they drop it into the sink and put it out, or somebody who is always cooking in a kettle that would set off automatic fire detection where it exists, it is a question of what you are collecting the data for. If it is to allow you to better manage the process in among all the other things that are happening in prisons that potentially carry risk for the people who are there, it could be seen as very, very minor. But it does mean that you are perhaps not always comparing apples with apples when you look at the public and the private sector.

Baroness Hughes of Stretford: Do prison staff, governors, formally have the discretion not to log those incidents?

Tom Wheatley: It would not happen at that level, I would suggest. It would happen at a much more junior level.

Baroness Hughes of Stretford: A lower level. Somebody takes a decision not to bother.

Tom Wheatley: Yes.

Mark Icke: For example, a prison officer may have formed a relationship with a prisoner on the wing, knows more about them than we would as governors, and would probably sit with them and say, "Why are we doing this, what's going on? You're going to affect the whole regime", and might have a sensible conversation and think that they have dealt with that and it may not make it to the reporting line. Tom's point about the private sector is that HMPPS has its responsible person in the prison. We call them the controller and they are keeping an eye on the contract management and will be ensuring that all things are reported. We have talked about that previously in relation to other factors.

Tom Wheatley: There is definitely a culture in private prisons that is about ensuring that reporting happens, because there are financial penalties if it does not.

The Chair: Thank you very much. A huge thank you to both of you for giving us such frank and very helpful evidence. As you know only too well, if there is anything that you wish you had said that you have not, or anything you think of a bit later on, please do not hesitate to get in touch with us. If you have any specific proposals for what you think needs to change, please let us know, but do it as quickly as possible. On behalf of the entire committee, thank you very much indeed. Order, order.