



Justice Committee

Oral evidence: [Older Prisoners: follow-up](#), HC 659 Wednesday 29 October 2014

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Written evidence from witnesses:

- Ministry of Justice [OPF 01](#)

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Members present: Sir Alan Beith (Chair); Christopher Chope; Jeremy Corbyn; John Cryer; Mr Elfyn Llwyd; Andy McDonald; and John McDonnell

Questions 1-75

Witnesses: **Andrew Selous MP**, Minister for Prisons and Probation, Ministry of Justice, and **Michael Spurr**, Chief Executive, National Offender Management Service, gave evidence.

Chair: Welcome, Minister. Welcome, Mr Spurr, for the second day running. In this session we are looking at the follow-up to our report on older prisoners, and we also have some questions relating to the recent annual report of the chief inspector of prisons. I will ask Mr Cryer to begin.

Q1 John Cryer: The Government have committed themselves to keeping to a minimum the number of older prisoners in unsuitable accommodation, but recent inspections have indicated that the problem is continuing. What concrete steps have been taken to ensure it does not happen in future?

Andrew Selous: Would you like me to make any opening statement, or shall I go straight into questions?

Chair: Perhaps you could go straight to the questions.

Andrew Selous: Yes, of course. We are absolutely committed to trying to put prisoners in appropriate accommodation. You will recognise that some of our estate dates back to Victorian times, and clearly we are trying to make adaptations wherever we can. We have done a survey of our whole estate. I can tell you that we have 86 prisons that are wheelchair-accessible, 88 have cells for low-mobility inmates and 87 have regimes suitable for offenders with dementia and other needs.

We will make every effort to put prisoners in appropriate accommodation. Immediately after the sentence of the court, a prisoner is sent to a specific local prison. That may

restrict us somewhat, but the absolute policy intention for me as Minister and for Mr Spurr as the chief executive of NOMS is to get prisoners into more suitable accommodation. On new build accommodation, we are able to make it much more suitable in terms of larger doors, specific low-mobility cells and so on. That is coming on stream with the new builds that are in the course of construction and about to be built.

Q2 John Cryer: How many new builds are in the course of construction?

Andrew Selous: We have four house blocks which we are building at Parc prison in Wales, which I have seen with my own eyes, and at The Mount, Peterborough, and Thameside, and of course we are planning the new prison at Wrexham. As an example, it may be helpful if I let the Committee know that in Wrexham, where we have three new house blocks under construction, there will be 48 low-mobility cells specifically built in that new prison, and there will also be larger cell doors provided for double cells. Obviously, that will help us get equipment such as hoists and so on into those cells for prisoners who need it.

Q3 Mr Llwyd: In Wrexham prison, why is it that prisoners will have to share over 50% of those cells, which is contrary to all received wisdom nowadays for decency and so on?

Andrew Selous: Some prisoners quite like being able to share; maybe they find it less isolating to have a cellmate. We are clearly under pressure to try to reduce the annual cost of keeping someone in prison, in line with all Government Departments given where the overall Government finances are, but as a new prison, using our building information model planning system, we are confident that this will be a state-of-the-art prison which will be better for prisoners, and much better for staff in terms of clear lines of sight, with lots of features that will make it harder for drugs and so on to be thrown over the wall into prisons, and more difficult for prisoners to escape and so on. The new build estate is better for prisoners; we can run better rehabilitation; it is much better for our staff to work in; and, as far as the taxpayer is concerned, we can deliver custody at lower cost, which is also important.

Q4 John Cryer: You mentioned new builds quite extensively. Are there any plans to adapt existing prisons to accommodate the sort of conditions that go with old age?

Andrew Selous: Indeed; that is happening. My predecessor Jeremy Wright, in the Westminster Hall debate in January, mentioned that in Durham there is a new health care centre being built, and the reception area in Leeds has been adapted. All the time, governors will be looking at their estate to try to improve it.

We are looking forward eagerly to 1 April next year when the Care Act 2014 comes into play. That comes with new money—£11.2 million of new money that will be available from 1 April for that year in order to do the assessments and provide greater levels of care.

Chair: We are going to turn to that.

Andrew Selous: Okay, I will leave that. Specifically in terms of adaptations, that will enable things like grab rails, hand rails and so on to adapt cells, which was what you were asking about, Mr Cryer.

Q5 John Cryer: Three recent surveys have been done on prisoners: an analysis of prisoner needs by age; an audit of prisoners' care and support needs; and looking at how the built environment enables access and mobility. You mentioned future money and that work is being done now. How are you using those surveys to inform the work that is being done? How are you assessing what work needs to be done?

Andrew Selous: I have explained future build in terms of larger doors, low-mobility cells and so on. It is worth making the point, if we look at the numbers, that, while older prisoners are increasing, they are a small part of the overall prison population. I said earlier, in one of my previous answers, that 86 of our prisons are fully wheelchair-accessible, 88 have cells for low-mobility inmates and 87 have regimes that can cope well with people with dementia. That should give us more than sufficient capacity to deal with our older prisoner population.

We are also keen to spread best practice round the estate. There are some brilliant examples of how we provide purposeful activity for older prisoners who are not working—for example, in terms of day centres and so on. Part of my role is to make sure that that best practice is spread round the estate as much as possible.

Q6 John Cryer: You are right; it is a small number, but it is a growing one. Presumably, the surveys you have undertaken will give you some indication of how that number is rising as a proportion.

Andrew Selous: Clearly, it has risen. Looking at the figures in front of me, from June 2004 to June 2014, for prisoners aged between 50 and 59 we had a 104% increase; for prisoners over the age of 60, we had a 125% increase. But of our total prison population of about 85,700 in England and Wales, prisoners between 50 and 59 make up 3,700, and prisoners over 60 make up just under 2,100. While it is increasing, it is important we realise that in terms of actual numbers it is relatively small. The really large cohorts are the group between 30 and 39, which is over 24,000, and between 25 and 29, which is 16,000. We need a proper sense of where the numbers are.

Michael Spurr: Could I add something to the Minister's point about the surveys, which may help the Committee? One of the things about having those older prisoners was the number who required personal care and support, and the survey was designed to try to give us a much better understanding of that. We found that 0.9%, just under 1% of the population—about 800 prisoners—required personal help and support. Obviously, there is a much higher proportion of those over 50; 5.5% of the over-50s require personal help and support, compared with 0.2% of those under 50. That gives us a handle on how many people we are dealing with at this moment need additional adjustments for care.

