

Justice Committee

Oral evidence: Prison reform (Governor empowerment and prison performance), HC 548

Wednesday 18 January 2017

Ordered by the House of Commons to be published on 18 January 2017

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Members present: Robert Neill (Chair); Richard Arkless; Alex Chalk; Kate Green; Victoria Prentis.

Questions 207 - 288

Witnesses

I: Professor Alison Liebling, Director, Prison Research Centre, University of Cambridge, Mat Ilic, Strategic Director Justice, Catch22, Julian Le Vay, former Finance Director of the Prison Service and Director of Competition in NOMS, and Eleonora Harwich, Researcher, Reform.

II: Andrea Albutt, President, Prison Governors Association, Ralph Valerio, National Vice Chair, Prison Officers Association, and Peter Dawson, Director, Prison Reform Trust.

Written evidence from witnesses:

- [Prisons Research Centre, University of Cambridge](#) and [further evidence](#)
- [Catch22](#) and [Catch 22 further evidence](#)
- [Julian Le Vay](#) and [Julian Le Vay further evidence](#)
- [Prison Officers' Association](#)
- [Prison Governors' Association](#)
- [Prison Reform Trust](#)

Examination of witnesses

Witnesses: Professor Alison Liebling, Mat Ilic, Julian Le Vay and Eleonora Harwich.

Chair: Good morning, everyone. Welcome to this evidence session of our prison reform inquiry, in particular the piece of work we are doing around devolving power and autonomy to governors. As usual, before I introduce our guests can I inquire whether Members have any declarations of interest to make? On my register of interests I am a non-practising barrister and consultant to a law firm.

Victoria Prentis: I am a non-practising barrister who used to conduct litigation on behalf of the Prison Service for the Treasury Solicitor's Department.

Alex Chalk: I am a practising barrister.

Richard Arkless: I am a non-practising solicitor qualified in England, Wales and Scotland.

Kate Green: I am a member of the Magistrates Association.

Q207 **Chair:** Welcome to our panel of witnesses. We are very grateful to you for your time and for the written evidence that you and your organisations have submitted, which we have read and can take into account. We want to get through quite a lot of material. Before we get into the questions, perhaps you would quickly introduce yourselves and, where appropriate, the organisations that you represent.

Mat Ilic: I am Mat Ilic, strategic director for justice at Catch22, which is a national charity and social business with over 200 years' experience.

Professor Liebling: I am Professor Alison Liebling, director of the Prisons Research Centre at the University of Cambridge. I have had a continuing presence in prisons doing research since 1986.

Julian Le Vay: I am Julian Le Vay, former finance director of the Prison Service and director of competition in NOMS, retired. I have published a book on prisons.

Eleonora Harwich: I am Eleonora Harwich, a researcher at Reform, which is a non-partisan think-tank that focuses on public sector and service reform.

Q208 **Chair:** Thank you very much. All of us will have to shout a bit because the high ceilings of this Victorian room do not work as well as the ones in Portcullis House, where we usually meet—we have to adjust our volumes a bit whenever we move rooms. If I can start, we have looked at the evidence from yourselves across the piece and the broader public commentary about the state of prisons. There is pretty much consensus, isn't there, that we face a crisis in prisons? Ministers do not resile from



the fact that there are severe pressures. We have seen the consequence of that in disturbances, behaviour and so on. In terms of dealing with the current crisis, do the Government's proposals help to address it, in all or in part? Are they worth while or part of a bigger picture? Do they get in the way or are they perhaps just a part of what is necessary to address that crisis? What is your take on how they fit in with the overall picture that we are confronted with in our prisons?

Mat Illic: They are a great contribution, and inevitably it will take time for those reforms to come through. I agree with the broad assessment that one of the missing pieces is the perspective that we are incarcerating far too many people, and that the overcrowding of our prison system is a major challenge that probably has not been addressed in the conversation so far.

Julian Le Vay: There are some very good things, which will help devolution to governors and the long-term resolution of fundamental problems in the estate, but as a response to the crisis I find it evasive on three big issues, the first being the cause of the crisis. The view of everybody outside the Ministry of Justice is that the sharp staffing cuts were a major factor. The White Paper says that the staffing cuts were the right thing to do, so it has not resiled on that; it said that some of them need to be restored, but that is its view.

Secondly, on the issue of demand, if you are to have a once-in-a-lifetime radical look at prisons, you ought to ask what they are used for, and why they are used so much. We have doubled the prison population while crime has halved, which does not make sense, and now we find we cannot afford it.

Thirdly, I see the White Paper as trying to substitute for those issues another narrative, which is about the wickedness of central control. I am in favour of devolution—I have said so—but I do not think the case can be made that the highly central model we have is a causative factor in this crisis, and I am concerned about some of the proposals for taking it apart. Overall, I would give the report maybe three out of 10.

Professor Liebling: I agree with a lot of what my two colleagues have said. There is a lot in the report that is promising, but I also think there are some major conceptual gaps. I am surprised that nobody is referring to the Woolf report or to the concept of legitimacy. If we look back over the past 30 years, we have seen some significant periods of prison reform and a lot of gains, but they have always been achieved with a goal that has something to do with decency, legitimacy and fairness. That is a bit of a foundation, so it is important to bring that back into the picture.

Of course safety is critical, but the model of safety in the report is a slightly mechanical vision of safety. We have done a lot of research on safety and what makes prisons feel safe. What prisoners describe is trust in the environment, and that is about approachable prison officers. A lot of what I have to say is about the fundamental role of prison officers. It



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strikes me that some of the missing things are an understanding about prisons being all about power, the distribution of power and the good use of power. If we understood that better, there would be a lot more concern about the reduction in staffing and staffing time and resources. That is important.

Q209 **Chair:** That is helpful. Ms Harwich?

Eleonora Harwich: I do not have much to add. I definitely agree with all that has been said.

Q210 **Chair:** You go along with it.

Eleonora Harwich: Yes.

Q211 **Chair:** That's fine. When people agree, that is enough. Professor Liebling, you made a point about staffing, and other people may have observations. One issue is about numbers. Is there also an issue about culture and training? Is that adequately picked up? There are references to a rather masculine culture and so on within that.

Professor Liebling: My interest is in differences between prisons. It is dangerous to castigate all prisons as having negative cultures. Training is obviously an issue, but we see outstanding prisons in all sorts of places. Where we find them, it is about understanding how important the traditional and professional use of authority is. Some of that needs retaining and probably strengthening. It can be quite close to some of the cultures that end up being quite negative and heavy, so undoing some of that traditional professional use of authority would be very dangerous. It needs to be properly understood, and rewarded in a way. It is important to understand the differences between the prisons that are currently outstanding, even despite the fact that they are quite low in resources, and prisons where staff are becoming overwhelmed, which is more likely to precipitate them in the direction of negative cultures.

Q212 **Chair:** I see a lot of nodding from the witnesses. It struck me that there was recently a very good report from the chief inspector on Whatton. You will know that places like Grendon are regarded as world leaders. Where are the bits that you think we are getting right, and what should we be doing to roll out more of that sort of approach and culture? Do you have any thoughts on that?

Eleonora Harwich: It has a bit to do with how you hold prisons to account in terms of their measures of performance. One of the reports I worked on at Reform tried to explain that a lot of measures of prison performance do not capture the qualitative aspect of what goes on in prisons, which echoes what Professor Liebling does in her research. I do not think we should stop at things that are difficult to measure; we should try to go beyond that. If you had measures based on levels of staff morale and so on, you would have a better understanding of culture and incentivise the right behaviours.



Professor Liebling: Can I offer you a new performance measure? I was thinking about it on the train on the way here: staff turnover. Somebody needs to set the desirable turnover level. There has been an assumption that it has been too low and that causes problems, but there has been an economic reason for setting it much higher. It is obvious when you go to different prisons that if you can get the turnover of staff down to a reasonable figure—we have the figures; we could do a calculation and say, “There is a cost/quality threshold and turnover threshold. This is it”—you could set it and then give governors the resources to maintain that level. Those sorts of things could be done and would transform prisons very quickly.

Q213 **Chair:** Mr Ilic and Mr Le Vay, do you have any thoughts on that?

Julian Le Vay: I do not have much to add, except that I think Alison’s work and the work of her team has created an extraordinarily powerful tool for looking at prisons. What has never been clear to me is how you operationalise that systematically. That is the key.

Chair: That is very helpful.

Mat Ilic: Your query about prison officer numbers is interesting. That bit of it has dominated the debate. Do we have enough prison officers? The real points around this table are about quality, retention of good officers, and jailcraft as people call it—the bit about the perception of staff and their engagement with the job—and the fundamental perception of prisoners about how they are being treated and their perception of their safety and security within that establishment. There are some interesting conversations to be had around those KPIs, as well as ratios and all the rest of it.

Q214 **Victoria Prentis:** I would like to drill down a bit into what you all broadly agree and that many of us would agree too. Could I ask you to be as specific as possible? We want to come out with some real recommendations from these evidence sessions. What are the characteristics of a high-performing prison, and in what way can we do what Mr Le Vay said and try to make them into measurable objectives that we can make part of the deal?

Professor Liebling: That is what we do research on. We can show you models of what good prisons look like. Things go in order. You do not get any of the things you are really after, such as prisoner wellbeing and personal development, which we know are linked to all the outcomes we are interested in, until all the basic hygiene things, such as policing and security, staff professionalism, respect, humanity and safety, are in place. All those things have to be there first and then you get the end results. We find those characteristics in about a third of prisons.

