



House of Commons
Justice Committee

Prison Governance: Government Response to the Committee's First Report of Session 2019

First Special Report of Session
2019–21

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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First Special Report

We have received the Government's response to the previous Justice Committee's First Report of Session 2019, *Prison Governance*, HC 191. The response came in a letter dated 30 January 2020 from the Lord Chancellor and Secretary of State for Justice, Rt Hon. Robert Buckland QC MP. In the absence of a Committee until 2 March 2020, we have been unable to formally receive and to publish the response until now, and do so as an Appendix to this Special Report.

Appendix: Government Response

An Enduring Crisis in our prisons and the need for leadership

Since the publication of the Prison Safety and Reform White Paper in 2016, the focus of the Ministry of Justice has been on implementing the changes to ensure that we have safe and decent prisons that support rehabilitation. Now that these changes are bedding in, we are going further by investing a record £2.5 billion to build an additional 10,000 prison places, alongside £100 million for new security measures. These will be supplemented by a further £156 million to address urgent maintenance issues. Alongside this, we have introduced a wide range of measures focussed on rehabilitation which take a cross-system and cross-Government approach – from an Education and Employment Strategy, a New Futures Network to support offenders into employment, a national partnership agreement with the Department for Work and Pensions, and Offender Accommodation Pilots with the Ministry of Housing, Communities and Local Government. We remain committed to ensuring our prisons are decent, safe, and places of rehabilitation so that we can continue to protect the public.

Recommendation 1

We warmly welcome the link the Secretary of State has made between safety and purposeful activity. There must be greater investment in purposeful activity to reduce the estimated £18 billion cost of reoffending and improve safety in prisons. We repeat the call made in our report *Prison Population 2022* for a dual focus on safety and rehabilitative activity and we look forward to further announcements from the Secretary of State setting out how he will improve purposeful activity in prisons.

Response

We agree that ensuring purposeful activity must be central to the prison regime. It can help provide prisoners with new skills and opportunities while inside prison, but can also lead to better return back into the community (through, for example, securing employment) which can lead to a reduction in reoffending that is estimated to cost Government around £18 billion a year.

The Government is undertaking significant activity to increase purposeful activity in prison building on the 2018 Education and Employment Strategy. This work includes:

- The creation of the New Futures Network which is the new specialist part of HMPPS that brokers partnerships between prisons and employers in England and Wales to help prisoners find work placements as well as jobs on release. The Network now has regional employment brokers in place across England and Wales;
- Making Release on Temporary License (ROTL) available to more prisoners, earlier in their sentences and for longer periods to improve work opportunities for those in custody. The latest published data (April-June) shows that 4,534 prisoners had at least one ROTL during the quarter, a year on year increase of 8%;
- Revitalised the education that is being delivered in our prisons through the new Education contracts which went live in April 2019. For the first time, governors have autonomy over the education and library provision in their prison meaning they can tailor it better to the needs of the prison. And the Dynamic Purchasing System referred to in the Committee's report allows Governors to quickly take advantage of emerging local needs as necessary;
- Introducing, from mid-2020, a 'shadow' performance measure on maths and English to measure the progress of prisoners in these important areas;
- Delivering the Government's manifesto commitment to create the Prison Education Service (PES) to further improve what's available to prisoners and the extent to which they are prepared for real jobs on release;
- Introducing new industry workshops in Retail, Textiles and Woodwork along with an expansion of existing workshops to deliver at least 400 new full-time activity places; and
- Introducing new ways in which prisoners can undertake physical education, including the expansion of 'Parkrun' to around 30 sites and the introduction of the 'Football Twinning' project which has already twinned 46 professional football clubs with prisons to deliver qualifications in coaching, refereeing and wider employability skills – the initiative will provide in excess of 750 part-time activity places.

The Government has also committed up to £2.5 billion to transform the prison estate and provide 10,000 additional prison places, on top of the c.3,500 we are already building. These new prisons will include education centres and purpose built heavy and light industry workshops to offer prisoners practical skills for work outside of prison and ensure that purposeful activity is delivered.

Recommendation 2

We welcome the previous Secretary of State's commitment to producing a long-term and multi-year plan and recommend that the current Secretary of State honour it. The plan should set out clearly an overarching and integrated strategy to deal with the main challenges facing the prison system. Prisons policy has too long been made on an ad-hoc basis, with new policies announced via press notice and little explanation given as to how

they fit into the overall strategic direction of the Prison Service. A clear, evidenced-based strategy is necessary to give governors the stability and confidence to make the changes necessary to improve prisons. This strategy should be produced by 31 March 2020.

Response

The Prison Safety and Reform White Paper in 2016 set out a long-term strategy for the transformation of the prison system and the last few years has mainly seen the implementation of these proposed changes including a further 4,500 extra prison officers from September 2016 to September 2019, the empowerment of prison Governors and a new approach to Prison Education. This was developed in the 2018 Education and Employment strategy which set out our approach to ensuring prisoners develop the skills they need to secure employment on release. In 2019 the Chief Executive of HMPPS set out a new business strategy for HMPPS which came out after the publication of this report, and which has been sent to the Committee. This provides a clear strategic direction for the way in which the agency will deliver its priorities in the future.

In addition, Government activity has been focused on specific strategies to identify and address issues. For example, the 10 Prisons Project and £100 million of investment in security to address violence and drugs; accommodation pilots in partnership with MHCLG to develop new approaches to securing accommodation for prisoners on release from custody, and the investment of up to £2.5 billion to transform the prison estate and provide 10,000 additional prison places, as well as investment to refurbish existing prisons. Now that the 2016 White Paper reforms have largely been embedded, the time is right for a new long-term vision for prisons which incorporates this significant additional work. We will seek to publish this long-term strategy by the end of 2020.

Recommendation 3

In relation to the Government's proposed changes to sentencing, we are concerned that the announcement may over time result in a significantly increased prison population without any guarantees that the necessary infrastructure will be put in place to avoid further overcrowding of prisons. We recommend that the Ministry publishes the results of its sentencing review in full, including its evaluation of the proposed sentencing changes in the Sentencing Bill on the size of the prison population.

Response

The review, which took the form of an internal piece of advice to ministers, has informed our plans, announced in the Queen's Speech on 19 December 2019, to introduce new sentencing laws. Ahead of any legislation, we intend to canvass proposals in a White Paper. This will include an impact assessment, which will take into account the potential impact on prison population.

We have already published an impact assessment in relation to the statutory instrument currently before Parliament which amends the automatic release point for serious sexual and violent offenders (where the offence carries a maximum life imprisonment) in cases where they receive a standard determinate sentence of 7 years or more, from the half way

point to two thirds of the sentence. We are committed to addressing violent crime and strengthening public confidence in the criminal justice system and sentencing reform is key to achieving this.

Recommendation 4

We welcome the additional and sorely needed investment the Government has announced for the prison system. Given the Governments' poor track record in delivering promised new prison places, we recommend that the Ministry sets out further details of how and when it intends to use the £2.5 billion that has been committed to build 10,000 additional places and over what time period they will be built.

Response

The new investment of £2.5 billion will provide 10,000 additional places that are decent, safe and secure. We have already developed our strategic plan to deliver 10,000 more prison places by the mid-2020s, which will be delivered through a programme that offers the taxpayer better value for money and support to suppliers and builders across the country. We will set out further details on this, and our broader prison estate strategy later this year.

We have already secured outline planning permission (14 September 2019) for a 1,440-place prison to be built at Full Sutton where we have available space next to the existing well-performing HMP Full Sutton. Work on this project is at an advanced stage meaning this site can be quickly mobilised for the first of the new prison builds. Site searches and feasibility work are also underway to secure sites for the further places.

We are already delivering additional prison places through the new prisons at Wellingborough and Glen Parva, which brings the total additional places to 13,500. Building work progresses at pace for the new prison at Wellingborough, which is on schedule to open at the end of 2021. Construction of the new prison at Glen Parva is due to start this year and is scheduled to open in 2023. In June 2019 we opened a new block of 206 places at HMP Stocken.

Recommendation 5

We are particularly concerned by the focus on creating additional places, rather than on replacing dilapidated and decrepit prisons in the current estate. The Ministry estimates it has a current backlog of maintenance work worth £900 million and attention must be given to the rest of the prison estate, which is falling into an ever-worse state of disrepair. We took comfort from the words of the Secretary of State for Justice and the Chief Executive of the HMPPS, who each acknowledged the significant challenge of managing the prison estate. However, we have still not seen the long-term estate strategy we were told was being developed by the Ministry of Justice. We recommend that the Ministry sets out the immediate steps it is taking to manage and reduce the backlog of maintenance and sets out a timetable to achieve this. We renew our call for a long-term estate strategy and request that the Ministry publishes this in response to this report.