In terms of the estate survey, we surveyed 107 establishments to look at the adaptations that those prisons had made to date to support those with mobility and other problems. All

of them had made some adaptations, but 33 establishments recorded particular difficulties in having full accessibility to all parts of the establishment. In particular, there were 22 which, although they had some adjustments and a regime for those who needed care and support, had particular difficulties where we will focus capital funding to support them to be able to manage people who require adjustments.

Q7 Chair: When we did our original report, we were shocked by the inconsistency in the social care of prisoners and the ludicrous lack of any coherent system. Since then the Care Act 2014 has been passed and is due for implementation. Can you give us an indication of how you set about making sure that the change works and the new system can deliver?

Andrew Selous: A number of things are happening. The Department of Health has published—I do not know whether the Committee has had a chance to see it—its care and support statutory guidance issued under the Care Act 2014. I gather it is 600 pages long, but it is chapter 17 that concerns this Committee, and I urge members to read it. It is encouraging, because it is a very solid piece of work, going right into the detail of how local authorities and custodial managers will work together. It is very strong on continuity of care, which is particularly important as prisoners come into prison from the community, go back to the community from prison and move between prisons, so we will try to make sure that there are no gaps through which people who need care and support fall.

Additionally, we will be issuing a new Prison Service instruction early next year to all prison officers, which will lay down requirements for prison officers. I can also tell the Committee that, in addition, I have asked officials to draw up social care guidance that will capture best practice. It will be the go-to document for all prison officers on best practice in looking after prisoners with care and support needs, very many of whom are older prisoners. Those are three serious pieces of work, one already done. I think that is a very good basis for us to go forward.

Can I briefly make one further point? 1 April is next year, but we are not doing nothing. We are now actively engaging with local authorities. Wherever we can, we are getting senior officials from local authorities into prisons to get to know governors. We are trying to get going now rather than just waiting until 1 April.

Q8 Chair: Indeed, the guidance you are issuing follows directly from the Committee's recommendation that there should be such guidance. We drew attention to issues we had encountered: to what extent an officer should be expected to carry out basic social care duties, and what his responsibilities are; safeguarding issues that arise from delivering close intimate personal care; and the extent to which prisoners can provide assistance to each other, which in many ways is quite a desirable thing but also has some dangers we have to guard against. I assume that you are putting all that in the guidance.

Michael Spurr: It is absolutely what we are going to cover in the guidance. We have taken your helpful report setting out those key issues for us. We will address them in the wider guidance. We are also trying to use partnership working with our health partners—NHS England—and local authorities.

For example, there has been a social care steering group in the north-east for the last 18 months looking at involving local authorities, NHS England commissioners and the prisons themselves in how we will operate when the new Care Act comes into force. We want to take some of the development of work there. Partnership work has also begun in the south central region and in the south-west. We want to be able to ensure that our guidelines reflect all of that engagement so that we give clarity about what is expected at local level across the estate. That means we will be able to get appropriate consistency, which I absolutely accept there has not been up to now.

Q9 Chair: How are you allocating the £11.2 million between local authorities?

Michael Spurr: We are not responsible for the allocation.

Andrew Selous: On that point, of course it is not all local authorities; I believe 58 local authorities will receive that money. I have a breakdown of how it would be spent, if it would be helpful to go through it.

Q10 Chair: Can you send that to us?

Andrew Selous: Yes. To go through it for the Committee, £3.8 million will be spent on assessments—£2.1 million on first assessments and £1.7 million on reassessments—and £6.5 million in total will be spent on providing care. There is an interesting split: £4.6 million of that £6.5 million will go on care for the over-50s, but £1.9 million on the under-50s—a group we should not forget; I know this Committee is mindful of that—who have care and support needs. In the first year, there will be an additional £900,000 spent on additional assessments in year one for the over-50s.

You can see that the detailed work has been done. We know who the 58 local authorities are. When a prisoner leaves a prison and goes to a local authority area which does not have a prison, the statutory guidance is very clear on the duties as regards continuity of care. There are lots of “musts” rather than “shoulds” in that particular section of the document, which I know the Committee will be reassured by.

Q11 Chair: You talked about the initial assessment. Does the initial assessment influence where the prisoner is allocated, or is it really taking place when a fairly firm decision has already been taken and he is in a prison that he is likely to stay in?

Andrew Selous: That would be an ongoing discussion. If the assessment makes it absolutely clear that the cell in which the prisoner has been placed is unsuitable, clearly that would be a matter for the governor to take into account. I do not know whether Mr Spurr would like to add something.

Michael Spurr: Ideally, we would do initial assessments as prisoners come into custody, and that would influence how we allocated the individual to the appropriate prison. Some prisoners will develop needs while in custody and the assessment will be done as required

in those cases. It should influence the total regime that the prisoner is provided with, because it is about how we meet the individual needs of that prisoner.

Q12 Mr Llwyd: In terms of additional payments, I do not expect an answer this morning, but I would be grateful if you could write to us. In respect of Wrexham prison, research by Cardiff university has shown that there will be a shortfall in local health funding to deal with the health needs of those prisoners of between £1.5 million and £2 million per annum. Would you please look at that and ensure that that extra money will flow through to the National Assembly for Wales?

Andrew Selous: I am very happy to commit to write back to the Committee on that specific point.

Q13 Andy McDonald: One of the major issues the Committee uncovered in our inquiry was the great variability in all aspects of care for older prisoners, including in the commissioning of health services which, until 2013, was done by the PCTs. Now NHS England is responsible for commissioning health services. Have you found evidence that provision has been more consistent across the estate? Could you comment on that?

Andrew Selous: We have very much welcomed the involvement of NHS England. I think that has led to a greater level of consistency in terms of the provision of health care, and it has enabled good relationships to be made between NHS England and the National Offender Management Service.

Michael Spurr: I think the changeover was a major structural change for the NHS. The fact that it has been managed pretty smoothly, with no overall reduction in service, is a significant achievement. We are absolutely clear that the ability now to have one commissioning body responsible for health care in prisons is a significant advantage, and we have direct access to NHS England commissioners to address the particular needs in prisons.

