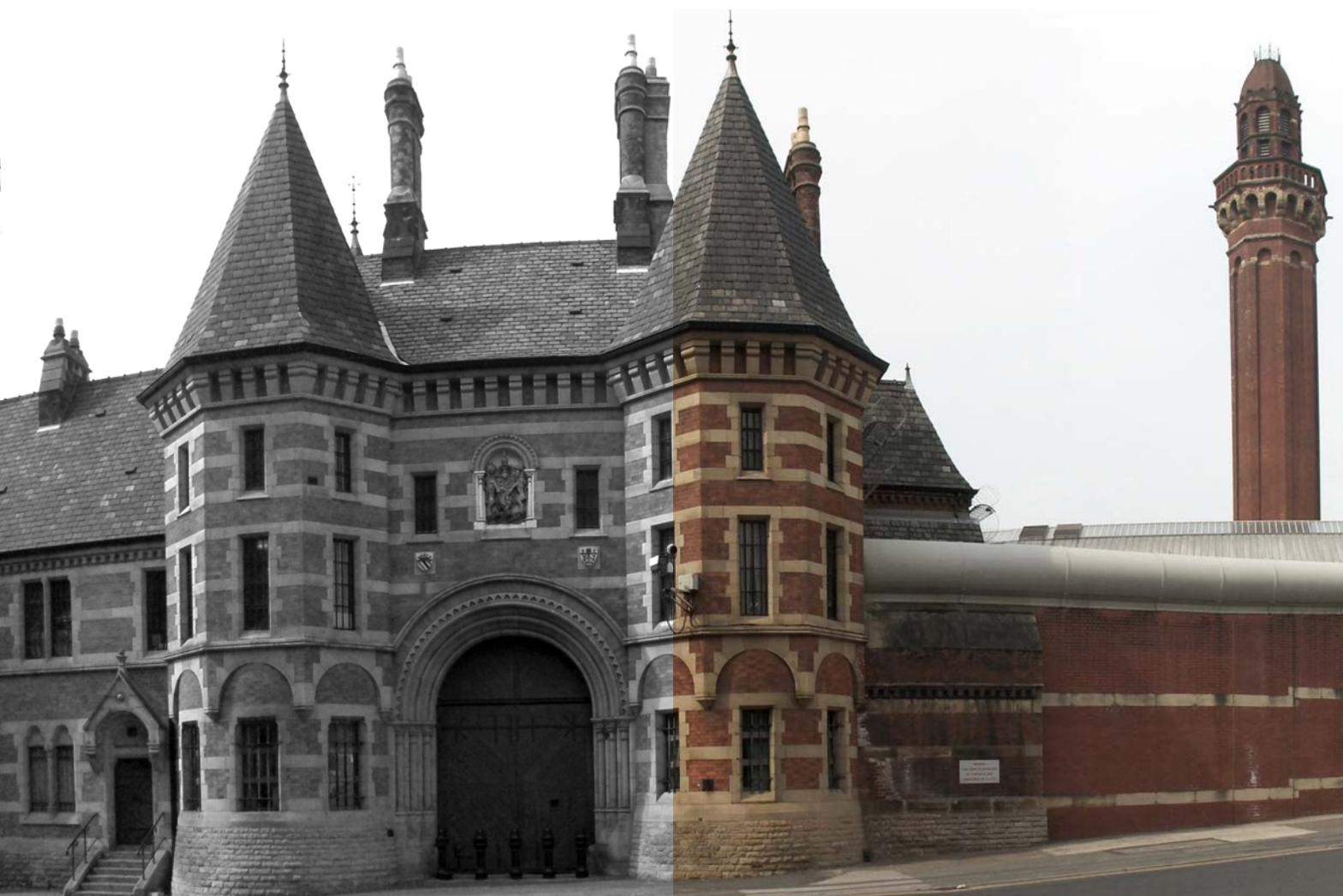


PRISON
REFORM
TRUST



Strangeways 25 Years On

achieving fairness and justice in our prisons

Mark Day, Alex Hewson and Charles Spiropoulos

The Prison Reform Trust 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.