Response

Having a good estate is of the upmost importance to the safe, secure and effective operation of a prison system that can meet the capacity demands set for it by the courts. We agree that the backlog of maintenance need within the prison estate remains a concern. Repairing the estate remains integral to our strategic approach to ensuring that it can meet the demands of the courts.

We have committed an additional £156 million in 2020/21 to address some of the most urgent maintenance issues. Currently, we expect to target this additional funding at fire safety and other critical systems, worn out and failing infrastructure (such as boilers and electrical systems), and refurbishing some cells, showers and serveries.

We are also working to ensure that there is better information on assets and their condition, to enable a more effective decision-making and prioritisation process. As part of this we are in the process of surveying the estate in order to provide both a high-level view of estate (which has been completed) and nature and condition of our assets (which is still ongoing).

Our estates strategy will detail how we intend to tackle this, which we intend to publish as part of our broader vision for prisons by the end of 2020.

We continue to build ongoing relationships with FM providers and prison governors, to drive improvements to the existing contracts and services. We remain committed to further reducing the maintenance backlog. However, the ability to do this is dependent on agreeing a higher maintenance baseline with the Treasury.

Recommendation 6

We welcome much needed additional funding for the Ministry of Justice and in particular for the prison system. We acknowledge that the recent Spending Review was intended to cover only one financial year but believe the condition of the prison system is such that a multi-year funding settlement is urgently required. Prisons should be safe and decent environments that rehabilitate offenders but this not currently the case. We have called for a long-term plan to improve the prison system, but this will work only if it has the funding to underpin the plan. We note the recent schools funding announcement for the three years to 2022–23 and would welcome something similar for prisons. We recommend that the Ministry works with HM Treasury to agree long-term funding plans, to give the Prison Service and prison governors the confidence and stability to drive real change in prisons.

Response

We agree that funding is a key part to building safe and decent prisons that will rehabilitate offenders.

Although Spending Round 2019 set budgets for 2020/21, it included funding to begin delivery of the Prime Minister's commitment in August 2019 to a longer term total funding envelope of £2.5 billion for 10,000 additional prison places, on top of the 3,500 we are already building. This is the biggest ever capital investment in new prison capacity. This year's Spending Review will set multi-year budgets which will support longer term planning.

Recommendation 7

The cross-system approach the Government has taken to the criminal justice sector in its recent policy announcements is welcome. However, we would like to see more detail on how the Government will take the same approach in relation to reoffending, as the Secretary of State set out when giving evidence to us.

Response

We agree with the Committee that it is only with a cross-system, collaborative approach that we can tackle the challenges faced by the Department, including reoffending. This approach has been at the heart of work on reducing reoffending and has included Ministerial meetings, joint pilots and broader partnership work in areas of interest. This includes:

- Work led by the Minister for Prisons and Probation and the Minister for Welfare Delivery on Universal Credit for people leaving prison. In July 2019, we published our National Partnership Agreement between MoJ, HMPPS and the Department for Work and Pensions (DWP). This set out clear roles and responsibilities for each department in getting offenders into work and access to benefits;
- The Offender Accommodation Pilots taking place in Leeds, London and Bristol in partnership with the Ministry for Housing, Communities and Local Government;
- Close engagement with the Home Office on all matters of crime, including ensuring that foreign criminals who abuse our hospitality are deported in a timely and efficient manner;
- Provision of healthcare in prisons is the responsibility of NHSE. MoJ has committed to working closely with our health and justice partners (Department for Health and Social Care, NHS England, HM Prison and Probation Service and Public Health England) to deliver safe, decent, effective healthcare for offenders through the National Partnership Agreement for prison healthcare in England published in April 2018. Recent initiatives include the incremental Roll-out of the Community Sentence Treatment Requirement Programme to improve access to mental health and substance misuse services for vulnerable offenders; the piloting of the first Drug Recovery Prison at HMP Holme House; publication of a national prison drug strategy, implementation of Social Care Memoranda of Understanding between HMPPS and Local Authorities to clarify responsibilities on social care needs of prisoners and publication in 2019 of a joint commitment to providing a standard of healthcare in prisons at least equivalent to that available in the community;
- The New Futures Network's work with employers to help secure employment on release for people leaving prison; and

Ministers will continue to meet and work with other Departmental Ministers as well as a wide range of partners to ensure that we are effectively addressing offenders' needs and the drivers of reoffending. We will keep the JSC updated on our commitments.

Effective rehabilitation of offenders and reducing reoffending is, and will remain, a key focus of the Department.

The role of the governor

Recommendation 8

We support the principle of governor empowerment and it seems sensible and logical that governors should have autonomy to run their prisons as they see best. Any devolution of responsibility to governors must be accompanied by the training and support necessary for governors to succeed in their role. In the three years since the 2016 White Paper and the setting up of the original six reform prisons, the governor empowerment agenda has been implemented on an ad hoc basis, and we are concerned by a lack of clarity as to how the role of the governor has changed as a result. Neither have we seen any evaluation of the impact the changes have had on prison performance. We recommend that the Ministry publishes a full impact evaluation of the changes it has made to governor responsibilities since 2016.

Response

Governor empowerment was developed using learning from the Reform Prison Pilots which were set up by the then Lord Chancellor and Secretary of State for Justice, Michael Gove. This project helped to inform the 'empowerment' policy and which freedoms to make available to governors to use; the better to run their prisons and deliver positive outcomes for the offenders in their care. Governor empowerment was designed to provide additional freedom in nine areas:

- **Workforce:** governors can make changes to their staffing structure, subject to remaining within the policies and procedures of HMPPS;
- **Budgets:** previous restrictions on budgets were relaxed meaning governors can move funds between their budgets;
- **Commercial:** contracts are considered on an individual basis as they come up for renewal to determine whether they should include flexibility for local commissioning and governors have been provided with information on the contractual flexibilities that they can use;
- **Operating Policies:** prison operational policies have been reviewed and the number reduced from 860 to 290. The creation of Policy Frameworks (replacing Prison Service Instructions and Prison Service Orders) makes it clearer what governors are responsible for;
- **Core day:** governors are free to devise their prison's core day/regime to better meet regime requirements, the staffing structure, and the needs of their offending cohort;
- **Accredited Programmes:** governors can propose which accredited programme to run in their prison, subject to central review to ensure the right number of programmes are available across the estate;

- **Family Services:** the budget for family service provision has been devolved to governors;
- **Health:** the approach has evolved since to 2016 White Paper. NHS England and NHS Improvement are legally and financially responsible for delivering health services in prisons. Health and Justice partners work closely together to support each other's priority outcomes. Collaborative commissioning means that governors work with health commissioners to ensure the right healthcare services are commissioned for their prisons. As set out in our response to recommendation 22, work is advanced on preparing for consultation and publication of a new policy framework setting out the responsibilities of governors and custodial staff in relation to healthcare services in prisons;
- **Education:** governors can commission education provision in their prison through the two new, complementary frameworks.

All governors in public service prisons have been able to take advantage of these freedoms since April 2017.

We have considered carefully how best to learn the lessons from the changes brought about by the Reform Prisons Pilot and governor empowerment. Undertaking an impact evaluation of governor empowerment was not possible because the empowerment freedoms were rolled out across all prisons at the same time to ensure consistency of operations across the prison estate.

However, a process evaluation of the Reform Prison Pilot has been undertaken as part of building the learning from the pilot into empowerment. We will publish this evaluation in late 2020.

Recommendation 9

Governors will be able to make use of their autonomy and be truly innovative only if they have the necessary funding and the ability to use it how they see fit. We were concerned to hear that governor's control over their prison's finances remains limited. We call on the Ministry to set out in response to this report what discretionary funding is available for governors to undertake individual projects in their prisons, as well as what more can be done to give governors the financial independence to drive truly innovative change.

Response

Since April 2017, governors have had the ability to determine how they spend their delegated budget, including the ability to move funds between the pay and non-pay budgets and will be held to account over how they spend it.

We have arrangements in place for governors to bid for additional funding for projects through an Operational Innovation Awards and they can also work with education providers through the new contract arrangements to access the innovation element of this funding.