Q215 **Victoria Prentis:** Which do you think are the most important?

Professor Liebling: They are all important in a hierarchy. Let’s say personal development is the ultimate goal. You want prisoners to be



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experiencing something that helps them change their lives for the better. That is what everybody wants. You do not get that until all the other things are in place. If you do not have safety, you cannot have personal development. It is not that one is more important than the other; it is that the prison has to be functioning as a prison. My slight frustration at how prisons are talked about is that everybody is demanding personal development, but it is as if there isn't a trickiness in providing the foundations. The foundations are essential. I could give you a formula. You need sufficient experienced, well-trained, competent and confident staff. We have just been to Hull prison and that is what we saw. It just happens that Hull prison, for various complicated reasons, is slightly above the resource threshold of some other prisons, and it has outstanding leaders. Those two things together—lots of other things too—make it an outstanding prison.

Q216 Victoria Prentis: You talked about turnover. Obviously, experience goes with length of time in the job. Do you think it is worth trying to put in a measure of different levels of staff?

Professor Liebling: We did an analysis of public versus private sector prisons. We took staff experience and found that the best prisons were right in the middle of the experience trajectory. If you do not have enough experienced staff, prisoners run the prison; if you have too many long-serving staff who are no longer motivated, things start to deteriorate.

Victoria Prentis: They are stuck in their ways.

Professor Liebling: Yes. It was four to 10 years. The two prisons that we thought were outstanding had a majority of their staff in the four to 10-year-type group. There are formulae for it. You want just enough turnover and people who are desirable employees elsewhere, but you want staff who, despite that, want to stay because there is a lot of meaning in their work. We see it out there; it just needs describing. If you are to make governors autonomous, they need to be able to tell somebody what they require to shift their prisons in that direction.

Q217 Victoria Prentis: Does anybody else want to comment on measurable characteristics?

Julian Le Vay: Can I introduce a note of scepticism? Everything I have to say has to be prefaced by recognition that I have never worked in a prison but I have worked closely with people who do. When you look at the kind of variations in culture that Alison's research documented, I wonder whether it really is a matter of numbers and measures. We all know good leaders when we see them, and good leaders tend to recruit good people and to shape the organisation in a particular way. I suppose I am asking Alison whether, in trying to operationalise it, you can reduce it to something as bureaucratic as a number or measure.

Professor Liebling: There are measures that are helpful. Turnover is one of them, and prisoners' personal development is another. Obviously,



assaults, suicides and all those things matter. It is difficult to operationalise. The number of times we find a prison that has both outstanding staff and outstanding leaders and the right level of resources is less than we would like. The formula is quite complex and some parts of the country are more difficult than others. There are measures, but you need the right vision and a well-oiled machine that produces a meaningful regime, as well as strong leadership and good staff. We collectively know a lot about prisons. There are loads of data and masses of research. We understand prisons and how they work. I just think that information is not being used in the way it could be.

Eleonora Harwich: No measure of prison performance will ever be perfect. You should be aiming for a good measure. It might have some caveats, but, as long as you are aware of them, it is still better always to be in a sort of mechanism of self-improvement.

Q218 Victoria Prentis: I was thinking that too. For example, my local prison, Bullingdon, has excellent leadership and excellent staff and mostly goes along and does very well. Over the last few months, we have had an influx of prisoners from problem prisons, and immediate problems resulted from that. Has much work been done on specific prisoner movements? Following riots, prisoners had to be moved, and a group of difficult individuals was moved to us. Has work been done on that?

Professor Liebling: Isn't it more important to ask why prisoners are getting engaged in disturbances? Obviously, movement out of area is not good and some prisons are handling it exceptionally well, but the reason I mention Woolf is that he understood that there is a moral content to social conflict and prisoners do not riot for fun. They pay a heavy price.

Q219 Victoria Prentis: That may well be important for the wider picture, but this is the immediate and specific problem of a new group of prisoners with whom you have not previously had to deal. Has work been done on what happens when a difficult cohort moves in quickly?

Mat Ilic: To give one example to substantiate the point, last week I was in HMP Erlestoke, which is in a sense an intervention prison with a very small OpCap. They had received a significant number of people from Birmingham. Essentially, that completely disrupted the fabric of what that prison is meant to be doing for the population it has. I think that marries up with your perspective on Bullingdon. I guess that the challenge therein is one for NOMS and how it manages the performance of prisons in this league table context, as well as how it facilitates support for governors and creates the cultural context in which they can succeed even when there is that kind of disruption. It will affect everything from how prisons perform in educational outcomes and other regime outcomes. You cannot have a scenario where, in essence like a school, you have a managed move from school A to school B and suddenly performance starts to dip. Lots of these things have to be taken in context.



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From a leadership perspective, there is no doubt that governors can set the cultural temperature. We have to find some way of working that creates a facility by which they can do that, so that they have the agency to achieve what they need to achieve, but when there are blips that clearly disrupt the usual pattern of play, they are explicable by these extraordinary events, which no doubt will happen because it is just par for the course.

Q220 Alex Chalk: Before turning to my questions, can I pick up something you said, Professor Liebling, which I thought was very interesting? You seemed to be suggesting that before we can deliver all the good stuff that we want to see, we have to get the basics right. It is a bit like a refugee camp. Until you have food and shelter, you cannot deal with education and so on. My analogy, not yours, is that you have to bake the cake before you put the icing on it.

Professor Liebling: Yes.

Q221 Alex Chalk: Do you think these prison reforms go to baking the cake, or are they all just about icing without the cake?

Professor Liebling: They are mainly icing, but there is a bit of cake. It depends on how they are translated into practice. A lot of the stuff is about professional development of staff and governors and extra training. A lot of emphasis is on improving safety. Safety is an important core concept, but I do not think it is sufficiently recognised. The report mentions relationships, for example. Everybody talks about staff-prisoner relationships, but you need to analyse what staff-prisoner relationships are. They are about the good use of authority. That is missing. That is what I mean about the basics. There needs to be professional competence, a decent regime and meaningful activities. How that works, whether the staff get the role right and whether the prison works as a prison is fundamental. If it is not working as a prison, prisoners feel unsafe; they start to take things into their own hands, and they cannot concentrate on their future.

Q222 Alex Chalk: You would say that there are basic issues about prisoner-staff ratios, how prison officers are trained and their ability to have career progression, CPD and all that good stuff, which is part of the cake upon which this icing needs to be. Is that fair?

Professor Liebling: Yes, although I think the best way I can put it is that all the work we have done on prison officers demonstrates that, when they get to the end of a day and nothing has happened, they have had to work really hard for that. It is invisible, but it is the most important thing that goes on in prisons, and it needs paying attention to. What has gone in the past few years is the very hard work that officers do in just getting the regime operating from morning till night.

Q223 Alex Chalk: If the others agree, there is no need to add anything. Is there any issue about icing on the cake—use another analogy if it is more helpful to you—and whether these prison reforms go to the basics or to



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all the bells and whistles that we want to see?

Mat Illic: I think the cake bit is recognising that there is a collective responsibility to drive the purpose of what a prison is for. The point Alison made is absolutely right. We must recognise the heroic work done by prison officers in prisons as the fundamental that keeps us and prisoners safe. Whatever the substance, or not, of the paper, the primary bit, at the forefront, is about what a prison is for and recognising that in legislation, but also driving public interest in supporting that conceptually, as well as being about prison officers, the purpose of prisons and public attitudes. That is part of the challenge we have in driving that commitment to having the cake and stability.

Q224 **Alex Chalk:** This is me being thick, not you; it was a very good answer but perhaps I did not understand. Do you think these reforms help to deliver the fundamentals and the foundation upon which everything can be done, or do you think they are about dealing with detail, whereas they should be focusing on fundamentals as a priority? Can you help us briefly with that?

Mat Illic: My point is that one of the fundamentals is recognising that prison has to serve rehabilitation as one of its core functions and purposes. It cannot do that in isolation from community support and broader public support, part of the reason being, as Alison said, that if prison officers have had a good day no one will know; the public will not celebrate that, but I think they should. One of the things it does as a fundamental commitment is recognise that prison should be based on rehabilitation and reform, and drive public interest in that conversation.

Q225 **Victoria Prentis:** Do you not think that is in the current thinking? David Cameron's speech on prison reform was a seminal change in the way these issues had been thought and spoken about, certainly in my party. Mr Gove continued with that very powerfully, so don't you think that is part of it?

Mat Illic: I do; that is what I agree with.

Professor Liebling: The problem is that some of the fundamental questions have not been answered in the report, and a lot depends on what the answers are. What is the purpose of imprisonment? Public protection should be a kind of side effect of imprisonment; it should not be the main purpose. If the purpose of imprisonment is upholding social order, that is the foundation on which a lot of the reforms will start to fall into place. Countries such as Germany and the Netherlands that have put resocialisation as the main purpose of imprisonment have a much better handle on both the form and use of imprisonment because they have set the purpose right. We do not know what is going to be the purpose yet.

Q226 **Alex Chalk:** Does anyone wish to add to that, or do you broadly agree?

Julian Le Vay: To recap what I said at the beginning, I do not see how you can set a long-term strategic future for the Prison Service without



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addressing at all why so many people are being sent to prison, and connect it with the effectiveness of the whole criminal justice system. One of the weaknesses of the White Paper is that it seems to look at prisons in a kind of vacuum, despite all it says about reducing reoffending. It is there for a purpose and we need to connect it to that purpose and to the rest of the system.