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Introduction

The Strangeways prison riot, which began on 1 April 1990 and lasted 25 days, leaving two men dead and 194 injured, was one of the most serious in British penal history. The riot took place against the background of a prison system which was perceived by prisoners as increasingly arbitrary and unfair and lacking in basic standards of decency. The protest began in the prison chapel, where some 300 prisoners were gathered for Sunday service. As Eric Allison recounts:

One prisoner, Paul Taylor, grabbed the microphone from the prison chaplain and, to applause and shouts from the congregation, began to deliver his own sermon, preaching resistance and the need for reform. Within minutes, the jail – one of the largest in the UK – was in the hands of the rioters.¹

The ensuing riot and the protests and disturbances which engulfed many prisons during the same month resulted in 51 criminal trials and a public inquiry that proved to be the most searching examination of penal policy in the past 100 years. On 6 April 1990, the then home secretary, David Waddington, appointed Lord Woolf, now chairman of the Prison Reform Trust, to head an inquiry into the disturbances and to assess the wider implications for the prison system.

The purpose of the inquiry was to consider:

1. What happened during the six most serious riots?
2. Were the six riots properly handled?
3. What were the causes of those riots?
4. What should be done to prevent riots of this type happening again?

The inquiry was divided into two parts. Part I of the inquiry concentrated on determining the facts relating to events in six prisons – Manchester (Strangeways), Glen Parva, Dartmoor, Cardiff, Bristol, Pucklechurch – where the rioting was most serious. Part II focussed on the broader issues relating to the management and operation of prisons which needed to be addressed if further riots were to be avoided. Judge Stephen Tumim, HM chief inspector of prisons, was asked to join Part II of the inquiry to add his expertise on issues relating to the running of the prison system as a whole.

The inquiry consulted widely and almost all of its proceedings were held in public. Lord Woolf wrote to the director general of the Prison Service, and to 95 individuals and organisations, inviting them to submit evidence. He also wrote to all staff and prisoners at the six prisons inviting them to submit evidence to Part I, and to all prison

staff and prisoners throughout the system in relation to Part II. The inquiry held a number of oral evidence sessions and made extensive visits to prisons in Britain and abroad, including France, the Netherlands and Canada. In total, Lord Woolf visited 43 prisons.

On 31 January 1991, Lord Woolf presented his report to the new home secretary, Kenneth Baker. It constituted a wide-ranging examination of conditions in Britain's prisons. The report's 12 main recommendations and 204 proposals on matters of detail set out an agenda for comprehensive reform of the prison system. These included an end to "slopping out", whereby prisoners had to urinate and defecate in buckets in their cell; the appointment of a prisons ombudsman; and the introduction of telephones on landings so prisoners could keep in closer touch with their families. Lord Woolf also called for improvements to the leadership of the Prison Service; better cooperation between different parts of the criminal justice system; an end to chronic overcrowding; and the division of prisons into smaller and more manageable secure units of 50-70 places, with no establishment exceeding 400 places.

The government at the time accepted the generality of the report's recommendations and committed to improving the system along the lines Lord Woolf envisaged. There was a consensus that the report offered a comprehensive programme for constructive change. Prison numbers were falling and the Prison Service – supported by ministers, officials and staff at all levels – seemed determined to seize the opportunity this gave. Many of the report's recommendations were implemented, leading to improvements in the leadership of the Prison Service, a better system for handling and addressing prisoners' complaints and painstaking progress in the treatment of people in prison and the conditions in which they were held.

Within a few years, however, a political climate receptive to reform had given way to a far more punitive outlook. From the mid-1990s onwards, a steep rise in prison numbers, driven by harsher sentencing and competition between politicians over who could be toughest on crime, resulted in increased levels of overcrowding and pressure to build ever-larger establishments to cope with a growing prison population. These trends have continued to the present day. When the Strangeways riot occurred the prison population was 45,000; today it stands at over 84,000.² England and Wales now has the highest rate of imprisonment in Western Europe, imprisoning 149 people for every 100,000.³ At the end of February 2015, 71 of the 118 prisons in England and Wales were overcrowded.⁴ More than four in 10 prisoners are now held in supersized jails of over 1,000 or more.⁵

