

## Prison Reform Trust response to the Justice Committee inquiry into the ageing prison population – October 2019

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

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### **What are the characteristics of older prisoners, what types of offences are they in prison for and how is this demographic likely to change in the future?**

1. With prison sentences getting longer, more people are growing old behind bars. People aged 60 and over are the fastest growing age group in the prison estate. There are now more than triple the number there were 16 years ago.<sup>1</sup>
2. One in six people (16%) in prison are aged 50 or over—13,617 people. Of these, 3,323 are in their 60s and a further 1,759 people are 70 or older.<sup>2</sup>
3. Despite the significant rise in the number of older people in prison in recent years, the government's most recent projections suggest a decline in the number of prisoners in their 50s; and remain constant for those in their 60s and 70s, during the next four years. This prediction is predominantly driven by a decrease in the number of people serving indeterminate sentences and a reduction in the proportion of sexual offence cases—owing to fewer cases going to court (a trend seen in the last 12 months).<sup>3</sup>
4. However, these predictions seem at odds with announcements over the summer indicating a desire to lengthen sentences even further and to improve prosecution rates for serious crime, not least by the appointment of 20,000 additional police staff.

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<sup>1</sup> Table A1.7, Ministry of Justice (2019) Offender management statistics: prison population 2019, London: Ministry of Justice

<sup>2</sup> Table 1.3, Ministry of Justice (2019) Offender management statistics quarterly: January to March 2019, London: Ministry of Justice

<sup>3</sup> Ministry of Justice (2019) Prison Population Projections 2019 to 2024, London: Ministry of Justice

It would be helpful if the government could explain the impact of its proposals on the age profile of the prison population.

5. Almost a third (32%) of people serving an indeterminate sentence are aged 50 or over. 2,297 people were serving life sentences and a further 666 were serving an Indeterminate Sentence for Public Protection (IPP).<sup>4</sup>

**What challenges do older prisoners face, what services do they need and are there barriers to them accessing these?**

6. The challenges faced by older people in prison have not substantially changed since the committee reported on the subject in 2013. Our advice service continues to hear from older people who are struggling to access things like exercise, library services and even shower facilities. In some prisons older people still find themselves left behind their cell door for long periods as regimes and rehabilitative activities fail to cater for them. We hear from people with mobility problems who have been assigned a top bunk on arrival, or who are struggling to get the prison to respond to needs related to their medical conditions—for example providing a suitable mattress for back problems or meeting their dietary needs. Broken facilities and delayed repairs often limit their access to basic aspects of prison life—in one prison a combination of broken ground floor kiosk and broken lifts meant that an individual was regularly having difficulty ordering his canteen or submitting applications for things like visits.
7. As found in the committee’s report this group has high levels of chronic health need. Six out of 10 older people in prison (59%) report having a long-standing illness or disability. This compares with just over a quarter (27%) of younger prisoners.<sup>5</sup>
8. HMPPS published their *Model for Operational Delivery: Older prisoners* in April 2018. It includes a summary of the needs and barriers which echo the finding of the Justice Committee’s previous report on the subject:

*“There is strong evidence that older prisoners experience a high burden of physical and mental health problems. Up to 90% have at least one moderate or severe health condition, with more than 50% having three or more. Their health outcomes are worse than those of the same age in the community and worse than their younger peers in prison. The need for social care within prisons is increasing with the typical older person in prison having on average almost six separate health or social care needs... up to half of this group experience sensory impairment or reduced mobility (or both).”<sup>6</sup>*

9. This is a welcome recognition from HMPPS about the considerable needs of this population. Unfortunately, this document places no mandatory requirements on governors above those already apparent in equality and social care legislation. With the mounting pressure on governors we are unconvinced that this will drive the change which is needed. It would be helpful for the government to describe what impact, if any, the model for operational delivery has had on the ground.