Q227 Alex Chalk: That is very helpful. I turn to the question that I probably ought to have been asking. Looking at the issue of governor responsibility for commissioning services, it is obviously important that whatever approach governors take fits in with wider services in the community. Some of our evidence suggests that a more local approach can help tie prisons into local partnerships, but what can the Government do to achieve it, and how much control do you think governors should have over commissioning services?

Eleonora Harwich: Reform has done some research into that. I think the division of powers between governors and delivering transforming rehabilitation creates a disjointed system and does not allow for a prisoner/user pathway to understanding employment through the gates. For all those services, we think governors, not NOMS, should have more power over commissioning CRCs.

Julian Le Vay: Governors know pretty well what they want to do; they are keen to form local partnerships, and they do so when they are allowed to. When NOMS was created, very unfortunately, it cemented everything back into its silos. I have always thought that if you want an integrated approach you ought genuinely to have one organisation locally providing the same interventions in prison and outside. This organisational disjoint, which has again been cemented in place by the probation reforms to some extent, is a tremendous handicap, but, given that is where we are now, I do not think there is any problem with governors going out and making local partnerships. They are all keen to do it and they know where to go.

Q228 Alex Chalk: In your evidence, you discussed the pros and cons of local versus central commissioning. Plainly, there is a balance to be struck in having a complete free-for-all so there is no harmonisation at all, but do you want to say a little bit about how we strike that balance and the importance of doing so?

Julian Le Vay: I speak now as a recovering finance director. I am worried about the costs. That is a boring thing, but it has real-world implications, as we have seen in the academy programme, because devolving usually means adding cost. It may be worth it, but it does mean adding cost. We have a service that is strapped for money in a dangerous way. I was concerned to see the White Paper's suggestion that food might be bought locally. It would be very nice if the Prison Service had enough money to go out and get its organic bread baked locally, but what is important are the services for prisoners: the integration of the regime services, such as education, health, resettlement and that kind of



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thing. That needs to be bought together locally, but given the big money spent on things like food, clothing, energy and logistics, I do not think there is any sense in having that done locally. If a governor here and a governor there pulls out of national contracts, they become enormously bad value for money. I do not think that, sensibly, you can have a free-for-all; you need to discriminate.

Q229 **Alex Chalk:** That is helpful. Turning to specific rehab services, should governors be able to pick à la carte from accredited schemes, or should they have complete freedom to go totally off-piste and say, "I know a bloke I met down the Dog and Duck who is doing something absolutely fantastic. We should give this a go in our prison"?

Professor Liebling: Obviously, it has to be both. Huge progress has been made in the accredited programmes. We have learned an awful lot about what works with what sorts of prisoners and things that might be helpful, but it takes a long time to get a programme accredited. There has to be some leeway for creative, innovative attempts to work differently with different population groups; it is not an either/or.

Q230 **Alex Chalk:** But you are saying that they should have freedom to do some non-accredited programmes.

Professor Liebling: Definitely.

Q231 **Alex Chalk:** A gifted and inspired governor could say, "I think this will work. It hasn't been done before; let's give it a go."

Professor Liebling: Yes. That is how programmes get accredited. In a way, it all starts with a little green shoot and there are lots of new possibilities out there.

Q232 **Alex Chalk:** Does anyone demur?

Mat Illic: I absolutely agree with that. They should do it at their risk if they deviate from what is available, as it were, and that is right. I give credit to NOMS in how they are tackling, for example, the recommissioning of family services at the moment by creating a national framework of provision with regional clusters of potential providers—the menu you described—from which groups of prisons and governors will be able to select, or indeed to say, "I'm not interested in that; I'll go for my own list." The idea that you are creating a national framework with regional choice and governor selection involved in the process is a clever way of finding that balance.

Julian Le Vay: The research people in NOMS used to report to me at one time. I am not in favour of complete free range in this respect: the new approach ought visibly to refer in some way to the existing knowledge base. There is a difference between saying, "Let's try something new and evaluate it because it seems to have some coherence and there is some basis for thinking it would work," and saying, "Try voodoo; it might



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work.” There have been some pretty daft schemes in the past. In my view, it is not entirely free range.

Alex Chalk: That is helpful.

Q233 **Kate Green:** May I return to the point Julian Le Vay made about the basics that you would commission or procure nationally? Criticism has come through in written evidence—I think we heard it from the prison governors we met before Christmas—of some of those basic contracts, particularly management of the estate, maintenance, repairs and so on. If local commissioning is not the answer, and some of the reform governors we heard from seemed to think it would help them, what is?

Julian Le Vay: That is a very good question, because certainly some of the contracts that have just been let have been heavily criticised. In my time, when we were beginning to introduce mandatory national contracts, we found it very hard to get them operationally responsive so that they were seen as helpful by governors. One of the problems was that often the culture of central Government was, and perhaps still is, some way from recognising the importance of contracting skills. We have seen in a recent audit report of the MOJ that that is still the case. Part of it is about integrating the two streams within the Department and giving it proper priority. We know from the audit report that senior management were not giving enough attention to contracting. In my experience, the operational arm has tended to be brought in at a late stage to sign things off. You want integrated teams and some testing out in the field. You are quite right that there have been some unsuccesses in central contracting, but in my view it is nonsense to say that we are better off buying food at 100 prisons locally and not under regional and national contracts. It must be possible to do better than that, and if we can’t, we need a new set of people doing our contracts.

Q234 **Kate Green:** Are there lessons to learn or contrasts to be drawn from the way our private prisons commission those sorts of services and, indeed, the rehabilitation-type programmes—the way they operate?

Julian Le Vay: I think private prisons came out better from that audit, and part of the reason is that we got integration of the operational and contracting a bit better. We also learned from experience. We learned that we drove down prices too fast in the private sector 15 years ago, so it is ironic that in the public sector we are just recognising it. We learned from doing, and perhaps that is something the centre is not terribly good at.

Mat Ilic: There is some good experience in private prisons, some of which we work with, of engaging prisoners in the selection of interventions, for example. I have seen the use of PIAC funds in Serco private prisons, for example; a prisoner committee is involved in deciding what sorts of services are delivered in the prison. It can be quite an effective way of disbursing funds that affect prisoners directly through interventions.



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Q235 Kate Green: In a slightly different direction, providers of commissioned services—rehabilitation programmes and so on—in particular perennially smaller specialist voluntary sector providers, complain repeatedly that the process does not give them a fair opportunity; it is too risk averse and that stifles innovation, and there is no concept of co-production that they feel they could usefully contribute to. What are your observations on that and on how current commissioning processes do or do not disadvantage those sorts of providers?

Mat Ilic: I draw on the experience of a couple of prisons that are part of the reform pilots and, through NOMS grant funding, have hired voluntary sector co-ordinators into the Prison Service to enable access by smaller specialist charities to prisons. It has reduced some of the chaos of lots of voluntary providers coming into a prison all trying to reach the same population, while 90% of the rest of the population does not get any support or lacks experience of moving around the prison and so on. Being a facilitator for voluntary sector provision, whether commissioned directly by the prison or not, is an interesting opportunity and role for governors and prisons moving forward.

Q236 Kate Green: How do you think innovation should be balanced with risk in commissioning?

Eleonora Harwich: It is a very difficult question. Just today, Reform published a paper on public sector commissioning. One of the things we point out is that within the current commissioning framework innovation is not incentivised, and basically commissioners revert a good deal to the position—a quote sent to us by some of the interviewees—that you cannot be laid off because of not being innovative enough. The current structures are definitely not creating the right frameworks to produce all those innovative programmes.

Q237 Kate Green: What would you like to see?

Eleonora Harwich: The perfect solution is a difficult one to give, but potentially it is about creating a more black-box thinking model to be able to pilot some projects and divert or allocate some funds to see how the pilots work, and eventually build an evidence base on which those initiatives could be furthered within the system. I do not think there is one perfect solution.

Professor Liebling: We did a study on trust and building trust in prisons, largely because we had done a repeat study at a single high-security prison, with 12 years apart, and noticed that the prison had become paralysed by distrust. That was a consequence of risk dominating. When we decided to study trust, I do not think we had ever had so much interest from prisoners. They all wanted to talk to us about how to build trustworthiness. It is indicative of the way the organisation has become, so it is not just about prisoners; it is about prisons as organisations, innovation and working with the voluntary sector. The emphasis is on thinking not just about managing and controlling risk, but



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about building trustworthiness and trust, and trying to do that in an intelligent way. We found that the Prison Service as an organisation responded warmly to the idea that it has to be done slowly and carefully, but there is a way of doing both risk and trust. If you do only risk, everything becomes paralysed, and that could be applied to the model for working with organisations outside, treating innovation as something that is not all about risk but is about opportunity. Some of your reform prisons are starting to do that.

Kate Green: I do not know whether you have more to tell us. This is very interesting. If there is more research evidence that you can share with us on that specific point, it would be useful.

Chair: We always welcome supplementary evidence on such matters. That is very helpful.

Q238 **Richard Arkless:** If I may return, hopefully briefly, to the topic of performance measures, specifically the new ones proposed by the Ministry, in the context that obviously no performance measure would ever be perfect and that there are others such as staff turnover that possibly ought to be in there, do you think that the new outcome measures and league tables that have been proposed are a feasible way to monitor performance? You can be brief if you like.

Professor Liebling: They look just like the old ones.

Richard Arkless: Icing.