The past two years have seen a worrying deterioration in safety and standards in prisons. Rising numbers of deaths in custody and a marked increase in violence, coupled with continued overcrowding and falling rates of purposeful activity, have called into question basic standards of safety, fairness and decency in our jails. A

punishing specification and benchmarking exercise to cut costs and maximise efficiencies, changes to staff terms and conditions, and the restructuring of probation and resettlement services under the government's transforming rehabilitation programme have resulted in dangerously low staffing levels, restricted regimes and sinking staff morale. Punitive changes to prison policies, including release on temporary licence (ROTL) and the incentives and earned privileges (IEP) scheme, have threatened to restrict rehabilitation and opportunities for people to take personal responsibility and to help others. The justice committee, in its recent report into the current government's approach to prison policy and planning, said that moves to cut costs in the prison system in England and Wales, as well as tougher prison regimes, had "made a significant contribution to the deterioration in safety."⁶

Twenty five years after the Woolf report was published, it could be reasonably hoped that its findings would be of no more than historical interest. Today, however, Lord Woolf's report looks increasingly prescient as a warning to our own time. Speaking at the 2014 AGM of the all-party parliamentary penal affairs group, attended by Lord Woolf, HM chief inspector of prisons, Nick Hardwick, said:

I am very pleased to see Lord Woolf here today because I took the liberty of stealing a quote from his 1991 report into the Strangeways riots. He said: "As often happens at times of change, the improvements that were being introduced brought with them periods of increased instability which made the prison system particularly vulnerable to disturbances..." I think that is still a really powerful warning for our time. Because there are changes being made, some of which will in the long term potentially lead to improvement, but the process of transition is creating instability which is dangerous.⁷

This briefing highlights the legacy of the report in establishing the fundamental principles of fairness and justice in our prisons. Using Lord Woolf's original 12 main recommendations, it commends progress made over 25 years, emphasises the importance of further reform and highlights areas where progress has reversed.

Lord Woolf's 12 major recommendations

1. Closer cooperation between the different parts of the criminal justice system. For this purpose a national forum and local committees should be established.

Lord Woolf's first recommendation was for closer cooperation between different parts of the criminal justice system. He said there was a need for the Prison Service to coordinate its work with other agencies in the system. He called for the establishment of a national forum, chaired by a senior member of the judiciary, with senior representatives from the Home Office, Lord Chancellor's Department, Crown Prosecution Service, Department of Health, Prison Service, probation service, the police, and possibly the magistracy. The forum would identify areas where cooperation and exchange of information were needed and assist in the development of a joined up approach which met the needs of offenders. Lord Woolf also called for the establishment of local committees to improve coordination at the local level.

A lack of effective coordination, leadership and accountability in the oversight and operation of the criminal justice system in England and Wales have been perennial concerns. As the National Audit Office highlighted in its 2014 landscape review of the criminal justice system:

*The system has evolved over time, has no single 'owner' and has been subject to regular change and reform. It incorporates a wide range of bodies, with different functions and accountabilities. It deals with a variety of complex criminal behaviour, the causes and effects of which are often poorly understood. These and other factors make managing it effectively a major challenge for government.*⁸

Lord Woolf argued that, to operate effectively, the system required robust arrangements for coordination at the national and local level. A number of different approaches to improving cooperation have been tried since the Woolf report; but arguably none has succeeded in establishing the fully integrated system that Lord Woolf envisaged. The criminal justice council was the original national coordinating body set up following the publication of the report; a renewed council was formed in 2002 along with a national criminal justice board following an inquiry by Lord Justice Auld into criminal courts; the Office for Criminal Justice Reform was created in 2004; and an inter ministerial group on reducing reoffending was established in 2006. A new criminal justice board was formed in 2012 with the aim to modernise and reform the criminal justice system into "a simpler, swifter and more transparent service which meets the needs of victims and the public".⁹

The past 25 years have seen significant changes made by successive governments to the commissioning and delivery of justice services. This has sometimes hindered the development of the coordinated approach seen by Lord Woolf as vital to an effective justice system. For instance, while the previous Labour administration brought

together prison and probation services under one executive agency, the National Offender Management Service (NOMS), the current government has outsourced the majority of probation and resettlement services to the private and voluntary sector under its transforming rehabilitation programme. It has also devolved policing and some elements of the criminal justice budget, including support for victims, to locally elected police and crime commissioners.