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<sup>4</sup> Table A1.16, Ministry of Justice (2019) Offender management statistics: prison population 2019, London: Ministry of Justice

<sup>5</sup> Omolade, S. (2014) The needs and characteristics of older prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) survey, London: Ministry of Justice

<sup>6</sup> HM Prison and Probation Service (2018) Model for Operational Delivery: Older prisoners, London: Ministry of Justice

## **Is the design of accommodation for older prisoners appropriate and what could be done to improve this?**

10. Little has changed since the committee concluded in 2013 that “many older prisoners are currently being held in establishments that cannot meet their needs”. Little progress has been made in closing unfit prisons and the estate remains predominantly one which was designed for a younger, fitter population than many it now holds.
11. This year HMIP reported that “despite efforts to provide reasonable adjustments and adapt cells, many prisons, especially locals, were not suitable to hold prisoners with mobility problems”.<sup>7</sup> This concurs with a snapshot published on the website for Independent Monitoring Boards (IMB) in October 2017 in which they reported “accessibility concerns included the lack of grab rails in showers, the need for lifts and stair lifts to reach certain parts of the prison including healthcare, adequate space for wheelchair users and the unsuitability of bunkbeds for disabled or elderly prisoners with mobility problems”.<sup>8</sup> The IMB at HMP Hewell, for example, reported that “access remains poor in the Category B prison and non-existent in the Category D prison for wheelchair users, and those with mobility issues”.<sup>9</sup> At HMP Lincoln, the IMB described an “inability of those with disabilities to access all parts of the prison without manhandling”.<sup>10</sup> Both HMIP and IMBs have highlighted a shortage of accessible cells, particularly in older establishments, often resulting in people being housed on health care units.<sup>11</sup>
12. We have been assured that designs for new prisons have accounted for the needs of older people. The MOD says that “the design of the new prisons includes a higher proportion of wheelchair accessible cells and will allow for services such as medical dispensing to take place in the prisoners’ living accommodation”.<sup>12</sup> However, we remain concerned as to whether this will be delivered and whether the regime implemented thereafter will complement this design.
13. Regardless of any new builds, the majority of the estate remains badly equipped to support an older population. HMIP found that “not all prisons were able to meet prisoners’ social care needs in terms of the built environment and adaptations to assist with mobility”.<sup>13</sup> Any prisons which cannot be adapted to meet the needs of older prisoners are clearly not fit for purpose and should not be expected to accommodate them. The remaining prisons need investment to modernise and maintain them so that they meet the needs of the older population. In particular, the number of accessible cells across the estate must be increased to meet need projections.

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<sup>7</sup> HM Chief Inspector of Prisons (2019) Annual Report 2018-2019, London: HM Stationery Office

<sup>8</sup> Independent Monitoring Board website, accessed on 23 September 2019, available at [www.imb.org.uk/growing-old-prison/](http://www.imb.org.uk/growing-old-prison/)

<sup>9</sup> Independent Monitoring Board (2019) Annual Report of the Independent Monitoring Board at HMP Hewell, London: IMB

<sup>10</sup> Independent Monitoring Board (2019) Annual Report of the Independent Monitoring Board at HMP Lincoln, London: IMB

<sup>11</sup> HM Inspectorate of Prisons and Care Quality Commission (2018) Social care in prisons in England and Wales, London: HMIP

<sup>12</sup> HM Prison and Probation Service (2018) Model for Operational Delivery: Older prisoners, London: Ministry of Justice

<sup>13</sup> HM Inspectorate of Prisons and Care Quality Commission (2018) Social care in prisons in England and Wales, London: HMIP

14. We are aware that reasonable adjustments have been made in some prisons. For example, in HMP Stafford “older and infirm prisoners are supported by the installation of a chair lift in the Chapel and wheelchair access lifts in D wing, Healthcare and the Oral Hearing room, also various access ramps throughout the prison<sup>14</sup>”. However, reasonable adjustments and repairs are often seriously hampered by slow maintenance services. HMIP spoke to someone who waited four months for a rail to be fitted so that he could use the toilet.<sup>15</sup> The IMB at HMP Lincoln reported a “lack of resolution to numerous maintenance and repair issues across the establishment and the lack of facilities and ease of access for prisoners with mobility difficulties.”<sup>16</sup> At HMP Ford, “there are unacceptably long delays for maintenance repairs. It took 9 months to repair a broken lift, leading to disabled residents having to climb the stairs in a seated position”. An ageing population in an ageing prison estate means that responsive maintenance services are vital. We recommend that maintenance arrangements across the prison estate are reviewed to ensure reasonable adjustments and repairs relating to accessibility are prioritised.