We are still operating with the providers that were there previously, commissioned predominantly by PCTs with their own contracts. Over time I think we will have greater consistency, but at this stage we have done the transfer smoothly. We now have a body with clear responsibility and we are able to develop a strategic approach with NHS England that we did not have previously.

Q14 Andy McDonald: The national service framework for older people continues to apply to care for older people in the wider community, but you have refused to require prisons to follow it. You have refused to commit to that. Does that not automatically create a disconnect in the care of older prisoners from prison to release in terms of both quality and continuity?

Andrew Selous: There is a national strategy for social care, which is part of the Care Act, so that applies across the whole country anyway, including in prisons. As we said earlier,

there will be a new Prison Service instruction, which will be written early in the new year. In addition, I have asked officials to draw up social care guidance which will go into further detail on some of the best practice in terms of the day-to-day management of prisoners with care and support needs.

Q15 Andy McDonald: Why not just follow the national service framework for older people for prisoners? Are you duplicating something here? It does not seem to gel.

Andrew Selous: The Care Act has been passed, stipulating the specific way in which social care is to be provided in prisons. For the first time, we have clear lines of accountability and a clear legal obligation on local authorities, and the local authority in particular in which the prison is situated, so that we do not get any of those issues about who is responsible that have bedevilled this issue in the past. That is really good news because people know who is responsible. They will get the money. They will have to work with custody managers to make sure this happens.

I agree it is a complicated area and there are different strategies and so on, but overall I think this is a good message. I accept what you have been saying. In the past this has not been where all of us would have liked to see it, but we are clearly moving to a much better place. As I have already said, we are not waiting until 1 April; we are trying to make those relationships now so that we hit the ground running. If we can make improvements now, we are certainly not going to wait.

Q16 Andy McDonald: We found that older prisoners who are moved around the prison estate reportedly experience worse health outcomes as a result, yet your response was that you do not agree that the use of medical holds in local prisons is an effective and efficient way of improving health outcomes. Can you explain how you came to that conclusion?

Michael Spurr: I do not think that in principle just saying, “We will hold somebody in one prison,” is necessarily the right approach. We should look at the individual need. There will be some cases where it is entirely appropriate to hold somebody in a local prison. If they are getting particular care from a local hospital and they are in the middle of that care, we should hold them there. That is what a medical hold is for; it is predominantly about external care an individual is getting that would be disrupted if you moved the prisoner. But it seems to me that we cannot have an overriding position where we have significant numbers of people held in local prisons, because we have a responsibility in local prisons to take people from the courts, and we have to provide appropriate places for the courts. We have to balance that. Our aim should be to provide appropriate allocations. Often, for older prisoners there will be more appropriate allocations than a local prison—for most prisoners—so it is not that we would not have medical holds where they were appropriate; we just would not automatically say that simply because they are older or have medical needs they would necessarily have to be held. We would look at the individual case and the needs that it presented.

Q17 Andy McDonald: Can I move to end of life care? Can you update us as to whether any changes have been made to the NOMS escorts policy on the removal of restraints for terminally ill prisoners—for example, to give experienced officers more discretion as we recommended?

Michael Spurr: Not to the policy, but we have reissued and strengthened the guidance about the application of that policy in response to both the Committee's concerns and concerns of the Prisons and Probation Ombudsman. Last time, we had a discussion about the policy.

There is now clarity within the policy that appropriate account should be taken of the medical needs of the individual and, where appropriate, restraints can be removed. There is a proper requirement for that to be done by a manager, but there is immediate access to managers for officers who believe that the position requires urgent attention. If people follow that, they have phone contact with managers and with the prison, so it provides an appropriate check for staff who can, under a lot of circumstances, be pressured by prisoners and families, for example, to remove restraints. They need a means to be able to take one step back and get authority, but that should not prevent us from removing restraints when they are required to be removed because a person is so ill that they do not require those restraints.

We have reinforced the importance of daily assessments in terms of where prisoners are. I accept that on occasions decisions about when to take restraints off have been poor. They are always difficult decisions, but we have not always got it right, and we have reinforced the importance of balancing security and humanity in looking after people who are in hospital.

Q18 Andy McDonald: Has the number of palliative care suites been increased, or do you have plans to do that?

Andrew Selous: We have a number of prisons—nine—where it is possible to provide palliative care, and we have general provision in a number of other prisons as well. It is not across the whole estate, but we have specific provision at Leyhill, Exeter, Isle of Wight, Littlehey, Wakefield, Full Sutton, Holme, Frankland and Durham. There is more generalised provision throughout Kent, Surrey and Sussex, at Parc prison in Bridgend, Wales, Low Newton and in Northumberland. Across the estate we have reasonable capacity, and it is absolutely something we will keep under review and increase if the number of older prisoners keeps increasing.

Q19 Jeremy Corbyn: What is the process, when an older prisoner is clearly terminally ill—maybe he has a year or a few months to go—for releasing them into the care of their family or into the community? Who takes the decision? The reason I ask is that my own experience of taking up one or two of these cases is that it is very long-winded and complicated. Does it come to you, or is the decision taken somewhere else?

Andrew Selous: There is a process, and it is possible to apply. I have certainly seen one case recently, I believe at The Mount prison, where it was granted. I am afraid I am not entirely clear whether it is a ministerial decision or an official decision.

Michael Spurr: Compassionate release is a decision for Ministers. We would refer cases to the Minister for compassionate release—total release.

Q20 Jeremy Corbyn: How long does it take to get to the Minister? My experience was that it took a long time.

Michael Spurr: Yes, because the criteria for compassionate release are quite high. It is generally for people who are terminally ill, with limited time. That is always a difficult calculation for doctors to make, and then there are assurances that their release, even in those circumstances, would not put the public at risk. We can do it very quickly, and have done it very quickly when there has been an obvious case where somebody has literally got a few days before they die, or whatever. That has happened in the past, but generally those are not the cases that come for compassionate release; it is where people would like to have their last two or three months released, and the debate is generally around if that person is going to live for the next two or three months, or if potentially it will be two or three years.

You will know that there have been cases when people have been released on compassionate grounds and have not—thankfully for them—died immediately afterwards, and it has created significant issues of public confidence in the system. That is why there is a rigorous process and why often it can be seen to take a while. It is generally because there is not consensus about where the individual is in terms of their medical condition.