Professor Liebling: It is important to have measures of violence, safety, staff sickness, progress made by prisoners in education and on drug use. All of those things matter, but if this is a revolution I do not see it in the proposed measures. What is wrong with observed over expected reconviction rates? It is difficult and imperfect, but we want added value. If we want to know whether prisons are making people's lives better or worse, that is what we should measure.

Eleonora Harwich: I echo what Professor Liebling has just said. In terms of performance measures that look at what happens within a prison's walls, there are some slight changes to the older measures that try to add a more qualitative aspect, which I think is interesting and encouraging, but it is not enough. In terms of what happens outside a prison's walls and the outcomes that are measured, I definitely think that things are not going far enough. There is no qualitative appreciation, for example, of whether there will be sustained employment once the prisoner is released. It is the same thing for housing. There is no appreciation of the difference between a prisoner having a home for one night after his release and proper accommodation, which then impacts on the chances of his reoffending or not.

Although the question of attributing reoffending to a specific prison is extremely difficult, because obviously prisoners move within the system and there is a whole host of questions around attribution, if we do not



start to try to incorporate that as some sort of outcome measure—we might not hold prisons accountable 100%, but maybe we could think about a weighting system like the current PRS, which has different weights for different elements of prison performance—we will never drive behaviours to focus on the rehabilitative aspects of prisons.

Julian Le Vay: I have three quick points. First, the existing system is not broken; it was telling us and you that the wheel was coming off two years ago. The lights were on red then. Secondly, I think there are some valuable improvements in the White Paper. I like Alison's idea about a measure of staff turnover, and prisoner-staff ratios ought to be there, for private as well as public prisons. They are not insignificant improvements. Thirdly, I have always understood that it is technically not possible to get a good measure of the added value of a particular prison through reconviction rates. If Alison by clever work can do that, it would be a breakthrough of some dimensions, but she needs to do the homework first.

Q239 **Richard Arkless:** Mat, do you have anything different to add?

Mat Ilic: On a personal note, I am slightly worried about the use of reconviction as one of the primary measures for prison. I could be wrong, but that is my personal view. The only thing I would say in defence of the measures is that it would be good to measure a few things really well and for them to be the right things. I am not sure that is necessarily universally true with what we have currently.

The missing link for me, which perhaps we have in education, is that there is public interest in how respective local prisons are reforming. There is an appreciation of the context as to why one is performing better than the other, even though on paper they might have the same conditions. There could be lots of other factors. I am particularly interested in the public interest behind the league tables and the transparency and accountability that is meant to come from them, and the repercussions for getting things right or not for governors, NOMS and the Government. Hopefully, the real blessing of the paper is that the transparency agenda will drive better and more consistent performance if there is public interest behind it.

Q240 **Richard Arkless:** Consistency is a key point in any league table. To allow a proper comparative analysis, the figures need to be consistent across the estate. Given the diverse roles and contexts of different prisons, is it possible to have meaningful comparative analysis? Would the league tables be effective?

Professor Liebling: That is why you need to take account of the different functions and populations, and why we refer to observed over expected reconviction rates, because you have a different expected reconviction rate for every prison. It is also very unfair to compare a young offender institution with a long-term adult prison. Everybody in the organisation knows that. You have to be able to use performance



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measures, but with intelligence, and then they are very meaningful and helpful.

You might have heard reference to MQPL, our measuring the quality of prison life survey. It is a fantastically complicated survey and very under-exploited. The red lights were showing to us two years ago when prisoners started to agree with the item "This prison is run by prisoners rather than staff." We have that information. That raises alarm bells for us, but we do not run the organisation. We give the information to the organisation, but it is very difficult for an organisation to know what to do with quite a lot of information. There is good evidence, but there needs to be better dialogue about what it means. A more dynamic relationship with the evidence and research community would pay off.

Q241 **Alex Chalk:** Does that survey not go to the chief inspector of prisons? It would be quite useful for him to know.

Professor Liebling: It goes to the chief executive, and there is a whole organisation outside the inspectorate that uses the MQPL surveys in prisons every couple of years, but it is a lot of information. I am sympathetic. You would not expect individual governors or the chief executive to digest all that information and know where to look. We try to help them and direct them to the information that causes us anxiety so that we can share it with them. It is about making sense of information. There is almost information overload.

Q242 **Victoria Prentis:** How can we make the MQPL survey into an overall measure of prison performance?

Professor Liebling: We developed the survey. A governor said, "This will turn into a monster, Alison." It was never intended to measure anything; it was intended to help us understand prisons. It is used as a measure—

Q243 **Victoria Prentis:** Can we move it on to be useful as a measurement?

Professor Liebling: Yes, as long as it is done with caution.

Q244 **Victoria Prentis:** How?

Professor Liebling: The trouble is that, once you translate it into a single numeric, you lose the point of it, which is that every prison is different and they all have their own little problems to worry about. There needs to be a little bit of interpretation and flexibility. It is there and it is used, but there is some work to be done in explaining better to the organisation how to read it.

Q245 **Alex Chalk:** You can't have it both ways. If you say that things came from it that meant the red lights were flashing on the dashboard, surely there must be parts of it that could for future reference be distilled in that way. Whether it is just a metric—question 9, "Who is running the prison?" is an important one, or question 8, "Are you spending lots of time locked up in your cell?"—or whatever it is, there must be a way. Surely it cannot



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be beyond the wit of man.

Professor Liebling: I am thinking as you are talking. The problem is that the indicators are slightly different in different prisons. When we know a prison well, we see what a red light in that prison is. We could probably highlight the 10 or 11 items that are worth looking at first for every prison, which just mean that you should be worrying about what is going on there.

Alex Chalk: That is what I am thinking.

Q246 **Victoria Prentis:** That would be very helpful. Can I ask another hard question, probably of Mr Le Vay? This is again on aligning performance measures. Is there any way we can align the different measures for prisons and probation services and other people who do rehabilitation in the community to achieve what you envisage, which is some sort of continuum in the way prisoners are rehabilitated when inside and outside?

Julian Le Vay: Yes, it is a hard question. You can measure, as we currently do, various dimensions of what they both do, if that is what you mean. They still run somewhat similar programmes, and the evidence base for preventing reoffending is common to both. I am not sure what you would be seeking to do. If it is to show how effective the prison is, and its surrounding services, that should be possible.

Q247 **Victoria Prentis:** You mentioned that you were a recovering finance director. It is noticeable that the Ministry has not specified measures for financial efficiency. Is that something you have views on?

Julian Le Vay: I think money must be out of fashion in central Government, because I did not notice a pound sign anywhere. I am not sure whether you mean something separate—different from efficiency. Let's assume you are talking about the efficient operation of prisons.

Q248 **Victoria Prentis:** Yes. Would it be worth inserting financial performance measures? Would that assist?

Julian Le Vay: You certainly want to know what you are getting for your money, because you might be able to get more for your money, so you need a measure of efficiency. The difficulty is that prisons are incredibly complex places, as we have been discussing. You need lots of measures of how well they are doing and how much they are doing. Relating all of that to the money is rather difficult. You can do it through a fantastically complicated formula which attributes a number to everything, weights everything and then the answer is 42. The statisticians will be very pleased but the rest of us will find it rather mystifying. Those sorts of edifices can easily be picked apart, because you can say, "I would weight this differently or measure that differently," and then you just have technical arguments among statisticians. I would not go down that route.



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When I was dealing with this, I do not think it was too difficult to look at a very crude, absolutely imperfect, measure of efficiency, which is the cost per place or per prisoner—we know that they measure different things—and relate it to all the data we have about quality and performance. In my time, we knew perfectly well that Altcourse was a splendid prison in all sorts of ways but also extremely expensive. I think they have changed that now; it is less expensive.

Professor Liebling: And less good.

Julian Le Vay: Yes. That has been put right. We knew perfectly well that many local prisons were very cheap and efficient, but they had awful regimes. I do not think we ever had any difficulty in relating a very crude efficiency measure, which I agree is needed, to the wealth of information about performance.

Professor Liebling: I would love to see that cost/quality analysis. I think we are around the threshold. We are both below it and at it, and in one or two cases, above it. That would be a helpful way of sorting out the current context.

Eleonora Harwich: I completely agree that it is very difficult to drill down into a measure and try to understand how to weight different things. However, when Reform did research on evaluating prison performance, we potentially wanted to drill down into trying to understand the cost of different programmes. We found that that information is not publicly available, which is not encouraging research into trying to understand the cost-effectiveness of certain types of programmes. We also found, in response to an FOI request, that basically information was not held by NOMS for private prisons, so it did not allow cost comparisons between private and public. That further hindered our understanding of cost-effectiveness within the prison system. Despite the fact that for now a crude measure of cost per place or cost per prisoner may be a good thing to include, I believe that information should be out there so that more research can be done and maybe we will eventually get to a more adequate measure.

Chair: We have another panel of witnesses to come before us, so we have to try to move on to other topics. Mr Arkless, do you have any more questions on this or another topic?

Q249 **Richard Arkless:** I think most, if not all, people would agree that prisons should primarily be rehabilitation centres. Measuring that is clearly difficult, and Ms Prentis touched on it briefly. We are running out of time, but could you tell us whether you think it is actually possible to devise objective measures of performance to deal with rehabilitation? A simple yes or no would be fine.

Professor Liebling: Yes.

Richard Arkless: Obviously, without substantial detail.



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Professor Liebling: I would add personal development, but you can get good proxy measures.

Julian Le Vay: I agree. Good proxy measures. I am doubtful about reconviction rates as such.