A complex picture has emerged of different departments and agencies working to sometimes competing agendas and priorities. The National Audit Office, in its landscape review of the criminal justice system, said that the current government's transforming rehabilitation programme was ambitious and would take time to bed in. Nonetheless, it warned of the risk of fragmentation and the need to ensure effective cooperation between different agencies working towards common objectives:

*Delivery partners need to work well together at national and local level, focusing on how best to achieve the overall objectives of the system, rather than optimising the performance of their own organisations. The need for good local joint working is even more crucial in the light of changes to local accountability and performance measurement.*¹⁰

It also warned of the risks of information not being properly shared and communicated between different agencies:

*Interrupted information flows within the system can prevent cases from proceeding efficiently. If the system is to achieve real efficiencies and planned cost savings, departments, agencies and local criminal justice partners need to implement an agreed and coherent plan to address problems with information flows as a priority.*¹¹

Progress in improving coordination across government to tackle offending and reoffending has been mixed. There have been welcome changes in the treatment of people with mental health needs and learning disabilities brought about by better coordination between health, police and justice services. Following Lord Bradley's influential 2009 report, the Department of Health worked with the Ministry of Justice and Home Office and invested £75m in developing and rolling out liaison and diversion services at police stations and courts. These services aim to identify and, where appropriate, divert into treatment and care, the large numbers of people with mental health problems and learning disabilities caught up in the criminal justice system. Over half of England and Wales is now covered by liaison and diversion services and a full national scheme is planned to be put in place in 2017.¹²

However, in other areas, such as early intervention to tackle drug or alcohol addictions or arrangements to ensure suitable long-term accommodation and sustainable job opportunities for people on release from prison, success has been limited. Approaches such as the government's troubled families programme have the potential to deliver a more coordinated approach. A recent report by London Councils said: "The delivery of the troubled families programme is a successful demonstration of how central

government can work with local government and other agencies to bring budgets and services together in a pro-active way at a local level.”¹³ However, the National Audit Office has raised concerns that the programme is not on track to meet its target due to poor coordination between departments.¹⁴

The failure to achieve a coordinated cross-government approach to tackling offending and reoffending was highlighted in the recent report of the justice committee on prisons: planning and policies. The chair of the committee, The Rt Hon Sir Alan Beith MP, said:

*The Committee has repeatedly emphasised the dangers of allowing the prison population to escalate and consume huge resources which could be better spent on preventing crime, for example, by dealing with drug and alcohol addiction and further expanding programmes, like the troubled families programme. The public look to the criminal justice system to demonstrate that crime is taken seriously, but that means tackling and preventing crime effectively, not merely locking up more and more offenders at massive cost to the taxpayer.*¹⁵

2. More visible leadership of the Prison Service by the director general who is and is seen to be the operational head and in day to day charge of the service. To achieve this there should be a published “compact” or “contract” given by ministers to the director general of the Prison Service, who should be responsible for the performance of that “contract” and publicly answerable for the day to day operations of the Prison Service.

Lord Woolf raised concerns that the role of the director general during the time of the disturbances was too detached from operational matters. Responsibility was split between a deputy who oversaw the performance of the prison system, whilst the director general focused on policy and advising ministers. Lord Woolf also highlighted problems with the relationship between the Prison Service and ministers. He said that the relationship should be more clearly structured to allow the director general to exercise the leadership needed to run the service. Lord Woolf called for ministers to publish their annual priorities, which the director general would take ultimate responsibility for delivering under their supervision.

The need for clear lines of accountability between operational staff, senior management and ministers remain just as relevant today. The progress that has been made in restructuring the role of director general and the Prison Service has largely addressed the concerns that Lord Woolf raised. Following the publication of the report, the director general role changed significantly, placing the now chief executive as the clear operational head of the Prison Service and removing the deputy post. Despite organisational restructuring and the creation of a new executive agency, the National Offender Management Service (NOMS), the role of director general has developed along the lines that Lord Woolf envisaged, with more visible leadership and clear accountability for operational matters.

NOMS publishes an annual report and a business plan outlining aspirations for the year(s) ahead, developed with ministers, and their progress in delivering them. Both the plans and delivery are open to parliamentary scrutiny through the House of Commons justice committee, and former director generals, and the current chief executive Michael Spurr, are frequently called to provide evidence alongside ministers.

3. Increased delegation of responsibility to governors of establishments.

Lord Woolf raised concerns about an overbearing approach to the management of prisons by central government. He argued that it was important for the relationship between headquarters and governors to be enabling – with the former enabling the latter to govern, and governors enabling their staff to look after people held in prison. He called for increased delegation to establishments, with each prison, as far as possible, being able to decide how its budget is spent. Delegation would prevent valuable local initiatives being killed off by central diktat, while the dangers of inefficiency and waste could be averted by proper monitoring.