Q21 Mr Chope: Can I turn to the issue of resettlement? You have two categories of these prisoners you describe as older. First, can I talk about the category of pensioner prisoners? You said that that number has more than doubled in the last 10 years. Pensioner prisoners are, surely, entitled to housing as of right; if they are in need of housing as pensioners, they are entitled to that housing. Is that the basis on which you work?

Andrew Selous: In a sense, for this inquiry I really need a Health Minister on one side of me and a Local Government Minister on the other side because, while I am Minister for Prisons, accommodation is the responsibility of the Department for Communities and Local Government and, beneath that, local authorities.

What I can say is that we take our duty to try to secure settled accommodation for everyone leaving prison, and, very much, older prisoners as well, extremely seriously. Our aim is to provide that for everyone. I understand that, typically, we achieve that in about 85% of cases. There can be issues with local authorities who dispute the link the person leaving custody has with a particular area. That may be especially the case if there are considerable pressures on housing within that local authority, but under our transforming rehabilitation reforms both the national probation service and the community rehabilitation companies are very well aware of the need to form strong partnerships with local authorities.

If you do not have somewhere to live, it is a very major factor in increasing the likelihood that you will reoffend. While older prisoners reoffend less, there is still a possibility they could go on to reoffend if they do not have housing, so it is absolutely something that we try our very best to secure from within the Prison Service and the Ministry of Justice.

Q22 Mr Chope: Surely, you differentiate pensioners, who under the homelessness legislation have a priority right anyway, and those who are subject to the transformation arrangements where, following what has happened in Wales, there is now only a requirement that they must be vulnerable as well as being a priority need for accommodation. Those are two different categories, aren't they: people who are pensioners and the ones who are not pensioners? I am trying to draw you out a bit more on this.

Michael Spurr: That is an issue for the local authority. There is no question: where somebody who has, by existing regulations, a right to be housed leaves prison we would press that case, or the accommodation provider generally would press that case, with the local authority. They have a statutory responsibility, as you rightly say, so, yes, they would be prioritised from a local authority point of view. Accommodation is difficult; there is no question about that, but they have their own statutory responsibilities, and that is for a local authority to address.

Q23 Mr Chope: Are local authorities fulfilling their responsibilities in relation to pensioners?

Andrew Selous: I do not think we can say categorically that that is always the case, because Parliament has given local discretion to councils over this matter, as you will know when you deal with housing cases within your own constituency. From the perspective of the Ministry of Justice, the National Offender Management Service, the governors of our individual prisons and the housing associations and housing charities we work with—recently, I met with St Mungo's, for example—we try our level best to use every lever, and to use the housing legislation that Parliament has passed to make sure we provide accommodation for everyone leaving prison, especially those who are more vulnerable, who obviously include pensioners.

Q24 Mr Chope: What you are saying is that even pensioners who have priority need at the moment are not necessarily getting the housing they need. If we take that as a given, how are you going to ensure that the people who do not have priority need at the moment because they are pensioners are going to get the housing they need?

Andrew Selous: As I said earlier, I am really at a slight disadvantage, because this is not an area I control.

Q25 Chair: It is absolutely central to transforming rehabilitation.

Andrew Selous: It is, and we are fully cognisant of the importance of this area. We will bend over backwards and do everything within our power to secure accommodation. I understand that we manage to achieve settled accommodation for around 85% of those leaving prison at the moment.

In terms of transforming rehabilitation, the community rehabilitation companies and the national probation service are absolutely aware of the importance of this issue, but it requires cross-Government working and it requires local authorities to play their part. It may be that at some future point the Committee might, quite properly, want to get Local Government Ministers, perhaps even leaders of local authorities that are not doing as well as they should, in front of the Committee to ask them about their obligations in this area.

Q26 Chair: I hope that evidence is not going to arise that will require us to do so, and that the system, about which Mr Chope rightly expressed concerns, is actually going to work.

Andrew Selous: Mr Chope is clearly right to do so. If we go right back, I guess the answer in part is the need to build more houses so we have houses for everyone who needs them, including people leaving custody.

Q27 Mr Chope: Minister, would your Department be prepared to name and shame the local authorities that it feels are not fulfilling their legal responsibilities at the moment?

Andrew Selous: It is funny that you mention that; it is a question I have myself asked of officials in the past.

Q28 Mr Chope: Surely, you are in charge rather than officials; you are the Minister—after waiting a very long time, and we congratulate you on your appointment.

Andrew Selous: It is very kind of you. I have an interest to see that people fulfil their obligations. Yes, I will commit to finding out which local authorities are not doing as well as they should because, frankly, they need to play their part in making sure that all of us are safer and that rehabilitation works properly. I think that is a reasonable request. We need transparency in government nationally and locally, and if some local authorities are doing worse than others I do not see why they should be hidden from view.

Q29 Mr Chope: Some of the means by which continuity of care will be delivered are one or two years down the line. Have any interim measures been put in place?

Andrew Selous: As Mr Spurr said earlier, we are not waiting for 1 April next year to come along. I understand that prison governors are inviting local authority portfolio holders for adult social care to come into prisons. Mr Spurr mentioned specific examples in different parts of the country where that is already quite well advanced. We know what is coming down the tracks on 1 April next year, and on 1 April 2016 in Wales, and it is in our

interest and local authorities' interest to get going on it now so that we can deal with that issue.

Q30 Mr Chope: Is there a conflict between the desire to ensure that there is effective resettlement and focusing populations of older prisoners in centres of excellence—the general ability to get them resettled?

Andrew Selous: It is up to a prisoner when they leave prison to decide where they want to go to at the end of their sentence. They may not always choose to go back to the area from which they came, perhaps because of issues to do with the crimes for which they were sent to prison in the first place. That decision is at the discretion of the prisoner. Our job is to use every lever at our disposal, including the law on homelessness and housing which Parliament has passed, to try to help with that. We are often successful. There are times and places where clearly we need to do better, and I am happy to look further into those local authorities who need to raise their game in this area.

Q31 Mr Chope: Earlier you gave a breakdown of the way in which the £11.2 million would be spent. Do you agree that to spend such a high proportion of it on assessment rather than delivering results is the wrong balance? On the assumption that these are prisoners who are already well known because they have been in the system, a lot more of the £11.2 million should be spent on delivering results rather than carrying on with more and more assessments.