The Operational Innovation Awards support innovation projects across prison and probation. The awards are run annually and offer funding of up to £10,000 for innovation

projects to improve services and provide opportunities for new ways of working. In terms of scale, we received over 100 applications in 2019 and funded 16 projects with varied amounts of funding from £500 up to £10,000. The total budget for The Operational Innovation Awards 2019/20 was £150,000. We are awaiting finalised budget for 2020/21 but are working on the basis of a comparable figure.

Examples of successful applications to the Operational Innovations Awards 2019 across Public Sector Prisons include:

- HMP Ranby, Boot Cleaning and Disinfecting Station - To provide equipment for HMP Ranby to clean, repair and recycle resident work boots;
- HMP Ford, HMP Ford Recruitment - To create an accessible website for residents and employers using Virtual Campus to improve employment opportunities for those on ROTL;
- HMP Stocken, Visits Suite - The development of a private family visits lounge to support the specific needs of children with autism and ADHD, as well as providing an environment for sensitive circumstances.

Recommendation 10

We are concerned that the additional responsibilities that governors have received under the empowerment agenda do not match the rhetoric used by the Ministry and that therefore there is a lack of clarity both as to what governors themselves are responsible for, but more generally who is accountable for the performance of individual prisons. We recommend that the Ministry undertake a review of the accountability structures within which governors operate to ensure absolute clarity as to who is responsible for what.

Response

A new Prison Group structure was introduced in 2018 to improve performance and accountability, involving the CEO of HMPPS, the Director General Prisons (DG), Prison Group Directors (PGDs) and governors.

Governors are in operational command of their prison and are responsible for running a safe, secure and decent regime. They are empowered to make changes in their prison to secure the best outcomes for offenders in their care (e.g. greater ability to buy locally) and have greater decision-making ability around factors contributing to rehabilitation: family services, education and training.

In order to minimise disruption, we believe it is best to allow this structure to settle and embed rather than review at this stage. The smaller span of control enabled by the Prison Group Directors (PGD) structure is having a positive impact on performance (as evidenced through inspection outcomes), oversight and support with clear lines of accountability between governors and PGDs.

Recommendation 11

Many different organisations work in a prison and we agree with our witnesses that partnership working is an important part of a well performing prison. A whole-prison approach is absolutely vital and it should be for the governor to work with partner organisations to set the vision and strategic direction for their prison.

Response

We agree that partnership working and a whole prison approach are important to a prison performing well. The recently published HMPPS Strategy (which has been sent to the Committee) includes Transforming Through Partnerships as one of its four principles. We will expand and strengthen our partnerships, coordinating services so that those we manage can access the right interventions at the right time.

Recommendation 12

We welcome the Secretary of State's commitment to introducing greater autonomy for governors to undertake minor repairs and we support him in his endeavour of setting up works departments in prisons to do this. We believe this is a sensible initiative that will have a positive impact on the condition of prisons, as well as creating purposeful activity for prisoners, and call for this to be implemented as soon as possible. We recommend that in response to this Report the Ministry sets out more detail about how it will implement this initiative and when it expects to roll it out across the prison estate.

Response

The Secretary of State committed to exploring how governors could commission minor repairs themselves and roll this out at pace across the estate.

We have already made some progress to allow governors to improve the decency and cleanliness of the estate under their local direction. Through provision of materials and supervision, we have ensured that a significant amount of prison-led work has been undertaken; over 11,000 prisoner hours in the northern prisons alone.

Further, governors have access to spend their money to make small investments in the estate; to date, around £10 million has already been spent by governors on a variety of projects to improve the prison environment this financial year and this is expected to rise to around £13 million by the end of the financial year. These are the first steps to implementing a more local approach to minor improvements to the estate. We encourage local initiatives wherever possible.

Recommendation 13

We continue to be very concerned about the performance of facilities management contracts. The condition of the prison estate is dire and the current contracts bureaucratic with limited opportunities for governors to exert any influence in individual prisons. We recommend that the Ministry, at the earliest possible opportunity, move away from national contracts for facilities management to much smaller, localised arrangements. The

example of the contracts used under the Prison Education Framework may prove useful in this, but the overarching principle must be that governors have more control over the service and can adapt it to meet the needs of their prison.

Response

We recognise that there have been a number of issues in the operation of the current facilities management contracts over the last few years. These are first generation contracts and we have learned a great deal from their operation. We are looking to ensure that existing contracts, wherever possible, can respond more effectively to governors' priorities.

A programme is now underway to consider what will succeed these contracts. When we exit the existing contracts, we will look at opportunities to implement major changes, including options around localised arrangements.

Recommendation 14

The current system for approving capital expenditure is bureaucratic and we welcome the Secretary of State's commitment to look seriously at this issue. Governors should have more discretion to authorise capital expenditure themselves. We accept the need to approve some major capital work centrally, but call for greater responsibility for governors. We recommend that the Ministry review governor's responsibilities for approving capital expenditure and consider how further financial authority can be devolved to them.

Response

Prison governors have full delegated authority over their resource budget which gives them broad empowerment to spend as they see fit to produce the best outcomes for the offenders in their care. The capital budget for smaller asset replacement in prisons is approximately £12 million and this is held centrally by the Director General of Prisons. The fund is then allocated through a process which allows governors to bid for priority items set against overall HMPPS priorities. We will review the process for 2020/21.

Recommendation 15

We are concerned by what we have heard about the bureaucracy of procurement in the prison system, particularly the length of time it can take to get equipment into individual prisons. We welcome the Government's recent announcement of £100 million investment in prison security, but this will only be effective if the equipment it purchases, such as drugs scanners, arrives in prisons in a timely fashion. We call on the Ministry to commission an independent review of procurement processes to ensure that prisons get the equipment they need in a timely fashion.

Response

We are committed to ensuring that the equipment we purchase for prisons is of the right quality and capable of detecting the threats which are specific to the prison estate.

We are working collaboratively with internal and external stakeholders, engaging with suppliers in the market, to ensure that the procurement and implementation process is

timely and efficient. Since the announcement of £100 million investment in security was made in August 2019, we have already successfully delivered positive outcomes, most recently with a procurement exercise for X-Ray Body Scanners which will be deployed in waves over the coming months.

SIP Wave 1 will cover the purchase, installation and commissioning of 16 Body Scanners deployed from April 2020 onwards. Subsequent waves will deploy further capability across the estate within the funding provided under the SIP up to the end March 2021.

We do not believe that an independent review of procurement processes is necessary as the Department is subject to the Public Contracts Regulations 2015 and Cabinet Office's spend control policies. We will continue to work towards timescales outlined in the regulations and guidance whilst proactively working with colleagues across the prison estate and in the supply chain to minimise delay in the deployment of security equipment.

Recommendation 16

Governors must have the necessary support and training. We welcome the initiatives being undertaken by HMPPS, such as the senior leaders scheme, but agree that there needs to be greater investment in leadership development. The ability of governors to go on short secondments outside the Prison Service to learn about leadership in other organisations is a vital tool and we would like to see this available more widely. The work undertaken on leadership development as part of the 10 prisons project is positive, but we note no evaluation of this aspect of the project has been published. We recommend that the Ministry sets out how it intends to take forward the leadership development work undertaken as part of the 10 prisons project, including how this will be rolled out across the rest of the estate.

Response

Our vision as a modern Prison and Probation Service is to work together to protect the public and help people lead law-abiding and positive lives. Investing in and fostering confident leaders who inspire and empower others is hugely important to us and enables all of our people to be the best they can be. The importance of these factors is stressed throughout the recently launched HMPPS Strategy and accompanying People Plan and is something that is high on our agenda as we continually enhance our leadership offer in 2020 and beyond.

Increasing leadership and capability was one of the main aims of the 10 Prisons Project, and our internal evaluation identified key areas of success that we are exploring for further roll out across not only the prison estate but across the whole of HMPPS. These activities included:

- **Access to Executive Coaches and Mentors** enabling leaders to identify and tackle specific challenges and development areas surrounding the reduction of violence and need to improve decency within their establishment. This proved successful and is routinely offered to all governors.
- **Future Engage Deliver** leadership development training created an improved cultural focus on working together as a team, improved networks and sharing

of good practice across grades. Evaluation highlighted the benefits of this programme and work is underway to identify its future place within our leadership development offer.

- **Standards Coaching Team** made up of highly motivated, experienced officers provided targeted support and coaching within the ten prisons over and above usual resource levels. Robust evaluation was carried out surrounding selection and training processes and improvements were made to the second cohort of the team who are now in place in Prisons Performance Support Programme (PPSP). Further detail on the PPSP is set out in the answer to recommendation 39.