Following the Woolf report there was a welcome move to introduce greater autonomy for prison governors. In 2001, the then director general of the Prison Service in England and Wales, Martin Narey, said that the situation had been “transformed”.¹⁶ However, in recent years, there has been a shift towards greater centralisation of power and control over the running of prisons, reaffirming the importance of this recommendation.

A key factor behind this centralising trend is the financial constraints imposed by cuts in the Ministry of Justice’s budget. Under restrictions imposed by the comprehensive spending review, NOMS has to make overall resource savings of almost 25% in real terms by 2014-15.¹⁷ The 2013 spending round confirmed that the Ministry of Justice budget would be cut by a further 10% from 2014-15 to 2015-16, a reduction of £2.4bn since 2010-11.¹⁸ A centralised specification and benchmarking process and the ‘fair and sustainable’ restructuring programme have been implemented in order to cut costs and maximise the efficient use of resources. These have placed severe limits on the discretion of governors to manage prison budgets and allocate resources as they see fit.

At the same time there has been a growing tendency by ministers to get involved in the day to day running of establishments. The introduction of a revised incentives and earned privileges (IEP) scheme in 2014, aimed at tackling a perception of overly favourable treatment of people in prison, has led to growing frustration and resentment among prisoners and staff. Restrictions on eligibility for release on temporary licence (ROTL), despite extremely low failure rates, have added to the difficulties faced by prison governors in running fair and effective prison regimes. The current secretary of state has dictated to governors in young offender institutions the time the lights should be switched off in cells at night.¹⁹

Changes to the commissioning of probation and resettlement services under the transforming rehabilitation programme have limited the ability of prison governors to exercise effective discretion over the running of their establishments. Giving evidence to the justice committee's inquiry on prisons: planning and policy, Stephen O'Connell, president of the Prison Governor's Association, said that governors were concerned about fragmentation as a result of the programme. He said:

When you are a prison governor you are accountable and responsible for everything that happens inside your wall. By next April [2015] you will have outsourced resettlement, health, education, facilities management and drug services.²⁰

This concern was echoed by HM chief inspector of prisons, Nick Hardwick:

[NOMS] said to us that they saw the governor's role now more as the conductor of an orchestra rather than...somebody responsible for what happens within their walls. We said, 'Look, that is not how we see it.' I think that is a mistake. We certainly see fragmentation as a real danger.²¹

The justice committee concluded that:

...relegating governors to an oversight and partnership management role with much reduced discretion undermines their control over the performance and safety of the establishment and their ability to govern their prisons using their professional judgement.²²

While it is important to ensure national standards and the efficient use of resources, there is a risk that recent policy changes have gone too far in undermining the autonomy of prison governors to decide how prisons should be run. This goes against the importance stressed by Lord Woolf of enabling governors to use their own judgement in how best to rehabilitate and meet the needs of the people in their care.

4. An enhanced role for prison officers.

Lord Woolf identified a malaise at the heart of the Prison Service. Despite "the high calibre and deep commitment of the majority of Prison Service staff at all levels" there was:

...dissension, division and distrust...between all levels of Prison Service staff. They labour under a blanket of depression. They lack confidence in the value of what they do. They harbour a deep sense of frustration that the effort which they are devoting is not appreciated.²³

Evidence to the inquiry from prison staff drew attention to a lack of sufficient staff numbers, lack of training, a sense of being undervalued, isolation from other staff and the divide between different grades and classes of staff.

Lord Woolf recommended that the status of prison officers should be raised, with better training and improved prospects for promotion. He said that the role of the prison officer must not be confined to the unlocking and locking of cells, but should be a skilled professional role within a disciplined service. The prison officer's role should involve the constructive care of prisoners and preparing them to return to the community less likely to re-offend. To develop the knowledge and skills of prison staff, Lord Woolf proposed that training be extended, with a commitment to in-service training aimed at enhancing an officer's professional development. Training should provide a qualification recognised both within and outside the Prison Service.