Andrew Selous: In the first year, £4.7 million will be spent on assessments, out of the total of £11.2 million. I agree that is a high figure, but we need to know. Once we have a proper assessment, it triggers the responsibility of the local authority. It will be for prisons in some instances to look at ramps, rails, grab rails and so on within prison cells. Mr Spurr may want to say how much he feels some of this may come from the prison budget, in addition to what Parliament has voted for local authorities to spend. It is important that we know what a person's needs are because that triggers a legal obligation for the local authority to fulfil. I understand what you are saying. The important thing is to provide care, but given that we are starting on 1 April, we need to know where we are and what we need to do with each person who needs care and support.

Q32 Chair: Are not the greater costs going to be things like staff care, such as providing personal care directly for somebody who cannot carry out basic functions?

Michael Spurr: That is what the £11.2 million in assessment and personal care is about. There may be other physical adaptations that would come out of that funding, but we have been funding most of the physical adaptations in prisons. I guess that the assessment allocation that has been done with health and local authority partners reflects the requirements in the community for an assessment to be made and the needs of the individual to be determined. Once they are determined, whether they are in prison or when they go back into the community, there is a responsibility for those needs to be met.

The assessments are pretty rigorous because there is an ongoing commitment to meet the personal needs of the individuals who are assessed in this way. I was not responsible for working out how much was required for the assessments, but they reflect the community assessments, and I guess that is proper and appropriate. The bulk of the additional funding will be on personal care; it will be about additional resource to support the needs of those individuals—for example, by additional health care assistance staff or others who will provide the support they are not getting, or that we are providing through prison staff or other prisoners perhaps going further than they should in terms of their responsibilities at the minute.

Q33 Chair: Do you see this as changing the staff profile of some of the prisons that have large numbers of older prisoners, because in addition to prison officers and operational support officers you have a larger number of people who are actually care staff?

Michael Spurr: That is exactly what I expect to see happen.

Q34 Mr Llwyd: We know, don't we, that the largest growing cohort in the prison estate is older prisoners. Several organisations, including this Committee, have called more than once for a national strategy on older prisoners. The Department has continually refused this, saying it is better to concentrate on individual needs. That is fine as far as it goes, but we also know that care varies greatly from one prison to another. What prevents the development of a national strategy that assists prisons who are not providing well and, at the same time, caters for individual needs?

Andrew Selous: First, there is a national strategy for social care for the whole country anyway. Secondly, I may have the advantage over the Committee in that I have read very carefully chapter 17 of the care and statutory support guidance issued by the Department of Health under the Care Act 2014, which goes into considerable detail about what local authorities must do and should do, and what custodial managers should do as well.

Next, as I have already said, we shall be issuing a new Prison Service instruction early next year. That lays requirements on prison officers and staff in terms of what they are required to do in providing care and support needs. Finally, I have told you that, in addition, I have asked officials to draw up social care guidance to be available in good time before 1 April next year, which I want to be the go-to document in terms of some of the finer detail of good practice and how we make life better for older prisoners and everyone in our prisons who has care and support needs.

Q35 Chair: If it looks like a national strategy and walks like a national strategy, perhaps it is a national strategy.

Andrew Selous: There is a slight danger of semantics around the words we use. What I am trying to explain to the Committee is that, if you stand back and look at the totality of what is happening under the Care Act, the Prison Service instruction and the guidance I have asked Mr Spurr and his officials to draw up, it is quite a powerful armoury. We have quite

a lot of policy and instruction, and we now have to get on. We have to build those good relationships between senior local authority social care staff and custodial managers in our prisons and make this happen on the ground.

In addition, there are isolated examples of very good practice around the estate in terms of day centres for older prisoners. It is that sort of thing, which will really add to the quality of life as well, that I as Minister am very keen to see spread around the whole estate, and I hope that is what the practice guidance will also deal with.

Q36 Mr Llwyd: I am fairly encouraged by what you said. A lot of work is going on. We were speaking of semantics. We have a national strategy for women prisoners, do we not?

Andrew Selous: Yes, I believe we do.

Michael Spurr: Yes.

Q37 Mr Llwyd: In any event, I am sure that at some point we will have Mr Selous before us again and we will be talking about the national strategy.

Michael Spurr: We have a set of guidelines and instructions for women prisoners.

Q38 Chair: Strategic priorities.

Michael Spurr: Yes. We have commissioning priorities for women; we have clear commissioning priorities for older prisoners. In one sense it is almost a definition of strategy. I guess our rationale was that we agreed with the conclusion the Committee came to that we should not categorise people purely by age. That was your Committee's conclusion.

In terms of a strategy, social care needs to apply to people who might not be classed as older prisoners but actually have social care needs. There is no question about the need for us to bring together the guidance we have for older prisoners: for instance, the expectation that people should have a regime that meets their needs, and that we should bring guidelines together that say older prisoners should be encouraged to be active, even if they are past their working age. On all those things, I think you are right. I think that we have got into semantics a bit on whether we are calling it a strategy or whether we are not.

Q39 Mr Llwyd: My point is a proper one, I hope. You have both described a lot of work going on, and that is good; there is no problem with that. But should it not be drawn together in a one-stop shop so that people know exactly what is required of them—the local authority on care, the Prison Service and so on—in order to deliver the best quality of care for those in prison?

Andrew Selous: That is what I intend the social care guidance, which I have instructed officials to draw up, to be in terms of day-to-day practice.

I want to come back to the split of the care provision in the £11.2 million. I gave you the figures earlier, but let me go over them again briefly. For those aged 50 and over, it is £4.6 million; for those under 50 it is £1.9 million. We must not forget the care and support needs of the prisoner population under the age of 50; we have over 39,000 prisoners between the ages of 30 and 49, for example. Sadly, many of our prisoners are not in the best of health; they have had serious issues with alcohol and illegal substance abuse, maybe mental health issues on top, and they may not have led healthy lifestyles. There is a significant number of prisoners under the age of 50 with significant care and support needs.

What we are saying to you is that we want to treat everyone as an individual; we want the social care needs of everyone in prison to be properly dealt with. We absolutely recognise that a very significant part of that is older prisoners, quite rightly the focus of this Committee's inquiry, but please do not forget the social care needs of all prisoners under the age of 50, because they are significant. We need to address those too.

Q40 Mr Llwyd: We all agree with that. We are not ignoring their needs, but this inquiry is about the older cohort.

Andrew Selous: I understand that.