In addition, our core leadership development offer is delivered to mixed cohorts across the organisation, increasing opportunity to build networks, share good practice and increase knowledge pan HMPPS. Our Senior Leadership Programme includes a strategic placement outside of the organisation enabling the learner to observe and practice leadership skills in a different environment. Learners bring this valuable experience back into HMPPS to develop a greater diversity of thought and practice. Once the success and benefits of the placements are evaluated we are committed to widen this type of opportunity across other leadership groups.

Current fast-track and direct entry schemes have focussed on developing and recruiting talent into the Prison Service. We are scoping three new schemes that will offer entry and exit points into all parts of HMPPS at middle, senior and SCS levels. The aim is for these to be launched within the next 12 months.

Recommendation 17

The role of the governor is ever more complex and is rapidly moving from having a mainly operational focus to requiring a more strategic approach. Governors need access to sufficient support and expertise to enable them to fulfil this role.

Response

We acknowledge that the role of the governor has changed over time and that a greater knowledge of strategic leadership is required. Our new Senior Leaders Programme which develops governors of the future has been designed with this in mind. The programme focusses on how our leaders can develop their own leadership and that of their teams, and how they can lead the organisation in a strategic, focussed and commercially viable manner.

Whilst in role, governors have access to a range of help and support including executive coaching, mentoring and our development programmes, including the Empowered Senior Leaders Programme.

Recommendation 18

We believe that prisons require stability to make improvements and this starts with stable leadership. Turnover of governors is too high, and they do not have enough time to embed long-term change before leaving or moving elsewhere within the Prison Service. In order

to reduce turnover and stability we recommend HMPPS should work on the principle that where possible governors remain at one prison for at least five years before being moved to other parts of the Service.

Response

We agree with the Committee's view that increasing a governor's tenure will improve stability and be good for the prison service.

Like other organisations we need to balance our needs with the expectations of the individual in terms of career development and choice. We think that imposing a five-year tenure is likely to impact negatively on the available pool of talent to fill posts, particularly in the difficult to recruit areas.

Recommendation 19

Both governors and prison officers must have sufficient incentives to stay in the Prison Service and this is an important part of reducing turnover. We recommend that the Ministry and HMPPS review incentive structures to see what more can be done to incentivise individuals to stay in the Service.

Recommendation 20

We welcome the overall increase in the number of prison officers, but are concerned by the high rate of attrition among officers and the effect this has on the experience in the Service. If HMPPS is unable to retain officers in the long term this will reduce the pipeline of talent for future governors. We note the work currently being undertaken by the Ministry but recommend that a formal strategy is required to improve retention of prison officers.

Response to recommendations 19 and 20

We recognise the need to recruit and retain staff to keep our prisons secure. We have invested significantly to increase staff numbers, recruiting an additional 4,581 FTE prison officers between October 2016 and September 2019.

Our new assessment process, based on current best practice, includes tests for strengths, behaviours and resilience and has improved access to information about the role and expectations of applicants. Updating the 10-week Prison Officer Entry Level Training (POELT) to a 12-month apprenticeship aims to reduce dropout rates by developing long-term incentives for new recruits, incorporating on-site training to better equip them for the role. For sites where it is hard to recruit and retain staff, we are tackling the issue of recruitment using market supplements and a tailored approach to recruitment advertising.

We agree with the Committee that having the right incentive structure will help retain valuable staff. Building on our response to recommendation 21 of the Committee's previous report, *Prison Population 2022: Planning for the Future*, we have ensured that 'Attracting and retaining talented people' is one of five objectives in the 2019–2022 HMPPS People Plan which applies to people at all levels in prisons, the National Probation Service and headquarters. To incentivise people to stay, we will:

- Implement ways of offering more flexible working arrangements;
- Make it easier to move across the organisation, the MoJ and Civil Service;
- Offer a modern, competitive employee package with clearer succession routes; and
- Create a network of mentors and coaches to support both people and their development.

Recommendation 21

We welcome the Ministry's commitment to improving BAME representation in the Prison Service but, two years on from the Lammy Review, progress has been disappointingly slow. This must continue to be a priority for the Ministry, which has committed to publishing an update on its implementation of the recommendations in the Lammy Review by the end of 2019. We look forward to seeing this and recommend that the Ministry publishes diversity data by grade, as well as a more detailed analysis of the barriers to progression of BAME staff within HMPPS and an evaluation of the changes the Ministry has implemented since the publication of the Lammy Review to remove such barriers.

Response

Our update on Tackling Racial Disparity was not published at the end of November 2019 as planned due to restrictions in the pre-election period. The Department is still committed to publishing a report on our activities two years on from the Lammy Review and will work to deliver this in early 2020. As part of this update, we intend to provide further detail and analysis of the recruitment and progression initiatives that we have been working on for BAME staff.

We currently publish data on staff in post by grade and protected characteristic, most recently in our Annual Staff Equalities Report¹ which was published on 28 November 2019. Since August 2018, we have also been publishing statistics on prison officer recruitment by diversity. BAME candidates made up 12.1% of formal offers accepted between October 2017 and September 2019. The proportions varied over the quarters of the 24-month period, dependent on where in the country the campaigns were being run at any particular time, and the makeup of the local working population being recruited from. As our staff declaration rates for ethnicity continue to improve, we are looking at further ways we can expand on the data included in our quarterly workforce bulletins, including breakdown by ethnicity.

Commissioning services in prisons

We are committed to working closely with partner organisations and adopting a whole-prison approach that ensures that our provisions meet the needs of our prisoner cohorts. Public protection is vital and forms the stabilising block on which we can build on; this is reflected in the prison performance tool which, as the Committee as noted, is currently slightly more heavily focussed on safety and security. We intend to add more outcome-

1 HMPPS Annual Staff Equalities Report 2018–19 (table 1b) available at: <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-staff-equalities-report-2018-to-2019>

focussed measures but need to be certain they are based on robust data and do not introduce unintended behaviours that impact negatively on prisons. Health and education are devolved responsibilities in Wales and we are working with the Welsh Government and NHS Wales to ensure health and education provisions and arrangements are appropriate for Welsh prisons.

Recommendation 22

It is clear that governors are not in reality “co-commissioners” of healthcare. For governors to play an effective and influential role in the provision of healthcare, they must work effectively in partnership with healthcare colleagues. There is a risk of inconsistency in the quality of provision across the estate, depending on the quality of those partnerships. We recommend that the Ministry work with NHS England to ensure that effective guidance and training is in place to support governors develop high-quality partnerships with healthcare providers and commissioners.

Response

Successful partnership working is a key part of our strategy and we understand the importance that this plays in a governor's role and the success of a prison.

Work is advanced on preparing for consultation and publication of a new policy framework setting out the responsibilities of governors and custodial staff in relation to healthcare services in prisons. This will provide guidance on how governors and custodial staff can ensure that they are supporting the operation of NHS commissioned health services in public sector and contracted prisons. Interim arrangements for the operation of non-NHS commissioned services in contracted prisons will also be covered. This framework provides a platform for the provision of further guidance as that becomes available.

Following a detailed leadership capability diagnostic exercise in 2018 we are fully aware of the capability gaps of our leaders at all levels. The exercise highlighted the need to improve governors' confidence and competence for contract management as a whole. We are therefore looking to deliver more targeted learning in these areas through training, learning and development, and our leadership offers.

We will explore how we target our current Empowered Senior Leavers alumni and grow confidence and competence in this area in our current governor population as well as our future leaders.

Recommendation 23

In response to this Report, the Ministry and NHS England should set out the steps they are taking to improve information sharing between Prison Service staff, healthcare providers and health commissioners.

Response

NHS England and NHS Improvement have published a national information sharing [protocol](#) for use across secure and detained settings. The agreement is for organisations working across the health and justice estate to regulate the sharing of specific Personal

Sensitive Data (PSD, as defined in the Data Protection Act 2018 and General Data Protection Regulation 2018). It provides a framework for assuring the safeguarding of PSD by all parties and includes guidance on the treatment of individual patients by multiple providers across the health and secure sectors. The agreement was approved by the National Prison Healthcare Board which comprises NHS England and NHS Improvement, Public Health England, HMPPS, the DHSC, and the MoJ.

Recommendation 24

We agree that governors and prison officers play a vital in facilitating healthcare. We recommend that HMPPS reviews the training available to ensure that prison staff fully understand what their role is in relation to healthcare and how they can support its provision.