Arrangements for training have advanced since Lord Woolf published his report but still fall short of other international systems. At present, new recruits are required to take part in an eight-week course, prison officer entry level training (POELT). The aim of the course is to provide them with the basic knowledge and skills needed to work as a prison officer. During their first year of service, officers continue to receive on-the-job training and are expected to complete the Level 3 (NVQ) Diploma in Custodial Care. By contrast, in Norway each prison officer undertakes a two-year basic education and training programme; and new recruits to the Irish Prison Service undertake training for a similar length of time.

In 2005, the education and skills committee concluded:

The initial training period of 8 weeks for prison officers is totally inadequate. The government must encourage the development of prison officers if prison staff are to be expected to encourage the development of prisoners. The initial training period must be significantly increased to a level that reflects an appropriate investment to enable prison officers to play a key role in the education and training of prisoners. Furthermore, prison officers should have an equivalent entitlement to training and development once they are in post.²⁴

Recent changes to staff terms and conditions under the "fair and sustainable" programme have led to significant and unplanned reductions in staff numbers below the benchmark requirement. Between 31 March 2010 and 30 June 2014, the number of full time equivalent staff employed in the public prison estate fell by 28%, a reduction of 12,530 staff.²⁵ Particular problems of staff retention and recruitment have been experienced in the south east, where a buoyant labour market and high living costs have made the wages and prospects attached to the prison officer role unattractive. The ratio of prison officers to prisoners in 2000 was one to 2.9; by the end of September 2013 this had increased to one prison officer to 4.8 prisoners.²⁶

Acute staffing pressures have meant that some officers have been required to operate on detached duty, working in establishments that they are not ordinarily based in. Safety concerns have resulted in many prisons being placed on 'restricted regimes', limiting the availability of purposeful activity. The Prison Officers' Association, in its

evidence to the justice committee, said that 250 officers are on detached duty.²⁷ The impact of detached duty was highlighted by Sukhvinder Buparai, branch secretary at HMP Belmarsh, during the evidence session to the committee:

*They do not have any knowledge of the prisoners or the demographic of prisoners, and they are there just as a member of staff wearing a uniform as part of the numbers. They are there to turn a key, so they do not have the same level of job satisfaction as they would have locally.*²⁸

Prison officers are on the front line of direct communication and interaction with prisoners. They perform a vital role in both facilitating rehabilitation and maintaining safety and order. This role is recognised in prison performance monitoring. The introduction of ‘appreciative inquiries’ in the assessment of individual prison performance has placed emphasis on the importance of prisoner-staff relationships in the running of safe and decent regimes.²⁹

Good relations between staff and prisoners require a sufficient number of well-trained officers and staff. The justice committee found convincing evidence, from a range of sources, of a serious decline in safety. It said that lower staffing levels, larger establishments, benchmarking, changes to the IEP scheme, and a decline in purposeful activities are bound to have reduced the consistency of relationships between officers and prisoners, and in turn affected safety. It concluded:

*NOMS ought to have foreseen that the major reductions in staffing, less favourable pay and conditions of employment, and significant changes to prison regimes, would lead to a rise in people opting to leave the Prison Service, regardless of the buoyancy of the labour market. This underlines the importance of retention as well as recruitment. As NOMS is highly dependent on its staff to run well-functioning prisons, it is important that the service acts rapidly on the evidence of recent [staff] surveys to ensure that staff feel valued and are given appropriate support to work in circumstances which are challenging at the best of times, but currently particularly pressured. Given the importance of relationships between prisoners and prison staff we do not believe that making further detrimental changes to terms and conditions of its staff is sustainable as a means of controlling costs if the prison population continues to rise.*³⁰

Rising levels of self-harm, deaths, and violence in our prisons and falling rates of purposeful activity, highlighted by recent prisons inspectorate and prisons ombudsman reports, should be a wake-up call to ministers. When staff are overstretched, demotivated and demoralised they are less able to ensure the safety of the people in their care and provide effective rehabilitation. A humane and effective prison regime depends on a skilled and experienced workforce that feels valued and resourced to do its job well.

5. A 'compact' or 'contract' for each prisoner setting out the prisoner's expectations and responsibilities in the prison in which he or she is held.

Lord Woolf heard evidence from prisoners involved in the disturbances of a perceived lack of justice and fairness in their treatment whilst held in prison. He concluded that the effective management of prisoners required the proper balance between security, control and justice. He maintained that a contributor to the disturbances was a neglect of justice and that a fairer and more consistent approach to sanctions and rewards was required.