Eleonora Harwich: Yes, I agree.

Mat Illic: Yes.

Q250 **Kate Green:** I want to move on to accountability in the proposed new world, where it is envisaged that the Secretary of State will be accountable for ensuring that prisons deliver what they should be delivering, but a lot of accountability and discretion will be pushed down to governors. What do you think should be the boundaries or limits of governor accountability and the consequences for governors who fail to meet those requirements? Mr Illic is looking interested.

Mat Illic: I scribbled down a quote for this answer because I knew it might come up: "Failure isn't fatal, but failure to change is." In relation to governors, I think they should get as much protection as they can, especially in the early days, for risks they might take, but things often go wrong with the population we are talking about. I would ask the question: if there is failure, is it down to negligence, misconduct or poor decision making? If so, the blame should rest with the governor and the governor's regime. If it is to do with decisions taken that were the right decisions that went wrong, we need to create a space in which failure can be absorbed in some way so that we can learn from that failure and move forward.

Professor Liebling: One of the difficulties is that some of the best governors are sent to the most intractable prisons. The last thing you want is to deter that. You do not want governors to feel inhibited from offering their services to very difficult prisons. If governors are to be given autonomy, they need to become constituents in the policy-making process. For the first time, we are hearing governors tell us that they are implementing policies they disagree with. That is really important. They have to be constituents and be given a voice in shaping what is being asked of them, and there needs to be an intelligent reading of what is happening in the prison and the extent to which governors are able to manage what are increasingly unmanageable prisons. Yes, there has to be accountability, but they have to be held accountable for reasonable tasks.

Julian Le Vay: This is what one might call the Michael Howard question. It is a very difficult one. It was difficult then; it is difficult now. The guiding principle has to be that you are accountable for decisions you took or could have taken. A governor cannot be responsible for overcrowding, staffing levels or the physical state and limitations of the estate. The difficulty is that there is interplay between those factors at local level. For instance, it is very difficult to disentangle in an



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overcrowded prison who exactly is responsible for a high level of assaults, because it is the interplay of those factors. I do not think there is a neat solution to that dilemma.

As you will have seen from my evidence, I am particularly concerned with the confused accountability the new model creates above governor level, but which will affect governors, because it appears that governors will have two lines of accountability, through NOMS and line management, which they are used to, and to some new official in the Ministry of Justice through a negotiated agreement. That will cause them some trouble, as well as a fair degree of mayhem in the centre.

Q251 **Kate Green:** Does that call into question the need for a role by NOMS at all?

Julian Le Vay: No, I do not think it does in the least. It is designed as an integrated national system where prisoners are deliberately passed between different prisons at different stages. They may be recategorised, or because of overcrowding they have to be moved around the whole time. You could design from first principles, but we do not have a series of stand-alone independent prisons like schools. You would have to take that apart in order to do away with NOMS. NOMS also has quite a substantial direct operational role in moving prisoners around, in emergencies and in developing operational solutions. One thinks of current problems such as radicalisation, suicide prevention or drones and drugs. That requires a partnership between a central entity and governors. It does not always work well, but it has to work in that way. You very much have to have, as governors will recognise, a functioning centre that is less heavy than it is now. You cannot have nothing. You certainly cannot have two sets of controls, which is what we are heading for, and seems to me a perfect nightmare.

Chair: That is very helpful. Mr Arkless, do you have any questions on the final topic about independent scrutiny?

Richard Arkless: No.

Chair: You are satisfied with the evidence around that.

Richard Arkless: Yes.

Chair: That is very helpful. It is a fascinating topic on which to have your evidence. We are very grateful. If any additional thoughts come to mind after you think about what we have been talking about, we are always happy to have them. Thank you all very much for your time and expertise.

Examination of witnesses

Witnesses: Andrea Albutt, Ralph Valerio and Peter Dawson.

Q252 **Chair:** Welcome, everybody. Thank you very much for coming and



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helping us with both written and oral evidence. As with the previous panel, perhaps you would introduce yourselves, and then we will go straight into the questions.

Ralph Valerio: My name is Ralph Valerio. I am the national vice chairman of the Prison Officers Association.

Andrea Albutt: I am Andrea Albutt, president of the Prison Governors Association.

Peter Dawson: I am Peter Dawson, director of the Prison Reform Trust.

Chair: It is good to see you all. Thank you for coming to help us. Can we move straight into the questions with Ms Prentis?

Q253 **Victoria Prentis:** I think you were all here for our previous panel, or certainly for most of it, when there was a certain amount of discussion about the purposes of imprisonment. Could you share your views? It is a nice broad question to start.

Peter Dawson: There will always be more than one purpose to imprisonment. Prisons will always be asked to do more than one thing, and the challenge is to keep those different purposes in balance, but, as Professor Liebling said, prisons serve a community, and they serve it principally by preparing people to return to it. In order to return to the community people who are less likely to cause harm and nuisance, prisons themselves must operate in a particular way. What Alison said about the foundations of that being decency, safety, legitimacy and fairness was profound and absolutely correct, and the principal cause of where we are now is that those foundations have been undermined.

Andrea Albutt: Prisons should be for our most dangerous men and women. We put too many people in prison. We put people in prison for very short sentences, and we do not have sufficient time to do any quality work with them in preparation for their release.

Ralph Valerio: As a prison officer, on the back of my ID card is the statement of purpose of the Prison Service and NOMS. It is about keeping those in custody secure and keeping the public safe, and helping those in prison lead useful and law-abiding lives. Unfortunately, the prison system these days is somewhat erroneously delivering that. We have too many people coming into the prison system and clogging it up, which you would call churn. We have densely populated prisons. Almost none of them is operating at operational capacity; almost all are above it, which begs the question why we are sending so many people to prison. What alternatives are there in the community?

Alison made a very good point about starting from the bottom up. We have to understand that in the context that prisons are only the end of a train journey for many people. When we put them back into the community, what is there for them then? We can only do our part. Ultimately, the purpose is to help people lead useful and law-abiding



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lives, but we cannot do that when prisons are at the most dangerous levels, certainly in modern history.

Q254 **Victoria Prentis:** I am sure that during your career you have had considerable experience of different personal officer schemes within different establishments. What are your views on the six to one personal officer supervision proposed in the White Paper?

Andrea Albutt: We probably need clarity on it, because in one to six one prison officer is expected to spend 45 minutes per week with each of the six prisoners. I think it is much bigger than that because under benchmarking our staffing levels were reduced significantly. Certainly, for cat B and cat C prisoners staffing ratios were one to 30. One prison officer would supervise 30 prisoners, so a 120-bedded wing would unlock with four prison officers. I have heard in the media the term “one to six,” and the assumption is made that one prison officer will be supervising six prisoners. That is not quite right. If one officer spends 45 minutes with six men or women, what else does that mean? Where will they be? Will they be on wings or in offender management units? We need more detail on it.

Peter Dawson: I governed a prison four to five years ago where we had a staffing ratio of one to 30. I look at that number and think that would mean one to 20 literally, but the significance of the one to six is that, if it means a real shift in the balance between resource and work and puts in significantly more prison officers, it has an impact, because prisoners can then be in a place where those relationships form. You cannot form a relationship shouting through the crack at the side of a door. The best relationships are formed with prisoners who are busy and active and have hope, and when there is time. If one to six means there is more time in the system, more activity for prisoners and more hope, it is a significant step forward, but to me the mathematics is all-important.

Ralph Valerio: Ultimately, if you wanted one to six it would be terribly expensive. You would expect a trade union representing prison officers to welcome one to six, no matter how expensive it is, because it means more prison officers making prisons safer and more rehabilitative. You would expect me to say that, but from the engagement I have had thus far with NOMS, which has been minimal, if I am entirely honest, it sounds very similar to something that has been done in the past—the old personal officer scheme that was done away with on the introduction of the offender management model. As an officer on a landing, at that time, I had the time to build relationships with prisoners, but you have to understand the context. I was doing lots of other roles as well as building those relationships on a day-to-day basis, and there were twice as many of us on the prison wing.

Now that we are in the position of having to upscale quickly, which is the indication given by the White Paper, you are looking for a wholesale counter-revolution of the wheel that benchmarking brought. We are now in a negative culture that has to be brought to a positive, and it seems to



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be replicating old practices. There is not sufficient learning of old decision making by previous Ministers and Governments, who all have accountability, sitting at their desks, for why the prison system is in this position. That is not just blue Government; it is red Government as well. If anything is to be a success in building relationships, which is key, whether or not it is one to six, there has to be a long-term vision—at least 10 years, and probably 20—before you see tangible, demonstrable change in our prisons.

Andrea Albutt: The offender management model of one to six will give us 2,500 extra prison officers, which clearly is very welcome, but the question is when prisons get the resource and the freedom for governors that allows them to move that resource to manage risk. If the risk is such that they need a prison officer-staffed security department because they feel that would be better, can the resources go there? If they need more prison officers on the wings to build those important relationships, will the resources be able to be moved there, or will there be fairly tight constraints on the 2,500 prison officers?

Q255 **Victoria Prentis:** You need more detail before you can have a view.

Andrea Albutt: Yes, we need more detail.

Ralph Valerio: At present, the 10 pathfinder sites are not doing any of the work, as has perhaps been publicly indicated, which is not helpful.

Chair: That is very helpful.

Q256 **Alex Chalk:** My question is to Mr Valerio and Ms Albutt. In the past, you have expressed concerns about the role and status of governors and prison officers. To what extent do the Government proposals help to strengthen those two roles, and what training needs to be provided to deliver it?