Response

Ensuring that prisoners have the right access to healthcare services is a vital role of all staff within a prison. The new prison officer custody and detention apprenticeship ensures all new officers are supported throughout their first 12 months in the role, receiving eight weeks' foundation training as well as work based learning in their establishments. Throughout this period, learning is focussed on developing the skills required to perform the role of a prison officer and making sure they develop their confidence and competence in role. As part of the training delivered, modules cover the importance healthcare plays in a prison and provides training about how officers can prioritise healthcare as part of their day-to-day tasks.

We will continue to promote local enhancements to training and staff development through close joint working with prison healthcare providers as set out in NHS England and NHS Improvement's national specifications for Mental Health and Substance Misuse services.

Recommendation 25

We are concerned about the impact that missed appointments might be having on prisoner health, but we are unclear of the impact because HMPPS does not publish performance data on missed appointments. This is something that was originally envisaged in the 2016 White Paper and we recommend that such a measure is included in the Prison Performance Tool. It should also set out the steps it is taking to reduce the number of missed appointments.

Response

We will continue to support the ongoing development of joint local governance between NHS England commissioners, prison governors and prison healthcare providers to ensure that a local forum is in place where issues in relation to access to healthcare can be addressed in partnership.

NHS England Health and Justice Indicators of Performance (HJIPS) on prisoners' attendance at health appointments were tested for use in the prison performance framework in 2017/18. Data quality was insufficient for robust performance assessment

with clear irreconcilable data errors and the inability to accurately attribute responsibility where appointments are missed. The measures also introduced unintended behaviours by discouraging emergency escorts to take precedent over planned escorted appointments. The decision was therefore taken to exclude these measures from the prison performance framework to protect the quality of the performance assessment being made.

A cross organisational group between the MoJ, HMPPS, Public Health England, the DHSC, NHS England and the Home Office is in place to provide strategic leadership and oversight to work on information, intelligence and evidence needs to support improvements in understanding of health needs and quality of health services delivered to people in prisons.

The group is considering innovative methods of using performance data at a prison level to address access to healthcare; the key activity being development of a prison healthcare dashboard using existing data sources from across organisations. The work of this group, as well as planned changes to the NHS England performance measures for 2020/21, brings new opportunities for us and health partners to work together to develop appropriate performance measures around accessibility and quality of prisoner healthcare.

As this work develops alongside broader considerations of measurement of purposeful activity, we will continue to support local joint working between governors, health and social care service providers and health commissioners to use locally available evidence to support improvement in access to healthcare services.

Recommendation 26

Now that the Spending Review has been announced, the Ministry should set out what funding will be available to support the drug recovery pilot, as well as the sharing of good practice at other establishments.

Response

We can confirm that funding of the Drug Recovery Prison (DRP) Pilot will continue in 2020/21. We will then seek to secure further funding as part of the future Spending Review process.

The DRP pilot is being formally evaluated with a process evaluation expected in autumn 2020 and impact and financial evaluations in 2023. The findings of these will be published to inform practice sharing. In the meantime, emerging findings suggest that strong Health and Justice partnership working, at both a national and local level, is contributing towards improved stability and safety of the prison environment at HMP Holme House. Emergent good practice from the DRP Pilot is already being disseminated across the prison estate through guidance, seminars, open days and published articles.

Recommendation 27

We are concerned to hear that the Inspectorate is continuing to find prisons without any proper drug strategy, which was a clear commitment in the Ministry's own overarching

strategy. The Ministry should set out the steps it is taking to ensure all prisons have a drugs strategy in place, as well as how it measures the quality and effectiveness of individual strategies.

Response

Following publication of the National Prison Drugs Strategy in April 2019, significant progress has been made against the commitment for each prison to put in place their own tailored drugs strategy by September 2019. Over 98% of prisons are now implementing their own drugs strategies and the remainder are in the process of signing off refreshed strategies.

Regional Drug Leads were appointed from March 2019 with responsibility for ensuring that each prison has its own live strategy specific to its population's needs and issues. The Drug Strategy and Delivery Team continues to work with all prisons in order to support continuous improvement. For example, we have developed a quality matrix against which Regional Drug Leads and establishments are able to peer assess strategies to identify any gaps and further work required to continue to strengthen their strategies as live documents.

Recommendation 28

We welcome the Government's announcement that funding will be available to install x-ray scanners across the prison estate. Given the Secretary of State's comments that such scanners will be more effective in some parts of the estate than others, we would welcome further information about how many and which types of prisons will have scanners installed in them, as well as when the Ministry expects these to be installed by.

Response

We are investing in X-Ray Body Scanners for use in reception areas on an unprecedented scale, with the aim of maximising estate-wide coverage.

To ensure we select sites where scanners will be most effective, HMPPS is carrying out a thorough assessment, predominantly based on ensuring we are selecting prisons with the greatest need. This means analysing all available data on prison-security risks and threats, including data on drug prevalence, violence and organised crime. Alongside this assessment, we are ensuring that we take into account any future changes to a prison's category or function to ensure the technology can be used effectively for the lifetime of the product.

Our list of prisons will undergo further refinement based on the feasibility of implementation and competitive analysis before approval from our programme board, the MoJ's Investment Committee and the Treasury.

We expect installations to be carried out in 'waves' throughout the life of the programme, with completion in March 2021. We will write to the Committee once sites for investment have been identified.

Recommendation 29

We are concerned to hear that the new arrangements for education provision have been launched without clarity about what governors are responsible for, nor clear measures to hold governors and service providers to account. The Ministry should set out the performance measures that will be used to hold service providers and governors to account. We also seek further detail about how prisoner progression is going to be measured.

Response

The new Prison Education and Libraries Policy Framework was launched in April 2019. Governors hold Prison Education Framework (PEF) suppliers to account through three service levels and four Key Performance Indicators (KPIs).

The service levels are linked to quarterly 5% performance payments for suppliers:

Service level
1. Learners who complete an accredited course and get an accredited outcome
2. Retention rate – % of learners who start a course (minus agreed leavers) and who then complete the course
3. A teacher quality management plan is in place and planned actions and quality targets being met

The KPIs, not linked to payments, have targets set locally by prisons:

KPI	Description
1 - Success rate 1	For accredited courses – % of learners who start a course (minus agreed leavers) achieve an accredited qualification
2 - Success rate 2	For non-accredited courses – % of learners who start a course (minus agreed leavers) achieve a positive outcome
3 - Efficiency of provision	Attendance rate (Number of learners agreed / Number of learners attended)
4 - Attainment rate, Maths and English	% of learners who complete an accredited course and achieve an accredited qualification

We are also developing a performance measure on attainment in education in prisons, utilising a data-share between the Education and Skills Funding Agency and the Department. Attainment in education will be assessed by comparing mathematics and literacy skills on entry into prison against qualifications achieved whilst in prison. The achievement of a qualification at a higher level than a prisoner tested for on entry will result in a positive performance outcome. The move from the previous Offenders' Learning and Skills Service (OLASS) to the new PEF has offered an opportunity to specify our data requirements to develop more suitably robust measures on the quality of education provision in prisons and outcomes for offenders. Accountability for both governors and education providers will be a key plank of the new Prison Education Service committed to in the Conservative manifesto, more details on which will be announced in due course.

As education is a devolved area in Wales, we are working to understand requirements for a corresponding measure on education outcomes for prisoners in Wales which can be used to inform the wider prison performance framework.

Recommendation 30

We welcome the changes to education provision and believe they represent an opportunity to deliver positive change to support the rehabilitation of prisoners. However, we are concerned to hear that some governors do not feel they have the skills or support to manage the new education contracts and this represents a real risk to the long-term success of the new arrangements. We recommend that the Ministry urgently review the training and support available to governors and their teams and the extent to which this training has been received.

Response

As we explained in our response to recommendation 22, we are looking to deliver more targeted learning in contract management. This will also include modules dedicated to the management of the new education contracts.

There are a number of contract management training opportunities available to governors to help them effectively manage, embed and deliver the new reforms. This includes providing central contract management support and training – both at a national and local level – along with direct support from a dedicated professional team and ongoing support, training and advice via the intranet.

Governors are also supported by the newly established National Education Contract Management Team who offer on-going contract management support and training, central advice from our Commercial and Contract Management Directorate as well as support from their Prison Group Directors.