Q41 Mr Llwyd: As we know, some prisons have developed good practice policies on their own; some are not doing so well. For example, RECOOP has developed best practice for working with the older cohort. How many prisons, to your knowledge, are using this best practice? It may be a difficult question.

Michael Spurr: We only circulated the best practice guide from RECOOP in August.

Q42 Mr Llwyd: It is a bit early yet.

Michael Spurr: It is probably a bit unfair for me to say how many have adopted it, but it certainly went out in August. It is an important step, because it is about saying how, as we develop guidelines and best practice, we get that out. It is the sort of thing that will be in the guidelines about how we expect establishments to treat and work with older prisoners, which we will put out, as the Minister has said.

Q43 Mr Llwyd: In light of the evidence you have given, and the fact that the current equalities policy PSI 32/2011 expires in April next year, I presume you will be introducing minimum standards from then on in this field.

Michael Spurr: We always have an expiry date for instructions to ensure that we review them, but we have an equality duty that does not cease at that point. Of course, we will be reissuing our instructions on what we are required to do to meet our equality duty, which includes an equality duty that reflects age as a protected characteristic.

Chair: We are going to turn to some wider issues raised by the chief inspector in his annual report.

Q44 John McDonnell: Minister, thank you for enabling us to address the wider report. We have been pressing the Secretary of State to come before us on previous occasions.

Andrew Selous: I understand he has a date in his diary next month.

Q45 John McDonnell: To be frank, we thought this was so serious he should have been before us beforehand, but I am grateful that you have come along.

I want to look at four issues. One is overall performance; the second is safety; the third is with regard to suicide specifically and self-harm; and the fourth, if we have time, is to do with staffing. On overall performance, if we turn to the inspector's report, he does an assessment on the usual criteria of safety, respect, purposeful activity and resettlement, and his assessment in all four areas is that in the current year the figures are the lowest in the last 10 years. That is a serious issue to be addressed. Could you try to explain your attitude to the report in terms of that assessment? What actions do you think need to be taken, and how can we sustain those actions to tackle what is clearly a worrying problem?

Andrew Selous: We have a larger number of prisoners in our prisons at the moment than we anticipated. There are a number of reasons for that. We have had a higher remand population sent to us; we have had more people sent to us for shoplifting, which is an issue that the British Retail Consortium and others, quite rightly, are very concerned about; and we have had a larger number of historic sex offenders sent to us, about which there has been a lot of publicity. We have a higher population than I think we could reasonably have anticipated. It is no secret to anyone on this Committee that we have had that at a time when the financial pressures on the Government as a whole are massive in terms of where public spending is in relation to tax revenue. That is some of the background to the issues we are dealing with.

What are we doing about it? You are probably aware that we are actively recruiting 1,700 new prison officers. We are reasonably confident that they will be in place by the spring of next year. Recruiting is going well. Newbold Revel, our training school, is absolutely full. The governing governors' conference, which I attended recently, was not able to be held at Newbold Revel because it was full of new prison officers being trained up, which is exactly what it should be used for. We are moving ahead full steam to get the proper staff complement that we need.

Q46 Chair: The 1,700 do not include the reserves.

Andrew Selous: The reserve is in addition to that. That is an excellent initiative to capture the massive experience of some of our senior prison officers who have left but wish to do some work within prisons. If you look at the bank system that nurses have at local hospitals up and down the country, it is the same type of approach. It is a very welcome addition in terms of the extra staff and the flexibility that will give us.

Q47 John McDonnell: I will come back to those points, if I can. Shall we move on to safety? Let me read from page 10 of the report: “The overall level of assaults in prison increased in 2013-14 and the increase was particularly high in adult male prisons. The number of assaults involving male adult prisoners increased by 14% on the year before and was the highest for any year for which we have data. Adult male prisoners are becoming more violent every year; that trend accelerated in 2013-14 and included a...38% rise in the number of serious assaults.” To quote the inspector again, his conclusion was that the “conjunction of resource,” which you mentioned, “population and policy pressures...was a very significant factor in the rapid deterioration in safety” in prisons. Can you give us some assurance as to the effective actions that are being taken to prevent that getting worse? Do you accept the inspector’s analysis?

Andrew Selous: I take any assault on anyone in the business extremely seriously. It is something that we do our absolute best to try to prevent, and to deal with appropriately as soon as possible. We have seen a 40% increase in the number of people sent to prison for violent offences in the last decade. When I talk to my own police force—Bedfordshire police force—the crime they are most worried about is violence against the person. We are seeing this, sadly, across society as a whole, and our prisons are reflecting that with the 40% increase.

In addition, we are looking at the impact of new psychoactive substances. This is a relatively new development within society as a whole. Any drugs in prison can lead to an increase in violence, because people will fight over them; there can be bullying and people will try to get hold of drugs. There has been an increase, and that very greatly concerns us. The 1,700 prison officers being recruited will clearly help.

If you look at assaults on staff per 1,000 prisoners, for the year to March 2014 there were 40. Looking back, in the years to March 2005, 2006, 2007 and 2008 it was higher than that, or as high. That is not an excuse. It does not make me in any way complacent about the unacceptably high levels of assaults within our prisons at the moment. I just want to put it in a little bit of context.

Q48 John McDonnell: I understand that. I spoke to Steve Gillan, the general secretary of the POA. He said that in all his experience he has never seen it as bad as it is now. To take you back to the question, do you agree with Nick Hardwick in his conclusion that the problem is the conjunction of resource, population and policy pressures?

Andrew Selous: What I agree with is that, sadly, we are becoming a more violent society, and that, sadly, is reflected in our prisons with the increased numbers.

Q49 Chair: You added a factor. Of the other three factors, two appear to be things that you already told us you think are part of the problem: the resources and the numbers.

Andrew Selous: Clearly, it will be a help to have an extra 1,700 prison officers coming into our prisons. If we can drive down our sickness absence levels, that will help. The bank will also help a great deal.

Q50 John McDonnell: On his trio of issues, we have mentioned resources and population. What about policy pressures? He identified policy pressures as well. Do you agree with that?

Andrew Selous: I am not exactly sure what he is talking about in terms of policy. In terms of closing down old unfit-for-purpose prisons and building new fit-for-purpose prisons, which are better for prisoners, better for staff, that is a positive policy development in this area. That is an ongoing process. We are not there yet.