### **How do older prisoners interact with the prison regime and what purposeful activity is available to them?**

15. The provision of well thought out regimes and purposeful activity for older people remains inconsistent across the prison estate. HMIP reported that “Whilst some prisons offered good facilities and age-specific activities, others had no specific provision and little meaningful activity for those not in work—in some prisons inspectors found retired prisoners locked up for most of the day”.<sup>17</sup> This is supported by the findings of some IMBs, who found that there “was often a lack of suitable purposeful activity for older people, who may not be capable of the work carried out in prison workshops”.<sup>18</sup>
16. Access to the most basic services is problematic in some prisons. Our advice services hears from people who are unable to shower regularly due to a lack of adaptations in communal facilities. We also hear from people who struggle to collect their meals, and who can be vulnerable to abuse from others in return for their help with this. The IMB at HMP Lincoln reported that for older people with mobility issues “regular access to outdoor exercise and fresh air was not always possible because of a shortage of wheelchairs”.<sup>19</sup>
17. Prisons which have a significant population of older people are more likely to have good provision for this group. For example HMP Leyhill and HMP Eastwood Park have day centre services run by RECOOP which provide supportive environments and a rota of activities. HMP Stafford has developed a space for older prisoners which includes activities as well as a space to relax and socialise. At HMP Wymott, there is an activities centre for older and disabled prisoners which provides a range

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<sup>14</sup> Independent Monitoring Board (2018) Annual Report of the Independent Monitoring Board at HMP Stafford, London: IMB

<sup>15</sup> HM Inspectorate of Prisons and Care Quality Commission (2018) Social care in prisons in England and Wales, London: HMIP

<sup>16</sup> Independent Monitoring Board (2019) Annual Report of the Independent Monitoring Board at HMP Lincoln, London: IMB

<sup>17</sup> HM Chief Inspector of Prisons (2018) Annual Report 2017–18, London: HM Stationery Office

<sup>18</sup> Independent Monitoring Board website, accessed on 23 September 2019, available at [www.imb.org.uk/growing-old-prison/](http://www.imb.org.uk/growing-old-prison/)

<sup>19</sup> Independent Monitoring Board (2019) Annual Report of the Independent Monitoring Board at HMP Lincoln, London: IMB

of meaningful activities as well as resettlement support and access to a kitchen and a garden.

18. Some prisons have implemented buddy schemes, in which other serving prisoners provide support to people with social care needs to help them access parts of the regime which they would otherwise find challenging. This is often well structured, involving training and voluntary sector expertise. For example, RECOOP has set up buddy schemes in the Devon prison cluster and delivers a 14 module Buddy Support Worker Training Programme which was developed for use in prisons by adapting standards from the National Care Certificate. At HMP USK and Prescoed, HMIP found “Well-trained, supported and supervised social care orderlies and prisoner buddies provided excellent recorded support to prisoners with identified needs”.
19. The *Model for Operational Delivery: Older Prisoners* encourages prisons to design regimes which allow older prisoners out of their cells, and have access to activities which keep people mentally and physically active”. It is unclear what progress has been made in implementing this guidance—again, we recommend that this guidance is supported by mandatory requirements and that its implementation is monitored.
20. There are signs that the older population is being better considered in policy generally. The recently published Incentives Policy Framework includes a welcome reference to older people and people with disabilities:

*“Whenever an incentive is offered that may not be accessible to such prisoners (for example, additional gym sessions), Governors should consider alternatives that can be offered to ensure all prisoners have access to appropriate incentives.”<sup>20</sup>*

21. However, this is in the non-mandatory guidance section of the policy document and is likely to slip down the list of priorities for governors, particularly in prison with small or transient older populations. We recommend that local policies are reviewed for their adherence to this guidance following implementation in January 2020.