We are working to undertake a training needs analysis for all grades, including prison governors. Learning interventions will then be designed to deliver sustainable, professional learning that will sit on a national catalogue and keep pace with the regular turnover of governors rather than relying solely on short term interventions.

Recommendation 31

There is clear evidence to suggest that small providers need longer-term contracts to offer them security. The Ministry should review the arrangements for awarding contracts under the DPS to enable contracts of longer than one year to be offered.

Response

At the beginning of December 2019, 74% of the 295 suppliers on the Dynamic Purchasing System (DPS) framework were small or medium enterprises (SME). SMEs have also been successful in over 65% of the competitions being awarded; 132 of the 200 contracts awarded to date with a combined value of £5.8 million. As such, and through the live running of the DPS, we now feel there is evidence that SMEs feel secure enough to engage in the Prison Education DPS based on the current arrangements.

One-year contracts are effective for certain specialist non-core curriculum education requirements where annual re-tendering will enable competition and new entrants to drive value for money, quality and innovation. This is one of the key principles of a DPS

and fits particularly well with the Prison Education Strategy, enabling governors to have choice and regular change in their provision of non-core curriculum education services. This is a flexibility that is important when wishing to take advantage of changes and gaps in the labour market.

Reliance on longer contracts could negatively impact the Prisoner Education DPS such as by reducing the dynamic nature of this DPS with fewer opportunities competed and available for SME, and may also limit the responsiveness of HMPPS to new requirements.

We are committed to keeping all DPS arrangements under review throughout its lifetime to ensure that these continue to best meet our needs and operate effectively. We have already started a 'year one' review of the Education DPS and this will include consideration of contract lengths and how best to balance the competing tensions in this area. This is expected to report in quarter 1, 2020.

Recommendation 32

The DPS was intended by the Ministry to give prisons access to suppliers that are able to meet the bespoke educational needs of their establishment and offers a flexible route to services that add real value. However, we are concerned that the roll-out of the system has had the opposite effect, acting as a disincentive to governors to tender for services and to service providers to apply for them. The Ministry should urgently review how it can make the DPS more accessible and less time consuming for service providers and prison staff. We note that a similar system is being considered for the probation system; the Ministry should ensure it undertakes a full evaluation of the roll-out of the DPS before it introduces a similar initiative as part of its probation reforms.

Response

Under the previous education arrangements, all Prison Education and Information, Advice and Guidance (IAG) was provided through five national contracts. With the introduction of the new arrangements, prison governors allocated 17.5% of the total budget to DPS and have awarded over 200 contracts this year with another 180 requirements being progressed as at the beginning of December 2019.

For 2020/21, governors had the opportunity to vary their budget allocation between the Prisoner Education Framework and DPS by up to +/-5%; the net variation is under 0.3% with 34 prisons (a third of the total) actively increasing the allocation to the DPS. This indicates that the DPS is working well. It is meeting the need for bespoke educational requirements by establishments in offering a flexible route to services that adds real value with 295 suppliers qualified to bid under the DPS.

The Education DPS was a radical change to the commissioning and contracting processes for Prison Education. As this was a first of type implementation, we launched a review in July 2019 to refine the system and ensure this was working as effectively as possible based on the operational experience to date. As a result, we have implemented an end to end process review and introduced new and improved processes to improve the user experience for suppliers and HMPPS. In addition, new user guides have been developed

and rolled out and MoJ Commercial has led extensive face to face training, supported by online surgeries for HMPPS staff, with active plans to continue these in 2020 to support year two contract competitions.

The result of this is that the average time taken to award contracts through the DPS has reduced significantly. For projects started since 1 August 2019 the average end to end time to award a contract has been under nine weeks, with some contracts awarded in as little as six weeks.

As we said in our response to recommendation 31, we will keep all DPS arrangements under review throughout its lifetime to ensure that these continue to best meet our needs and operate effectively.

In relation to the Probation Reform Programme, we are proposing a Dynamic Framework as the route to procure rehabilitative interventions for those under probation supervision. In order to ensure that the Programme builds on the lessons learned from the roll out of the DPS, the Probation Reform Programme is working closely with DPS counterparts from Prisoner Education, Cabinet Office and other Government Departments to ensure that the design of the framework, the competition process and additional implications, for example, staff transfer, take full account of best practice, lessons learnt and, additionally, the emerging findings of the review of the Education DPS.

Recommendation 33

Education in prisons is an important part of the regime and the Ministry needs to ensure that it retains a focus on this, and other purposeful activity, as well as safety and decency in prisons. We recommend the Ministry reviews the training available to prison officers and governors to ensure they are best able to support prisoner's access to education.

Response

The importance of prisoner education is a key theme throughout all of our learning, at all grades, and our efforts to drive a rehabilitative culture in prisons where those in our care are supported to make positive changes in their lives and reduce reoffending.

The new prison officer custody and detention apprenticeship ensures all new officers are supported throughout their first 12 months in the role, receiving eight weeks foundation training as well as work based learning in their establishments. Throughout this period, learning is centred on developing not only the key skills required to perform the role of a prison officer but also making sure that new officers develop their confidence and competence in the role too. As part of the training delivered to officers, the need to build a rehabilitative culture is addressed throughout and this includes a focus on the importance of prisoner education and the benefits that it can bring. As part of developing the Prison Education Service, we will further consider what training and support can be given to prison officers and governors so they best support prison education.

Outside of initial officer training, all staff across HMPPS can access a wide range of e-learning packages. The Prisoner Education Framework e-learning offers numerous modules to increase knowledge around the recent changes to prisoner education including:

- Policy background and intent;

- Commercial overview;
- National prison education contract management;
- Education reform and governance;
- Finance overview;
- Quality assurance and improvement; and
- Contract Management Improvement Team (CMIT) and Education Mobilisation Team support and guidance.

Materials are also available covering learning and skills operating models, understanding KPIs and management information, delivering world class education, a guide for learning and skills managers and a telephone tutorial for awarding bodies.

The role of HMPPS and the Ministry of Justice

Recommendation 34

Accountability starts at the top of any governance structure and there needs to be absolute clarity as to the respective responsibilities of the Ministry, and by extension the Minister, and HMPPS. The Prison Service needs a period of stability to deal with the many challenges it faces and constantly changing who is responsible for what, with ever more complicated arrangements, is not helpful in this endeavour. We recommend that the Ministry clarifies the split in responsibilities between itself and HMPPS, particularly in relation to functions delivered by policy teams.

Response

The responsibility and accountability between the MoJ and HMPPS is clear; supported by robust governance structures which are reviewed periodically to ensure that they are fit for purpose.

The MoJ is responsible for setting the strategic priorities for prisons overall and ensuring these priorities are met. Intelligence and insight is used to inform new policy development and improve existing policies in order to improve overall outcomes and support operational performance. HMPPS has sole responsibility for the performance management and operational running of our prisons. The purpose of HMPPS is reaffirmed by the recently launched agency strategy setting out how they will ensure their work is aligned to deliver outcomes such as public protection, reducing reoffending, and having decent and safe prisons.

The MoJ and HMPPS often work closely together with policy and operational teams to a shared aim. An example of this positive working relationship can be found in the 10 Prisons Project where we saw an overall 16% reduction in the rate of assaults (double the national average).

Recommendation 35

We welcome the broadly positive results of the 10 prisons project. However, there were many aspects to the project, such as additional investment in leadership. The limited evaluation that was published provided no quantitative or qualitative analysis of the specific initiatives undertaken. The point of the project was to identify what works in terms of improving safety and decency in prisons, but it remains unclear exactly which parts of the project will now be rolled out across the rest of the estate and what funding is available to do this. Now that the results of the 10 prisons project have been published, we recommend that the Ministry publishes further analysis of the relative success of the various initiatives undertaken, as well as providing details as to what is now being rolled out to other prisons in the estate and what funding will be available to do this.

Response

The report published in August provided early results on the 10 Prisons Project. This was produced using the most up-to-date data available at the time. Further analysis is currently being carried out with a view to publishing a final report in early spring 2020.

The published report showed a reduction in the rate of assaults per 1,000 prisoners from 42.9 in June/August 2018 to 36.1 in April/June 2019, and a drop in the percentage of positive results from random mandatory drug tests from August 2018 to March 2019. Other aspects of the project considered to work well, based on the feedback of the governors involved, included:

- Creating positive opportunities for sharing, learning and priority access to initiatives;
- Supporting a data-driven and project management approach to focus effort on key performance outcomes;
- A focus on security infrastructure, kit and skills to reduce the supply and demand of drugs;
- Improved living conditions to improve decency; and
- Enhanced leadership and staff capability to get the basics right and help reduce violence and drug use.