Ralph Valerio: Chapter 6 of the White Paper gives some hope; it talks about future leaders and why we need to be getting specific bespoke training for prison officers for engagement with offenders, which is great, but there is nothing of substance in it. An awful lot of work is being done through the reconfiguration of the learning and development unit within NOMS. That is a positive move on the part of NOMS to try to make it competitive and future-ready. If you look at an autonomous world, a governor may want to commission from external sources, but they are getting themselves geared up to be specialists in that. It is imperative that we give a clear indication to any training provider of what we want, and that has not been clear up to now. Do we want to forge relationships in the here and now or, similar to what Andrea indicated, are we going to plough our resources wholly into recidivism rates? Let's focus on that for now.

I am sure you will go on to the powers and accountability of the governor. It would be wholly inappropriate—I am perhaps arguing the PGA angle here—to put a governor into a position where accountability



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sits purely and squarely on his or her shoulders and leaves them in a very precarious, vulnerable position, because it is a far riskier environment than, say, a school where we cannot recruit head teachers at this time.

Andrea Albutt: The Prison Governors Association absolutely agrees with the empowerment of governors to contract and co-commission services and manage risk. That empowerment is starting in April 2017, which is very soon. As to the state of our prisons at present, we have seen the recent disturbances and lack of investment, and, although I see 2,500 more prison officers, I do not see any more money. The budget for prisons has been reduced to a critical level, hence we see prisons in the state they are in. With the best will in the world, if the budget is not enough, empowered governors can manage only so much risk.

Q257 **Alex Chalk:** You broadly welcome governors having more power, but governors, perfectly understandably, have more experience of operational command. This is going to require a new basket of skills, isn't? It is much more managerial—somebody might be good at job description A but not necessarily B. What support should NOMS be providing to governors to say, "This is now the portfolio of skills you need to make the most of these powers, and these are the sorts of things you might like to do"? What kind of support do they need?

Andrea Albutt: Certainly, executive governors need a development programme. Because things have been so centralised for so long, there will be some who have been governing governors for a significant period. In the past, they may have developed those skills, when there was no autonomy for governors, but in recent years everything has been centralised; the budget is centralised, and what you can do is dictated to you. They would need budgetary development and probably development in contract management and developing business cases. Governors would need that type of thing.

Q258 **Alex Chalk:** Is that in the pipeline? April is just around the corner. Has work been done on that?

Andrea Albutt: Yes, I understand that they are looking at a development programme.

Q259 **Alex Chalk:** You note in your evidence that you would like to be consulted on any proposals that affect prison operation. How would you describe your engagement with the MOJ so far? Are there any practical suggestions for improvements?

Andrea Albutt: The engagement has been very poor. We begin reform with new measures in April 2017, and there has been very little consultation.

Ralph Valerio: All you have to do is look at the actions taken by my union publicly in recent times as something of a barometer. I know different people have different views about it. It is certainly an indication



of poor communication. As was talked about in the previous panel, there has been a complete breakdown of trust. Trust has completely gone for a whole host of reasons. The blame culture seems to be very much pushed, from our membership right up to the very top, largely because they are feeling somewhat disenfranchised from an organisation they are very proud to represent. Until we manage to readdress that, we will continue the perpetual cycle of being unable to trust and being unable to bring positive change through collective engagement and collective bargaining, simply because our members do not trust Government and senior managers.

For example, the announcement of Deerbolt and Durham prisons being brought within the autonomous scope of Ian Blakeman, the chief executive officer in the north-east, was an absolute surprise to us. Given the fact that we had difficulties prior to Christmas with the Justice Minister, it is somewhat antagonistic as well; it is not very helpful. We have always gone on record—I have put my own name on the line—about engagement and partnership working. Unfortunately, it has been made very difficult for us to be anything but negative in our response, indeed reactionary. I would urge MOJ and NOMS to engage properly and purposefully, because we are part of the solution; we are not the problem.

Andrea Albutt: From the PGA perspective, I echo what Ralph said. When the paper was published, we said on record that we supported it. We have said it a number of times in the media, and we continue to support it, so again we can help.

Q260 **Victoria Prentis:** Do your two unions work closely together?

Ralph Valerio: Where we can.

Andrea Albutt: Yes.

Q261 **Alex Chalk:** Turning to Belmarsh and Manchester, the Government are recruiting externally to fill the governing governor positions in those two prisons. What do you read into that? Is it an admission that they cannot get enough through the ranks, and training and career development is not working, or is it just one of those things? Is it a good idea?

Andrea Albutt: It is a combination of things. There are other examples, such as HMP Hewell. Those posts were advertised internally and they did not get sufficient interest from senior enough governors. Some of the reasons for that are that they are high-risk prisons and the pay and reward structure is not sufficient to entice people to go to them. We have two bands of governing governor—bands 10 and 11. Band 11 relates to complex and diverse prisons, which those prisons fit into, but there are band 11 jobs in fairly steady, stable and decent prisons. Why would you leave that and put yourself into a very challenging prison for the same reward package? That is one of the reasons. The attitude is, “Why should we do that?” The pay scales are not enough.



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Q262 **Alex Chalk:** What is the pay scale ceiling? Are you able to say?

Andrea Albutt: It will depend on whether or not you have signed into the new pay structures, but probably the top band 11 outside London—you do not have local pay allowance—would be about £86,000 or £87,000. That does not compare favourably with private sector directors.

Q263 **Alex Chalk:** That is interesting. I thought it would be a bit more than that.

Peter Dawson: From a personal perspective, it is an absolutely tragic set of circumstances that that should be true. Over the years the Prison Service has recruited people at more junior managerial levels. Many times, I have sat on selection panels for that. It was always possible to attract people of high calibre from other professions, in the middle of their careers, to come in and learn. I did something similar. I came across from a civil administrative job to do that. The prospect of coming in to manage somewhere like Belmarsh as your first experience of governing a prison should terrify any normal human being. You come in at the middle and learn about the people who will help you to do it. The first thing a governor needs in a prison like Belmarsh is a team of people they trust, that they know can do things they cannot do. You do not get that coming in absolutely fresh to the top job.

Q264 **Alex Chalk:** That is very interesting feedback.

Ralph Valerio: It is very much a cultural thing. If you look at the uniform grades all the way up to the highest level of management in the prison system, it is a unique set-up, where the criteria internally are not based on any sort of management or business skills; they are based very heavily on operational knowledge and ability. We have lots of very talented governors. Given an incident in their establishment, they have command and control and liaise with HQ and deal with it in a very professional manner. We have lots of instances in the past quarter to indicate that, but if you put them in charge of other areas of freedoms and accountabilities they will be fish out of water. In a high-security environment, where accountability and blame seem to be the key words—there are high-profile prisoners in there, with a lot of change coming from ministerial direction—why would they want to take that on? They have strong operational knowledge but there is also political influence. They do not want to be political players; they are prison governors. They joined the job to rehabilitate lives, and often they joined as a prison officer. All they know is the operational line, and you are in danger of scaring people from wanting to progress. Some really talented people are being kept in a box.

Andrea Albutt: It was not just Manchester and Belmarsh. We had Hewell near Birmingham and Swaleside, a very challenging cat B on the Isle of Sheppey. It is not just high-risk prisons; there are some very challenging prisoners. To be honest, if we are to move into league tables as well, that could potentially disincentivise further.



Chair: We may return to that in a minute, but I take your point.

Q265 **Kate Green:** Mr Dawson, some of our witnesses have expressed the view that private sector directors have more scope for innovation than governors in the public sector. Do you agree with that characterisation? Whether you do or you don't, what is inhibiting innovation in the public sector, if you think that is the case?

Peter Dawson: It is hard to generalise. I think they have a little more scope, but having a little more scope makes a big difference. I worked for two and a half years in the private sector—not as a director, but I observed how it operated. In some ways, directors of private prisons are subject to more checks and balances and oversight than public sector governors. There is a monitor on site; the company's own ways of tracking what they do, particularly financially, are stringent, but you can observe in private prisons that they have a bit more scope to innovate. Although the money is carefully controlled, if they are able to manage their budget well—they do not have their own finance director; the finance director will normally be in the centre of the company—they are allowed to recycle savings they make to do things they care about. Some of it will go back to the company but some of it they can hang on to. It does not feel radically different, but that makes a huge difference to what it feels like to run the organisation. You can go to your institution and say, "We're doing something new."

I listened to the previous discussion about innovation. The thing I always felt about innovation was that you earned the right to innovate once your daily routine had become dull. Once you have the basics sorted and, on the whole, the core things in the prison are operating as they should, of course you start to innovate, because life is boring if you do not. It is not just the governor. The best and most useful innovations when I was governing came from people much further down the chain. I could give you any number of anecdotes when a prison officer, teacher or administrative officer said, "Could we do this?" All the governor was required to do was to give permission. Sometimes it was permission with a tiny amount of money; sometimes it was just permission and a bit of time to do it. Innovation comes quite naturally once the prison is dull, but to be dull it first has to do all the core things around safety, decency and fairness to an adequate standard.

Q266 **Kate Green:** Andrea Albutt, do you have any observations in respect of the freedom to innovate in public and private sector prisons?