Q51 John McDonnell: Have you met the chief inspector yet?

Andrew Selous: Of course I have.

Q52 John McDonnell: Since the report came out.

Andrew Selous: I have not met him since the report came out.

Q53 John McDonnell: I think this is a matter of such urgency that you should be meeting him to go through the detail of this rapidly, because what we are seeing is clearly an escalation of the problems we have experienced, and he has identified a number of areas that need to be addressed.

I move on to suicides. I raised with the Secretary of State when he last visited us the rise in the number of suicides. Looking at the report, there is a 69% increase from 2012-13 to 2013-14. Various views are expressed by the chief inspector about that. It reflects some of the views we heard from him previously, and from the probation ombudsman, about the increase in self-harm and levels of assault. Bullying is also a factor they identified.

When I raised the matter with the Secretary of State last time I thought he was complacent—disgraceful complacency, to be honest. Basically, he said that in the community the suicide rate was rising. It was almost as though the rise in prisons was a reflection of what was happening in society generally, but when we look at the latest figures from the ONS they show a slight increase in the wider population in the last few years, but a slight decrease in 2011-12 and a decrease over the last 10 years, so what the Secretary of State said to us at that time was plain wrong. There is a 69% increase in the prison population, a very slight increase in the overall population, but for the age range 15-plus there is a decrease. We have a serious

problem of suicides and self-harm in our prisons at the moment. Do you accept that? How are we going to deal with this urgently?

Andrew Selous: I completely recognise that it is a very serious problem. I have not come across any complacency anywhere in the Ministry of Justice on this issue. To the contrary, I have come across a very great deal of concern.

Q54 John McDonnell: Why did the Secretary of State say that?

Andrew Selous: The Secretary of State will speak for himself. This is an issue which everyone, including the Secretary of State, does take very seriously. He made a major speech in September talking about the need to improve our mental health provision within prison. If we could do that, it would help. We have commissioned an independent review of self-inflicted deaths among 18 to 24-year-olds. We are reviewing our assessment and care in custody and treatment procedure, which the chief inspector has recognised is an important process. We are looking to see how we can improve that. These are very difficult issues. What you do not hear about is the work our prison officers do every day to prevent suicides. They all carry cut-down equipment.

Q55 John McDonnell: We commend that, but when you have such a significant increase, surely it is now time to face up to it. It is not just the prisons inspector. We have had before us representatives from independent monitoring boards and we have heard evidence from the POA. It all points in the same direction: we have a crisis with regard to self-harm and suicides.

I quote again from the inspector's report, because it is important we recognise the significance of these incidents: "It is important that the bald statistics do not disguise the dreadful nature of each incident and the distress caused to the prisoner's family, other prisoners and staff. It is a terrible toll." That is how others independently with no axe to grind explain it to us. We have a problem that needs urgent attention.

Andrew Selous: Of course it needs attention. Whether it is one or 88, every single one is an absolute tragedy. As you know, there is an investigation by the coroner, the police and the ombudsman to try to take learning points from every single one of those self-inflicted deaths. I do not know whether the Committee read in the ombudsman's report the case of a prisoner who was on constant supervision in a health care unit. He killed himself by deliberately jumping head first from his bed on to the cell floor before the supervising staff could stop him. That was a prisoner on constant supervision where we were doing our absolute level best to look after him.

John McDonnell: Of course, there will be examples like that, but there is a significant trend that needs to be addressed. I suggest that it may well be worth your talking to the Secretary of State and for him to produce some sort of short, sharp review that we could look at about these incidents and how they can be addressed.

Q56 Chair: Could I invite Mr Spurr to comment briefly? Is there anything in particular that you are currently engaging in to deal with this situation?

John McDonnell: Have you done anything special since the report?

Michael Spurr: Yes. The most important thing is that I do not believe we have been complacent about it. It is absolutely—

Q57 John McDonnell: Could I just interrupt you? I have not accused you of complacency. I believe that the statement by the Secretary of State at that stage to the Committee—that this is just a general trend among the whole population—did display complacency.

Michael Spurr: When it became clear that there was a rise in the late autumn of last year, particularly in November and December, and we had very high levels of suicide, which continued in January—they went down a little bit, but were higher than we had expected in the first few months of 2014—we did take urgent action to do a number of things. We put back into place regional support teams to support establishments in the work we were doing. We made it clear to governors that the priority was to address safer custody issues, and if that meant putting additional managerial or support staff into front-line working establishments they should go ahead and do that. A lot of establishments did that. We did assessments of each establishment.

We took wider action to respond to the pressures from the increase in population, which happened at the same time. The population went up very sharply in the autumn of last year. There is no question that that was the biggest external shock to the system. The rise in suicides coincided with that sharp rise in the prison population, and at the same time we were below the number of staff we needed.

In his report the chief inspector acknowledges the action we have taken. Indeed, he says in his introduction to the report that we took the right action in terms of providing more support from the centre; placing a number of establishments on revised regimes to ensure we had stability; and sending additional staff to establishments that were struggling, to provide them with consistent regimes. He notes in his report that there had been improvement in inspection reports done later in the summer, which of course are not included in this annual report.

We have continued that action. Undoubtedly, the rise is worrying, not least because we had significant success in bringing down the suicide rate. The rate of suicides in the last year has gone back to the rate we had in 2008. It was higher in some years before that, but that is not acceptable because the rate is too high and we need to bring it back down again, and it is a huge priority for us.

On safety, the chief inspector makes it clear, and he is right, that there are trends of violence that we have been coping with for some time. As the Minister pointed out, the rise in violence in the adult estate has been occurring over a number of years. The total number of assaults has remained largely the same, but the fact is that there are fewer young people in prison and more assaults in the adult male estate. Many people who were young in prison have progressed from their early 20s to the adult male estate. There is no denying that the number of serious assaults has increased, so the level of violence when people perpetrate

assaults is now higher than it used to be. I think that reflects a trend that has been imported, if you like, from gang-related violence in the community as well.

Q58 John McDonnell: With the greatest respect, doesn't that mean you need to ensure that your staff planning addresses those issues?

Michael Spurr: Yes.

Q59 John McDonnell: You are telling us you see a trend of increasing violence in society. That seems to reflect a bit the view that it is all part of society.

Chair: I am not sure that is true. Most figures show that reported violent crime has been coming down.

Michael Spurr: There has been an increase in the number of violent offenders in prison.