Lessons learned from the project are being used to help develop policy and projects throughout the Department. This includes a new approach to driving up standards across the prison estate, of which a key part is the new Prison Performance Support Programme (PPSP) aimed at supporting improvements in our most challenged prisons. More detail on the PPSP is in our response to recommendation 39.

Furthermore, the Government has invested £100 million in the Security Investment Programme to help disrupt criminality across the prison estate. Part of this investment will be in physical security measures to disrupt the conveyance of drugs through prison gates. The programme is still working through our prioritisation process to identify sites for investment (more detail is in our response to recommendation 28) and we will write to the Committee once sites for investment have been identified. The Security Investment

Programme is working closely with the 10 Prisons Project to understand the evaluation approach used and to build on the positive results. An assessment of the success of the £100 million security investment will be undertaken to ensure we are delivering the most effective capability we can.

In addition, as we prioritise the maintenance spend for 2020/21, valuable lessons from the 10 Prisons Project will be incorporated in order to maximise the impact of this investment.

Recommendation 36

It is vital that HMPPS has an oversight structure in place that enables it to identify where problems exist and support governors. We welcome the introduction of the Prison Group Structure. However, any oversight structure must be proportionate and focused on outcomes. We recommend HMPPS commissions a review to look at how its oversight structures can be streamlined to reduce the burden on governors and their teams, for example by condensing the number of requests for assurance.

Response

We have recruited a new Deputy Director for Assurance, Risk Management and Governance and will prioritise the delivery of an Assurance Framework for HMPPS during 2020/21. The framework will deliver a more balanced, proportionate and effective approach to assurance in prisons, be based on risk and ensure governance processes are streamlined wherever possible.

Recommendation 37

We recognise the need for any performance management framework or data collection to be proportionate, but we remain concerned about the lack of data available beyond prison safety and security. We welcome the Ministry's commitment to introduce measures for time out of cell and purposeful activity in 2020/21. However, three years on from the White Paper, we call for a wider discussion about how prison performance is monitored and what data is collected. We note that the Chief Executive has started to review what the right performance measures are and how prisons should be held to account. We recommend that this review engages with the widest possible group of stakeholders and considers what technological solutions are available to make data collection as accurate and resource-efficient as possible.

Recommendation 38

HMPPS collects detailed data on safety in prisons and other aspects of prison life. As a result, many of the measures in the Prison Performance Framework are safety related. However, well performing prisons are not just those that are safe, but also offer a decent environment and rehabilitate the prisoners in their care. We welcome the steps being taken to improve data collection on health and education, but HMPPS needs to work with its partners to produce a suite of prison performance measures that cover all parts of the prison regime to give an overview of the performance of individual prisons as a

whole. We recommend that HMPPS works with its partners, including NHS England, to produce a performance framework that covers all aspects of prison life, including health and education. This should be reflected in the annual prison performance ratings.

Response to recommendations 37 and 38

The prison level Performance Framework comprises of measures covering all aspects of a prison as identified by HM Inspectorate of Prisons (HMIP), based on a combination of quantitative and qualitative information to give the most rounded and balanced assessment possible. We are committed to continually building an outcome-focussed performance framework and have introduced measures relating to accommodation on first night of release from prison and employment at six weeks following release from prison to the 2019/20 framework.

We are currently developing other measures including those relating to attainment in education, time spent out of cell and engaged in purposeful activity, healthcare access in prisons, delivery and quality of the Offender Management in Custody key worker model, and those in direct response to both the Lammy and Farmer Reviews.

We recognise the importance of engaging with a range of stakeholders and partners, and will continue to do so both internally and externally to gain invaluable insights to shape the prison performance management process and the direction of travel for the performance framework. This includes working with a range of other Government Departments and agencies including NHS England and Department for Education as referred to in our responses to recommendations 25 and 29 respectively.

The new digital platform and data strategy being rolled out across different prisons and probation areas will give us opportunities to make data collection less resource intensive for the frontline and data extraction and manipulation more streamlined and automated, allowing for more innovative design in how prison performance is assessed.

Recommendation 39

We welcome the review of special measures being undertaken by the Ministry. There is little point in identifying prisons as requiring additional support, if the resulting action does not result in improved performance. There must be sufficient resource available to support prisons that are struggling effectively. We recommend that the Ministry publishes the results of the review undertaken by HMPPS and sets out the steps it will take to improve the support available to poorly performing prisons.

Response

We agree with the Committee that measures taken to support struggling prisons should improve performance. Our review of Special Measures found that whilst the process had provided some benefits to some prisons, it had not always been effective because resources had been spread too thinly across too many sites, which had grown in number relatively quickly. Additionally, interventions supported by the process had not always been well coordinated or well sequenced, with insufficient focus on outcomes as opposed to activity at times. Some governors and their teams reported feeling overwhelmed rather than supported by the process, with insufficient clarity about roles and responsibilities.

Drawing on lessons learned from our review of Special Measures, and the 10 Prisons Project, we have developed a new approach to supporting struggling prisons as part of a service-wide improvement framework to drive up standards across the estate. This is called the Prison Performance Support Programme (PPSP) and aims to support performance improvements in our most challenged prisons.

PPSP is working initially with HMP Bedford, HMP Bristol, HMYOI Feltham A, HMP Hewell, HMP Pentonville and HMP Wormwood Scrubs, identified through a combination of data and qualitative assessments – including HMIP and other scrutiny body findings – as well as operational judgment as being in most need of improvement and support. Work has already started with the governors and their teams in these sites, supported by some additional funding (the figure is yet to be confirmed) to prioritise investment to improve safety and decency. This includes funding for temporary additional posts to bolster Senior Management Teams and works to the environment and infrastructure, in addition to support to enhance leadership and staff capability and help with getting the basics right. This is alongside extra funding from the Security Investment Programme and for maintenance and estates. Features of the new approach include a focus on outcomes, reinforcing the role of the governor and clarifying roles and responsibilities, and tailored support informed by a structured problem analysis sequenced in a way which gets alongside governors and their teams.

Recommendation 40

The sharing of good practice is an important function of any governance structure and we agree with the Secretary of State that this is something that needs to improve. We often hear about some of the great work that goes on in individual prisons and would like to see this captured more effectively by HMPPS, so that it can be shared with the rest of the estate where appropriate. We recommend that HMPPS develops a formal strategy for the sharing of good practice across the Prison Service and provides an update on the steps being taken to facilitate this.

Response

We are committed to developing an open learning culture in which we continually look for ways to improve performance. We have a Whole System Learning function that engages prisons and probation providers, and our partners, to increase the use of evidence, insight and data to help staff understand what works and to draw on examples of good practice where strong research evidence is lacking.

Prison Group Directors (PGD) share good practice informally and through a number of forums. The directorate Senior Leaders Events and the Governing Governors Forum provide platforms to share good practice and learning. In addition, PGDs hold a quarterly forum to discuss operational issues and use this as an opportunity to share ideas and good practice. Prison groups are structured to enable governors and their teams to promote good practice across the group, during regular group meetings and PGDs will informally share good practice as part of bilateral arrangements and prison visits. There are also a number of forums which prison group leads attend, to share information which they can

then disseminate to relevant prison functional leads and their teams. These processes are supported by the centre and subject matter experts will attend events such as Performance Assurance Advisors Forum to support conversations and present information.

As an example of prison involvement in wider system sharing and learning, in May prisons and operational staff will be participating in Insight20 a vibrant, collaborative effort to offer learning and practice sharing opportunities across HMPPS and partners. Governors and senior leaders will be offering shadowing and coffee events to share their vision and experience. Visits and events will help colleagues learn and network – including gaining insight into prison therapeutic communities, rehabilitative and behaviour management approaches, managing risk, enhancing security, working with young people and tackling drug use.

Existing repositories of evidence and insight are available to all operational staff in prisons and probation on the HMPPS intranet and gov.uk. We are continuously improving these materials and the way they are presented in consultation with staff so that we can help them in their day to day work. In addition, a range of teams across HMPPS communicate good practice examples to operational staff on priority topics such as safety and security as well as reducing reoffending and public protection. We are trying to make this more coordinated and coherent so that staff know where to find help and information.