### **Does the provision of both health and social care, including mental health, meet the needs of older prisoners and how can services be made more effective?**

22. Our advice service continues to hear of challenges faced by people accessing healthcare services, including mental health services. Barriers are often caused or exasperated by the operational limitations of the prison rather than the healthcare service itself—limited access to the healthcare unit due to lack of reasonable adjustments or restricted regime. We regularly hear about external hospital appointments being cancelled due to lack of staff or transportation—delaying diagnosis and disrupting routine and urgent treatments, and causing great deal of stress to patients.
23. For the health needs of older prisoners to be met both healthcare services and prison operations must be tailored to the population profiles and projected need of each prison. This cannot be effectively achieved without estate wide oversight and planning which requires a national strategy.

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<sup>20</sup> HM Prison and Probation Service (2019) Incentives Policy Framework, London: Ministry of Justice

24. Older prisoners have raised concerns with us about the lack of 24-hour healthcare services in some prisons. This can be unsettling for those with ongoing health needs which might require urgent attention, particularly in places where emergency responses are seen to be poor. This lack, particularly in open prisons, can also restrict progression through the estate for those who require that level of support. Provision in category C and open prisons should be reviewed so that this can be addressed.
25. Social care is an area which has seen some improvement since the committee's last report. The Care Act 2014 clarified responsibilities for prisons and local authorities about people with social care in custody and has driven good practice in terms of identification and referral for social care needs. However, the picture is inconsistent—in 2018 HMIP reported that “there continue to be wide variations between social care services in prison, so that as yet they are neither equitable nor consistent”.<sup>21</sup>
26. Some health and social care issues, such as Dementia, are particularly difficult to support in prison. IMB reported “a consensus view that dementia patients cannot be well cared for in a prison environment”. Dementia Action Alliance produced some valuable recommendations from their roundtable event about Dementia in Prisons.<sup>22</sup>
27. The Prison and Probation Ombudsman has repeatedly criticised the practice of restraining ill or dying prisoners and has called for risk assessments that are proportionate to the actual risk posed given their health condition.<sup>23</sup> Practice on the ground does not always reflect the intentions at organisational or governor level, or indeed the law. This practice must be improved with staff given clear guidance, training and support to make decisions on an individual basis.

**Do prisons, healthcare providers, local authorities and other organisations involved in the care of older prisoners collaborate effectively?**

28. Although we are not closely involved in this ourselves, HMIP social care thematic reported that “in too many prisons there was no clear responsibility for delivering social care and in others there was no MOU to support the development or delivery of services”.<sup>24</sup> They recommended that “all prisons and local authorities in England and Wales should develop an MOU, in line with existing policy, and ongoing joint working arrangements with their local authority to ensure that the social care needs of prisoners are met”. We support this recommendation.

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<sup>21</sup> HM Inspectorate of Prisons and Care Quality Commission (2018) Social care in prisons in England and Wales, London: HMIP

<sup>22</sup> Dementia Action Alliance website, accessed 24 September 2019, available at [https://www.dementiaaction.org.uk/joint\\_work/dementia\\_and\\_seldom\\_heard\\_groups/prison\\_population](https://www.dementiaaction.org.uk/joint_work/dementia_and_seldom_heard_groups/prison_population)

<sup>23</sup> See for example PPO (2017) Learning from PPO investigations: older prisoners, London: PPO

<sup>24</sup> HM Inspectorate of Prisons and Care Quality Commission (2018) Social care in prisons in England and Wales, London: HMIP