Q60 John McDonnell: I was trying to make that point. It is very comparable with what the Secretary of State said. Nevertheless, even if there is an acknowledgement that there is violence of an increasing nature among prisoners, that should be reflected in staff planning. What seems to have happened is that there have been cuts in staff. Staff have been sacked, a problem has occurred and you have reacted by recruiting the same staff you sacked, and then you put some of them into a reserve army.

Michael Spurr: Most of that is not true. First, we did not sack staff; secondly—

Q61 John McDonnell: You made 800 redundant. Is that not true?

Michael Spurr: We offered voluntary exits to staff.

Q62 John McDonnell: You reduced your staff numbers.

Michael Spurr: Yes.

Q63 John McDonnell: You now have a problem.

Michael Spurr: Yes.

Q64 John McDonnell: So you rapidly have to recruit them again, put them in a reserve force and then recruit others as well.

Michael Spurr: Let me go through what we were doing in response to the financial challenge that we had, and a prison population that had been following, in forecast terms, the median projections for the previous three years, and had allowed us to be able to close prisons because we had spare capacity to do so.

The National Audit Office have just completed a piece of work to look at what happened in the autumn of last year. They said in the piece of work they presented to the PAC—I understand it is published—that it could not have been forecast that the population would spike to the degree that it did in the autumn of last year. Our staffing plans had been predicated on the fact that the population would remain on that median projection, and there was no reason that could have been forecast why it went up as sharply as it did in the autumn of last year. Our staff planning at that point, as the National Audit Office found, was entirely reasonable. We then got an external shock to the system that undoubtedly hit us. The additional factor, for which we accept some responsibility, was that it took us much longer to resurrect our recruitment than we had anticipated.

Q65 John McDonnell: “Resurrect our recruitment”.

Michael Spurr: Because we had stopped recruiting staff because we were reducing our levels.

Q66 John McDonnell: But you had laid staff off, hadn’t you? It was not just stopping recruitment; you had laid staff off as well.

Michael Spurr: Yes. We had closed 16 prisons, and we provided opportunities for staff who were at those prisons to leave.

Q67 Chair: Who alternatively might have had to move some distance away if they had stayed.

Michael Spurr: Of course. One of the issues in terms of our planning was that we anticipated being able to redeploy more staff from the prisons we closed than we actually redeployed, because their domestic position was that they did not want to travel those sorts of distances.

Q68 John McDonnell: You did not think to maintain a level of staffing to give some flexibility to the system to respond to that.

Michael Spurr: We did, but we had a very sharp increase in the prison population and it took us longer to ramp up our recruitment, particularly in the south-east, than I would have liked, or any of us would have liked. I accept that, in terms of where there was a responsibility, we would have wanted to get the recruitment going earlier if we had spotted it. I accept that was something we could have done better, but I do not accept that our

planning was as flawed as you suggest. I think we hit an external shock, and we responded to it.

In terms of staff numbers to cope with the pressures, where we have staff who meet our benchmark requirements there is evidence that they are managing prisons safely, decently and properly, and there are inspection reports that give us evidence that that is the case. I have spoken to the chief inspector about that. Our issue is about having fewer staff. Our revised levels are right, and I have written to the Committee providing detail of the vacancies and shortfalls in regard to your other inquiry on prisons.

Q69 John McDonnell: How many are in the reserve force now?

Andrew Selous: I believe it is around 100.

Q70 John McDonnell: Where is the funding coming from for that? Is it within the prisons budget or elsewhere? Is it the NOMS budget?

Michael Spurr: The NOMS budget is the budget that will be used to pay for our staff. We have gone to MOJ in planning for our budget to say we are operating to a prison population that is now 85,000, and we will need funding to be able to operate to that level of numbers. That is where we will take the funding from. We need additional funding for the extra capacity we have to use.

Andrew Selous: I was talking to a NOMS director last night who told me that so far this year, to give the Committee an update on where we are with this—it is not all happening next February and March—we will have recruited and trained over 900 prison officers between January this year and Christmas.

Q71 Chair: Is that the public sector alone, or public and private together?

Andrew Selous: It is the public sector.

Q72 John McDonnell: This is hokey-cokey recruitment policy, isn't it? Eight hundred laid off, and 900 brought back.

Michael Spurr: We have not brought them back. We are recruiting new staff. We let people go because we reduced the number of prisons and we did not need all those staff. We made significant financial savings, which has been one of our responsibilities, as every Department has had to do. We are now recruiting staff on new terms and conditions. The new terms and conditions in terms of value for money from the public purse are better than the old terms and conditions. Therefore, that is a perfectly proper and sensible process for us to have followed.

Q73 John McDonnell: Was that a strategy?

Michael Spurr: It was not a strategy because we did not anticipate that the prison population would be as high as it is now. The forecasts did not indicate that. We were planning on forecasts, quite legitimately, as the National Audit Office found, that were perfectly responsible for us to plan on. Then things changed. Events change, and you have to respond to them.

Q74 Andy McDonald: To try to summarise this, the chief inspector of prisons and the probation ombudsman have said that in terms of self-harm, suicide levels and levels of assault, efficiency savings are likely to be a factor in the rise of those figures. Do you agree with that?

Michael Spurr: I agree that establishments have been operating under significant pressure through the period when the chief inspector, rightly, says there has been a deterioration. There is no question about that, for the reasons I have just gone through. Equally, he says that what causes an individual to commit suicide, or individual incidents, is equally difficult to untangle, but there is no question that the service has been operating under pressure. I have not denied that at all.

Q75 Chair: It seems to me that the facts and factors are not really in dispute, and this Committee will have to take continuing notice of how the Department is responding to a situation which was described by the chief inspector and which you have frankly accepted was the reality in that period.

Andrew Selous: To comment briefly on self-harm, because we have had a couple of references to it, it is true that the number of self-harm incidents in the year to March 2014—23,478—is higher than for the year to March 2013, but it is below the figures for March 2012, March 2011, March 2010 and March 2009. I want to put in a bit of context. That is not to say that I am remotely complacent. Self-harm is a terrible thing. We must absolutely try to eliminate it, but it is important that we give this context in terms of the actual numbers.

Chair: Mr Selous and Mr Spurr, thank you very much for responding to our questions about older prisoners, and for being ready also to deal with the important and urgent issues raised by the chief inspector.