Recommendation 41

It is unacceptable that healthcare in some private prisons is commissioned to a different specification than the rest of the estate and we are concerned that prisoners in some prisons may receive worse standards of healthcare as a result of this situation. It is important that contracts are flexible enough to adapt to changing circumstances and this issue should have been dealt with long ago. We recommend that the Ministry sets out a timetable for rectifying this problem. It should also provide information about how HMPPS ensures that there is equivalence between the commissioning specifications it uses and those of NHS England.

Response

We recognise that due to the different commissioning landscape when the first Private Finance Initiative (PFI) contracts were originally let, that the healthcare in five English prisons was not aligned to the rest of the prison estate. Through our robust contract management arrangements, we are holding providers to account for the delivery of the services under these contracts, including healthcare, and we are supported by NHS England and NHS Improvement commissioners in that work. However, we recognise the need to ensure alignment of the healthcare provision and the commissioning of services across the estate.

The National Partnership Agreement for Prison Healthcare for England 2018–2021 indicated a shared intention from all partners to “Review and improve commissioning between health and justice partners (including a review of the healthcare arrangements in the five private sector prisons where MoJ contracts these services)”. That review is ongoing and we have established a project that is working at pace to examine it in detail and, if appropriate, to make changes to the remaining five private prison contracts. We will work closely with our partners in NHS England and NHS Improvement and in the DHSC to

agree a way forward which will in due course lead to NHS commissioned high quality healthcare services at the five relevant establishments in England. Given the commercial considerations involved, we are unable to set out a detailed timetable at this time, but are working towards resolving this issue prior to the end of the first PFI contract in late 2022.

Recommendation 42

We welcome the work being undertaken by the Ministry to review the contract delivery indicators (CDIs) to be used for future contracts. However, the fact that many of the current contracts use varying and often out of date CDIs, seems to us an oddity that risks creating an unfair playing field where perverse incentives exist. We recommend that the Ministry considers how it can ensure that future contracts have the flexibility to take into account changes in performance measurement standards as appropriate.

Response

We agree that performance frameworks need to be flexible to respond to a changing operational environment. The Prison Operator Services Framework, which will be used for upcoming prison competitions, takes a new approach to the Contract Delivery Indicators that will be used to assess operator performance.

Performance measures in existing private prisons have struggled to keep pace with evolving challenges and priorities because of the need to mutually agree all changes, so making even small changes has proven difficult and time consuming. The Prison Operator Services Framework provides much greater flexibility for the Authority to make changes to targets, measures and comparative priorities by allowing for updates to be made within certain parameters, without going through a full contractual change process. Changes will need to be based on evidence, and any new Contract Delivery Indicators will have a shadow period before being introduced.

The new approach also enables operators themselves to suggest changes that will benefit delivery, and where agreed by the Authority, for these to be implemented in a timely manner. This will ensure that the performance measures in all future prisons competed under the Operator Framework are flexible, better able to remain responsive to the changing operational environment and relevant throughout the lifetime of the contract.

Recommendation 43

We remain concerned at the narrow competitive base of the prisons market and the Ministry's continued reliance on the same organisations, even when there is evidence of poor performance. We are disappointed at the lack of participation of small and medium-sized enterprises and recommend that the Ministry sets out in response to this Report further steps it can take to encourage new entrants to market, for example by encouraging joint ventures.

Response

In our recent framework competition, we had small and medium enterprises (SMEs) express interest. However, we believe they did so to learn more about the competition and

to better understand how their own area of delivery could be involved in the supply chain, particularly as none expressed interest in being a first-tier provider. A large proportion were Facilities Management providers.

Our first-tier suppliers need to be financially robust and deliver the full range of services required to run a prison. Their supply chains are key and in practice SMEs are a better fit in terms of risk and capability within that supply chain.

For subsequent, next generation agreements, we will explore whether there are opportunities for joint ventures with SMEs as key partners. We will also consider how best to facilitate SME engagement as part of the management of the current framework with those new entrants who have not yet bid for a prison.

Oversight of the prison system

We are a major funder for scrutiny bodies who operate independently of Government and report to Ministers on how well prisons and probation services meet the expectations they set. We currently work with five independent bodies who provide us with a vital independent assessment of how the prison and probation systems are working, and insight into whether the treatment of those held in detention in prisons and immigration detention is fair, just and humane.

Recommendation 44

We agree with the Chief Inspector of Prisons that it is vital that the Inspectorate retains its independence and the ability to set its own standards. However, we remain deeply concerned at the lack of progress in implementing recommendations. It is not acceptable that for three years running less than half of recommendations made by the Inspectorate have been fully achieved. It is fundamentally the responsibility of the Ministry and HMPPS to implement what is being recommended and they need to take ownership of this. We also understand that many governors, already working in challenging environments, may be overawed by the level of change required and we think they require additional support to make changes that get to the heart of what the Inspectorate is recommending. We welcome the introduction of Independent Reviews of Progress and take a close interest in the results of these. We recommend that the Ministry sets out who is accountable for implementing HMIP recommendations, the steps it is taking to drive improvement and additional support it will provide to governors to do this. Urgent action is needed, and we call on the Ministry to make a commitment that at least 50% of all recommendations will have been fully achieved by the end of 2020/21, as assessed by the Inspectorate.

Response

We welcome the independent scrutiny that HM Inspectorate of Prisons (HMIP) provides and measures have been taken to strengthen the impact of recommendations in HMIP reports.

This includes the appointment of Prison Group Directors (PGDs) to strengthen local assurance processes and the establishment by HMPPS of a Scrutiny Intelligence Unit (SIU) to support PGDs in this. The SIU has been set up to improve the timeliness and quality of

responses to reports from a range of independent scrutiny bodies, including HMIP, and to report on the progress of each establishment against their HMIP recommendations, which are mainly directed to HMPPS.

Governors have responsibility to follow through and monitor progress against the published action plan that responds to HMIP recommendations; progress is reviewed regularly with the Prison Group Director, holding local management to account. The Service Improvement Group that sits within HMPPS' Performance Directorate will provide additional support to governors by developing a Universal Support Offer that will include tools to support data insights and a system learning offer to enable learning from evidence and good practice.

Where there are specific operational concerns, the internal assurance group undertakes additional activity to provide senior managers with an independent assessment of these areas and progress against implementation of HMIP recommendations. In addition, senior officials in HMPPS and the MoJ meet quarterly with HMCIP to review progress on implementing recommendations and the Prisons Minister updates the Committee annually on progress of implementing HMIP recommendations.

From April 2020, progress against HMIP recommendations will become a formal performance measure that governors are held to account on through the prison performance framework.

Recommendation 45

The IMBs play a vital role in the oversight of the prison system and we believe they need to be reinvigorated. We echo the National Chair of the IMBs call for a statutory basis for the national governance structure. We recommend that the Ministry consider legislation to underpin the national governance structure and in particular that there should be a formal national IMB Annual Report laid before Parliament each year. It should also ensure the IMBs are able to perform their role effectively, noting the higher level of resourcing in Scotland.

Response

The Independent Monitoring Boards (IMBs) provide the Department with crucial insight into the day- to-day running of prisons. They are a valuable source of independent intelligence and we welcome their national Annual Report, published for the first time since 2013, and their new quarterly digest.

We will keep the matter under consideration of whether to legislate to underpin the national structure and will consider possible legislative options. In the meantime, we have made improvements to the IMB national governance structure, published a protocol with their new Management Board to clarify roles and responsibilities, and are considering resourcing options.

Recommendation 46

We repeat our call that both the Prison and Probation Ombudsman and the National Preventative Mechanism should be put on a proper statutory footing. We recommend that the Ministry update us on what progress has been made in its exploration of legislative options for both organisations.

Response

We are committed to legislating to put the Prisons and Probation Ombudsman (PPO) on a statutory footing. We have tried to do this on a number of occasions, most recently in the Prisons and Courts Bill, which fell at the announcement of the 2017 General Election. We have published a protocol with the PPO to clarify roles and responsibilities and intend to legislate when Parliamentary time allows.

We also note the Committee's recommendation to put the National Preventive Mechanism (NPM) on a statutory footing. Whilst the individual independent members of the NPM each have a statutory basis, the NPM itself is not set out in statute. The UK Government does not consider this to be a legal requirement under the Optional Protocol to the Convention Against Torture (OPCAT). The UK Government will continue to explore concerns with the NPM, its members and the Subcommittee on Prevention of Torture around the lack of a legislative basis for the UK's independent NPM. This will include discussion of possible legislative options.

Should the proposals lead to the creation of any new central government arm's length bodies, then the usual, separate government approval process would apply for such entities.