Andrea Albutt: We have reconfiguration coming, so I am not quite sure what the future will look like, but traditionally, as things are now, if you have a fast, high-churn local prison—people on very short sentences and remand prisoners—the core business is to keep the prison decent, safe and secure, particularly if it is an older Victorian prison. If it is a longer-term sentence, calmer prison you have the time and head space to think about innovation. Having recently governed a very challenging local prison, my role was trying to keep people safe, keep people alive and



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make sure people got the basics on a daily basis. I did not have the head space to innovate. We need to get all prisons to a point where they are able to deliver the basics, and then we can start to think about innovation. Even with empowerment, although you may well be able to move resources to manage risk and do things slightly differently, it does not mean that you will be able to do large-scale innovation in a lot of prisons.

Q267 Kate Green: Could you say something about the commissioning process as it is now and how that works for governors, and whether it is a factor in what you are describing as the inhibitions?

Andrea Albutt: Commissioning now is generally done centrally; as governing governors we do not commission services.

Q268 Kate Green: If you want to purchase something what do you have to do?

Andrea Albutt: We have central contracts.

Q269 Kate Green: What does the governor do?

Andrea Albutt: You draw off the central contracts; that is the way it works. We may get involved with regard to, say, health or education. If you have good relationships, certainly with health commissioners, you have some say in how services are commissioned. Education is a centrally commissioned provision, but if, locally, you have good relationships, you may be able to influence some of what is delivered.

Q270 Kate Green: If as a governor you need something and you request it, how long does it take to get it? I realise that is probably asking how long is a piece of string, but can you talk us through the process a bit?

Andrea Albutt: For some of the most basic of basics, like prisoner kit and bedding, trying to get it is impossible. I am led to believe it has improved slightly, but I have been out of prisons for 18 months. You just could not get it. You would order sufficient bedding and kit for your needs, and weeks later you would get a third of it. As part of the incentive and earned privilege scheme you would order TVs. You could not get access to them, so men or women were not getting TVs. The central contracts have been very challenging for a significant period of time.

Q271 Kate Green: Do you welcome the freedom for governors to commission those things locally?

Andrea Albutt: Yes.

Q272 Kate Green: Are you confident that governors will be ready to take on the responsibility?

Andrea Albutt: By April 2017? Probably not. In our recent submission we said we needed a year of transition to develop governors and get our structures in place locally in prisons in preparation for reform.



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Q273 Kate Green: I have one other question about the way some of the reforms are coming in. The governors of the six reform prisons suggested that clustering prisons under executive governors could be a way of pooling skills among governing staff, and would enable prisoners to move between prisons without losing access to a continuous programme of support and interventions scheduled for their sentence plan. What is your view of that?

Andrea Albutt: I think clustering is quite a good idea. The issue is if NOMS decides to do geographical clusters. I can give you an example of a geographical cluster of four prisons: you could have Bristol, a male local prison; Eastwood Park, a female prison; Leyhill, an open prison; and Erlestoke, a long-term cat C prison. Geographically, it fits but for the offender journey it does not fit at all. If you are going to cluster, the clustering has to have the offender at the centre of it. For me, it would make far more sense, as things are now—I do not know how it will work with reconfiguration—to cluster functions. Women's prisons could be clustered; it would not be geographical, but you could share good practice and women could move among those prisons. If you clustered local prisons and the prisons they send to—the cat C prisons—at least you could have some kind of continuity in the offender's journey. To me, it makes more sense from a prisoner perspective—it might not do so financially—to cluster in that way.

Peter Dawson: One of the issues that makes private prisons a bit different is the certainty of function—people knowing what they are going to do and that, if that changes, there is a process of negotiation to change it. It is hugely important to all of us. It is massively important to prisoners and their experience of prison whether or not they are just shipped around the country for the convenience of the system rather than their needs. It is massively important to the people the governor or director is dealing with in the rehabilitation task. If you want to engage with agencies locally, you have to take something to the table. Fundamentally, what you take to the table is the people you are looking after. If they belong to that area, you have a seat and you are important. If they are from all over the country, you are not and it changes the questions you ask. You want to know where your prisoners have come from and where they are going. I think that in the estates review, if it is called that, the key decisions about where our prisons will be, which will open and which will close and what we will ask a prison to do, feel very secretive to me. In 20 years' time, that is what people will look back on as the important decisions being taken now.

Ralph Valerio: The Sheppey cluster was the first of a range of clusters that sprang up from the late noughties until benchmarking. I worked at Sheppey cluster all the way through the design process. It came about from a performance improvement plan to see off privatisation of the three sites. It is fair to say that it was a relative success. The Isle of Wight was probably the closest one to it. There were other clusters, but I think the key elements were close proximity geographically to one



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another. At Sheppey, Swaleside and Elmley have two very distinct roles—this echoes the points made already—and an open prison right next to them. All it needed was a cat C right next to it and you had the whole prison system in a nice cycle that could have served the community. It could have become involved with the community through the IMB and other agencies, and you could have had a real offender pathway in practice. That was the vision at the time, but it never quite kicked off. It was the same for the Isle of Wight.

You have to learn from past mistakes. The mistake from that time was that it was monetarily driven. You would have lots of establishments clustered together just because you could cluster some resources. Peter is absolutely right. If your vision is rehabilitation and that is where you put your money, build your prisons accordingly; build them around one another; build them near the courts. Let's have that journey and make it accessible to communities, because that is what also helps the culture while they're banged up.

Q274 Chair: Ms Albutt, you mentioned your concerns about league tables. In your evidence you also said that broadly the governors association has concerns about the operation of the current performance measures. We live in a world where there will be performance measures. What do you think will be the right sort of performance measures?

Andrea Albutt: We have to put the prisoner—the offender—at the core of what we are doing. We have had KPTs and metrics that are a tick-box mentality, but do they enrich what we do? Do they reduce reoffending? They may well not. They also need to be quite transparent. To give an example, Bristol, a local prison, holds 650 prisoners, and 30-odd miles down the road is Cardiff with exactly the same cohort of prisoners, but the prisons and their performance are completely different, and have been for decades. I know it will probably be very difficult, but if you are to have a performance measure, it needs to be specific to the prison and the issues the prisoner has. It will be difficult for the small footprint, old Victorian inner-city locals to have good-quality commercial workshops, because they can hold only 10, 15 or 20 prisoners. The type of work they will be doing is making miniature Christmas trees, which is a seasonal-type activity. It is not good work, but it gets men out of their cells. The performance metrics have to be a bit more sophisticated than we have had. I echo what was said by the previous panel: it all looks very similar to what we have now.

If the league tables are to be from No. 1 to No. 100, or whatever, we can predict now who will be in the top 10 and who will be in the bottom 10. The top 10 will be the high-security estate, open prisons and probably women's prisons; the bottom 10 will be the challenging, old Victorian inner-city prisons, or the difficult cat B or cat C trainers. Potentially, it could be very demoralising.

Q275 Chair: Mr Valerio, do you have any thoughts?



Ralph Valerio: Reference was made to the MQPL as being something of a barometer. It was a good line of questioning with the previous panel, because that gives an insight into the culture in an establishment, for all the reasons Andrea indicated. We do not agree; we have always had a strong view about league tables, largely because they encourage misrecording of events. Unfortunately, all the way through the benchmark, Michael Spurr, the CEO of NOMS, said publicly on several occasions, "If there's a problem at your establishment, tell us and we'll deal with it. If it means you require extra resources, we'll review your benchmark; we'll put in extra resources." We worked quite closely in achieving that on the rare occasions when governors put their hands up, but the reality is that they don't. There is an urban myth that a private sector prison will always look far more dangerous and far worse than a public sector prison for the reasons Peter indicated—that the controller applies pressure on the governor or director of that establishment and they record what is really happening. I know for a fact that what is happening in establishments is not always what is recorded as the statistical fact.

Q276 **Chair:** How would you prevent that?

Ralph Valerio: We need to find new ways to monitor it. You have existing resources. I mentioned the IMB earlier. The Independent Monitoring Board—its title is indicative—is also community engaged, which is somewhat part of the vision, isn't it? I do not know whether they have been involved in it a great deal. The POA does not engage with the IMB a great deal, but they should be involved as part of this. It is an open door, isn't it? There is scope for revision of how the chief inspector of prisons conducts reviews, rather than turning up for spot checks. We know that everything is painted and freshened up when they come. Let's make the chief inspector of prison reviews 52 weeks a year. There are ways of doing it, but so long as you have a league table with a tick-box mentality, where someone's career could be at risk as a result, you will never get the true picture of what prison is really like.

Peter Dawson: The prior question for me is what the league table is for. People talk about them in two very different ways. It could be that you want to know if something is going wrong and you want to put it right. Everything the previous panel told you about the lights flashing is true, and the action that was needed to put it right did not belong with governors. It belonged with Government.

Secondly, you use a league table because you think it will drive improvement, and people will work harder, try harder and innovate more because they want to be top rather than bottom of the league. I just do not think that is necessary or relevant in this context, certainly not now, and the risk of its driving perverse behaviour is huge. People always say, "A bad indicator will produce bad behaviour, but don't worry, we'll choose good indicators and it won't happen." The White Paper does not even



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begin to get to that sort of detail, and it is very dangerous to embark on a league table without knowing that you have good indicators.

Q277 **Chair:** What would be a good indicator from your point of view?

Peter Dawson: I would use MQPL much more than it is used, especially for the basics. There should be indicators around safety, decency and fairness which are pass or fail. It is not how good you are doing; it is whether you are at an acceptable standard, because if you are not that is the first order of business.