## Are the arrangements for the resettlement of older prisoners effective?

29. In 2016 we published *Social care or systematic neglect?* in partnership with Restore Support Network which drew on interviews, focus groups and surveys about the reality of life after prison.<sup>25</sup> Although the samples were comparatively small the study does provide important feedback on the implementation of the Care Act 2014 and, more broadly, the impact of changes and remaining gaps in resettlement provision on older age groups.
30. Key findings included:
- Nine of the 14 people interviewed felt that the prison had not adequately prepared them for release. Common concerns included delays, a lack of information, and a failure to arrange support for them after release.
  - Nine of the 14 said they had social care needs; yet, only one of these said that they had received help from social services, and one other said this was “still in progress”.
  - Thirteen of the 14 said that there had been no referral to a local GP surgery. One said: “I was released with no documentation. No one asked if I had a GP.”
  - Nine of the 14 said they needed help with education, training or employment. Yet, only one person said that they had been given help. Many of the people interviewed felt training and employment (both in prison and after release) are targeted at young men.
31. Voluntary sector expertise has been effectively embraced in some prisons. In our report, two prisons were working with the Ormiston Trust, to help maintain relationships with families whilst in custody. Restore Support Network offer older prisoners through the gate support and a peer network that encourages positive relationships. RECOOP staff in HMP Leyhill help prepare older people for release by accompanying them on day trips into the community to help them acclimatise and with practical support such as applications for bus passes. Clinks’ report *Flexibility is vital* demonstrates the role and value the voluntary sector has in the support of older people, particularly in its ability to flexibly meet the differing and changing need of this group.<sup>26</sup> HMPPS should recognise this value by ensuring Governors have the budget to properly invest in these services.
32. We understand there is a persistent problem in some areas with the lack of accessible rooms in Approved Premises. For people requiring this provision as a condition of their licence, this is causing delays to release of weeks or months following a positive Parole decision—in one case we are aware of an older person died in prison after waiting 6 months for a room to become available.
33. An issue that resettlement staff at RECOOP regularly bring to our attention is the challenges that lack of formal ID creates for older people leaving prison. There must be clear responsibility and effective systems in place to make sure every prisoner leaves prison with formal ID.

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<sup>25</sup> Prison Reform Trust and Restore Support Network (2016) *Social care or systematic neglect: Older people on release from prison*, London: Prison Reform Trust

<sup>26</sup> Clinks (2019) *Flexibility is Vital: The role and value of the voluntary sector in supporting older people in the criminal justice system*, London: Clinks

### **Does the treatment of older prisoners comply with equality legislation and human rights standards?**

34. We are not convinced that HMPPS is fulfilling its duties under Equality Act, or the Human Rights Act in relation to older prisoners. Current policy results in practices which lead to unequal access to regime for older people, delayed or non-existent reasonable adaptations, unequal access to the full rehabilitative benefits of the estate and barriers to healthcare in many prisons. HMPPS has recognised this inequality but failed to adequately address it or make it the priority it should be. We fail to see how this can be resolved without a national strategy and some mandatory requirements for Governors about how the duties of the legislation are to be met.

### **Whether a national strategy for the treatment of older prisoners should be established; and if so what it should contain?**

35. We maintain that HMPPS must devise a national strategy to address the ageing population. In the briefing *Social care or systematic neglect?*, we recommended that a national strategy include the following<sup>27</sup>:

- A descriptive profile of older people in prison
- Standards for their care and treatment in custody, highlighting the practical implications of their legal status
- Specific guidance for older people and prison staff on appropriate work, leisure, and learning activities
- Training for all staff in contact with and responsible for the care of people in prison
- Mandated requirements for prisons holding people who are over 50, to include the duties of the senior management team, health care, and social care providers to ensure age appropriate treatment and services during custody and consistency of care post-release
- Information sharing protocols, for example between discipline staff and health care
- The responsibilities of prisons and local authorities in the provision of daily living aids and occupational therapies
- Age-specific guidance on working with families
- Instructions about end of life care, early release on compassionate grounds
- Suggestions for ensuring the regime provides for older persons, especially in terms of preparation for release, and
- Guidance on effective alternatives to custody for older people for whom imprisonment has become a double punishment.

36. Some of these points have been covered in the aforementioned MOD. Though this is a welcome step in the right direction, it falls a long way short of a national strategy. HMIP described it as “more of a menu of options from which governors might draw

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<sup>27</sup> Prison Reform Trust and Restore Support Network (2016) *Social care or systematic neglect: Older people on release from prison*, London: Prison Reform Trust



local responses than an overarching strategy”.<sup>28</sup> The lack of mandatory requirements outside of those provided by the legislation means adherence to this will remain inconsistent and is likely to be a low priority for governors. Reinforcing the MOD with a national strategy and mandatory requirements would address this.

37. We accept that a national strategy could be based around need profile rather than age, particularly given that people of all ages with healthcare needs and disabilities who may need a similar level of consideration and support. However, without a national strategy to address the changing and increased pressures of this population, the needs of older prisoners and the responsibilities of the Equality Act and the Care Act are unlikely to be consistently met.

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<sup>28</sup> HM Chief Inspector of Prisons (2019) Annual Report 2018-2019, London: HM Stationery Office