I want to throw in just one specific point about employment and accommodation. There is an opportunity to have a measure for employment and accommodation, which is people's situation three months after they have been released. That would belong to the CRC—the national probation service—and the governor, with no difference between the two, and the only way to achieve it would be to work together. You stand or fall together.

Andrea Albutt: A good indicator of how a prison is performing is definitely HMIP. We have had lots of cases in the past where prisons would be doing very well on the PRS, the rating system we have now, and HMIP would land, and do an unannounced inspection and it was in complete contrast to the performance measures. Because we now have unannounced full inspections there isn't the opportunity to smarten up what you've got, so you see it as it is. As a governing governor, while HMIP coming into your prison can be very painful—sometimes they say some fairly damning things and you have to pick up the pieces after that—in the cold light of day most governors, once they have got over the pain, would probably say that generally HMIP accurately reflects where their prisons are.

Q278 **Chair:** A number of you referred to the inspectorate and so on. A number of witnesses have asked why governors are unable to respond effectively to recommendations of the HMIP. The inspectorate makes recommendations, and three or four years later they come back and nothing has happened.

Andrea Albutt: In recent years it has been lack of resources, whether that be lack of staff or lack of financial resources to change things. In recent years some prisons have been so incredibly challenging that governors have not had the time to sit down and work on a good plan to address the healthy prison test and where they have failed. It is a combination of many things. I have read that HMIP didn't have teeth and that governors did not respond to HMIP. Governors try to respond; I always tried to respond to them, but sometimes in the day job it is very difficult to give the focus you need to HMIP action plans.

Q279 **Chair:** Mr Valerio, you talked about a more constructive role for the HMIP, and I get the sense that they want that as well. What is your take, Mr Dawson?



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Peter Dawson: To go slightly off to one side—this is not an example from HMIP—I read the report of the Independent Monitoring Board on Brixton towards the end of last year. It was fascinating because it showed the IMB doing exactly what they should do; it was knowledgeable, it was about prisoners and it went into detail. When they made their recommendations at the end, they said that this year they were not making any recommendations for the governor at all, because they thought everything that needed solving first for the prison lay outside the governor's control. It was a bold thing to do. I have seen no response to it.

On inspections, I do not want to excuse governors; there are unquestionably cases where governors take their eye off the ball and basic things are lost sight of, but inspection must mean that they can make recommendations beyond the governor's control and that those matter just as much as the governor. We have read so many responses to inspections that say, "This was a dreadful inspection, but don't worry; since it happened, the governor has changed and it is all going splendidly now." Nobody reads that any more because it is so common, and it feels like an evasion even when it might be true.

Q280 **Chair:** What about the Prisons and Probation Ombudsman and the recommendations there? Some people say it should be put on a statutory basis, for example.

Peter Dawson: The statutory basis is absolutely crucial. The White Paper is strange. It goes through a good argument for putting it on a statutory basis and then says, "We'll think about doing it." Don't think about it; just do it. When I was governing, there was nothing in the structure that made me care less about an ombudsman's set of recommendations, especially about deaths in custody. When we talk about accountability, governors are accountable to a range of people in a range of nasty ways that most civil servants are not. They can be in front of a coroner; they can be in front of the Health and Safety Executive; they can be sent to prison because they have not done their duty properly. I do not think most governors are confused about being accountable for what happens in their prisons.

Ralph Valerio: I do not have a particular view about the ombudsman, other than past experience. The existing resources need to be improved. As to whether they will be part of it, I do not think they ought to be—that is my personal opinion. They are far more of an interference, as opposed to being positive. If they can be transformed to a positive, perhaps there is a purpose.

To pick up the point about reports that say, "There's a new governor and everything is hunky-dory," governor tenure is a big issue. A two-year turnaround seems to be the norm for a governor to come in, do some things and—dare I say—put a prison on stilts, but it is not a solid foundation. Then a new governor comes in and—quelle surprise—things start to go down again, because it was always built on a false promise. If



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you are serious about addressing standards, a governor's tenure must have greater longevity.

Andrea Albutt: I agree with that to a certain extent, but in some of our more challenging prisons to expect a governing governor to do five, six or seven years is too much.

Ralph Valerio: Burn-out has to be considered.

Andrea Albutt: Sometimes, two to three years to start a process may well be enough for a governor, because then they reach a point where they are no longer good for the prison and the prison is no longer good for them.

Chair: We move to the final topic, which is NOMS and MOJ. Don't be put off if the bell goes for the House sitting; we will just finish up.

Q281 **Kate Green:** What advice would you give NOMS on how they should structure central support and guidance so that governors are given the scope to innovate and take risks, but there are central safeguards, and overall governors feel confident about their sense of empowerment and freedom?

Andrea Albutt: That is quite tricky. We are working for quite a hierarchical organisation at the moment, and we have been for years. The culture is that it is centralised and it is command and control, so to move away from that to autonomous or empowered governors, NOMS will have to change that relationship significantly. I do not think that will necessarily be easy. Some governors will struggle in not having that kind of being-told-what-to-do mentality, but it has to change. Governors have to be allowed to innovate and to feel safe and have support in doing things differently, but not be told what to do. To get that right will be quite tricky.

Q282 **Kate Green:** Where would you see the limits of governor empowerment?

Andrea Albutt: The limits of governor empowerment are centralisation.

Q283 **Kate Green:** You could answer it either way, but I want to know where the boundary is between what a governor can choose to do and what he or she is told to do.

Andrea Albutt: It was said by the previous panel that the governor will need some kind of central support, because there has to be a global view of what is happening in prisons. You would need mutual support, whether that is because of an incident, and men and women need to be moved around, or because there are resource issues in part of the country and you need detached duty. If we are implementing large-scale national policy we probably need some kind of global view of that, because it could impact right across the prison estate. We need a central thing to deal with operational stability and resilience, but beyond that you should free up governors to crack on with it.



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Peter Dawson: The advice would be slowly and carefully, which is advice that they seem destined to ignore, but also to look at least at two thorough-going exercises, having done this before in living memory. One was after the Woodcock and Learmont reports. Those two gentlemen said, "You have miles and miles of instruction; it is insane. It is not clear what you must do and what you can do." All the Prison Service instructions were rewritten to draw a line between what you had to do and what you should do. It took years to do it, but for a while it produced clarity.

The second major exercise is drawing up a specification for competition and saying, "This is what we insist a private prison does and this is what we are prepared for them to innovate on." Both those exercises end up with what is still a highly regulated environment, and it should be, because the liberty of the citizen is at stake; it is subject to potential abuse. We have complete power over people's lives, and that should always be highly regulated. The scope for innovation lies in particular areas such as rehabilitation, not in the basics. I know it is a cliché, but it is devolution, not revolution. The idea that there will be such a fundamental shift that the performance of prisons will be transformed is fanciful.

Q284 **Kate Green:** The Ministry has said that it wants to dispense with prescriptive Prison Service instructions. Have you been involved in the review and discussion on that?

Peter Dawson: To be fair, we have been involved in the work they are doing on incentives and earned privileges, which is a very interesting place to start. It is painstaking work. It is a good example because, if you put the prisoner at the centre of it, as Andrea says, which is what you should do—that is the person most affected—you are not heading for a world in which there is huge innovation or huge discrepancy between prisons, because prisoners' experience for all but the shortest sentences encompasses more than one prison. If a prisoner experiences unfairness because there is not a central core prescription, not only is that obviously unfair; it generates all sorts of work and expense that the governor of the receiving prison has to cope with.

Andrea Albutt: That in itself is more argument for having, rather than geographic clusters, clusters that take the offender through the journey, so the executive governor will make sure that there is some consistency in their prisons.

Q285 **Kate Green:** Have you been involved in the review of PSI?

Andrea Albutt: Aspects of it. There are still mandatory and legal things that have to be done by governors, and then there will be what is seen as good practice. Governors can pick what they want to do within good practice, but there will still have to be mandatory elements to meet the legislation.



Q286 **Kate Green:** Mr Valerio, has the POA been part of the discussion?

Ralph Valerio: We have been engaged in the deregulation process. An awful lot of PSIs have been tucked under pillows and carpets and into cupboards and pantries that could be put on the bonfire. The reality will become clearer later in the year in terms of what deregulation actually means, because there will be some mandatory elements. There might be some issues on the loosening of language. Not to go over old ground, it is imperative that there is a structure to establish commonality so that, if a prisoner goes from one prison to another, the environment is somewhat similar. The purpose of them being there is different, and they know why they are there; they are there for that purpose, but to expect basic criteria everywhere they go will be quite hard to nail down in the deregulation process.

Q287 **Kate Green:** To what degree do you think it is desirable, or there is scope, to decentralise pay, conditions, staff training and development and staff contracts of employment?

Ralph Valerio: That is a cheeky question, isn't it? The POA has always championed the cause of national pay.

Andrea Albutt: We would probably agree with the POA on that.

Peter Dawson: It would be a shame for everyone to agree on everything. I honestly cannot see how you can solve the problems of recruitment and retention, particularly in the south-east, on what people are currently being paid, when those problems do not exist in other parts of the country. Taxpayers are entitled to say, "Why pay more than you need to in areas of the country where it is not a problem?"

Q288 **Kate Green:** What is your view on allowing governor discretion or decentralising decisions about pay and conditions?

Peter Dawson: Hold on to your hats, because it will unleash competition between governors, prisons and probation and between prison, probation and the police. It is a competitive environment. There are pros and cons to that, but it is likely to drive up cost overall.

Chair: That is very helpful. Thank you all very much. It has been very valuable evidence for us. We much appreciate your time and trouble.