Lord Woolf recommended that a contract should be drawn up between prisons and the prisoners held in them. The contract should outline what prisoners could expect to receive from the prison, as part of its regime, and how the prison expects the prisoner to behave in return. The contract would ensure a greater level of consistency in the treatment of people across the prison estate. Lord Woolf's proposals formed the basis of a system that went on to become the incentives and earned privileges (IEP) scheme.

The IEP scheme was first introduced in 1995 and has become an important tool of prison management. It enables people to move through defined levels – basic; standard; and enhanced; plus a new entry level for newly sentenced prisoners – depending on their behaviour and actions whilst in prison. Earnable privileges include improved and extra visits; the ability to earn more money in prison jobs; access to in-cell television; opportunities to wear their own clothes; the ability to access and use private cash resources; and greater time out of cell for association.

The need for incentives is supported by the belief that prisoners will behave better, acting in their own and the wider prison's best interests when opportunities are available to them. Improved opportunities to take personal responsibility for their conduct, the prison regime and their own resettlement are necessary to providing a safe and conducive environment for rehabilitation and in which prisoners have a stake.

Since the introduction of the IEP, the scheme has been subject to a number of reviews and evaluations. Chris Grayling, when taking up the role of justice secretary, announced his intention to conduct "a thorough and detailed review to ensure that it properly addresses reoffending as well as being something the public can have confidence in."³¹ The changes that were introduced following the review, which included restrictions on prisoners receiving books and other basic items and tighter restrictions on the ability of prisoners to progress through privilege levels, are some of the most significant since the policy was first implemented.

Whilst the new scheme was rightly criticised for the ban on prisoners receiving books, which has since been overturned by judicial review, the changes go much further in undermining prisoners' perceptions of the fairness and legitimacy of prison regimes.

Shortly after the introduction of the new measures, a high number of prisoners began contacting the Prison Reform Trust's advice and information service, confused about the new rules and concerned about the impact of the scheme on them and their families. A Prison Reform Trust report, 'Punishment without purpose', based on the accounts of people in prison and their families, revealed that the changes were eliciting a strong sense of grievance and injustice.

The justice committee has noted that making privileges harder to achieve and restricting items prisoners are able to receive from outside the prison have "led to prisoners experiencing shorter visits times, reduced association and time out of cell, lower pay, fewer activities (hobbies, television) and reduced amounts of personal property (books, clothing and writing materials)."³² It has highlighted the changes to the IEP scheme as one of the factors behind the recent deterioration in safety in prisons.³³ In his evidence to the committee, Stephen O'Connell, president of the Prison Governors' Association, said that governors felt that in some circumstances the scheme was "morally wrong".³⁴

It is not just the changes to the IEP scheme which have undermined prisoners' perceptions of the fairness and decency of prisons regimes. Restrictions on the use of release on temporary licence (ROTL) have also led to increased resentment and frustration among prisoners. Drastic cuts to prison staff numbers and resources have damaged efforts to ensure that prisons are able to provide meaningful interventions. A lack of opportunities for constructive work reported by the prisons inspectorate³⁵ has fed into perceptions of unfairness and that prisoners are simply being warehoused without opportunities to work towards their rehabilitation.

6. A national system of accredited standards with which, in time, each prison establishment would be required to comply.

Lord Woolf was concerned that there was not sufficient consistency in the standards of treatment of prisoners across the prison estate. This ranged from the quality of the accommodation in which they were held, as well as the activities and support available. Lord Woolf was not alone in calling for the introduction of minimum standards. Both the Prison Governors' Association and the Prison Officers' Association endorsed their introduction. However, these calls were resisted by the government at the time, something of which the report was critical.

Lord Woolf argued that the introduction of accredited standards would help to focus efforts by the government and Prison Service to drive up standards and reduce reoffending rates. The UK is a signatory to the UN's Standard Minimum Rules for the Treatment of Prisoners 1957 and the European Prison Rules 1987. However, Lord Woolf was concerned that neither of these codes was sufficiently specific in outlining what prisoners could expect in their treatment, and nor were they legally enforceable. The

report proposed that individual prisons should work to a set of published standards, and that they would apply for accreditation status when these standards were reached. This approach was based on a model seen in the United States, but was never taken forward.

The need for effective scrutiny and performance management of the prison system remains just as relevant today. A set of clearly defined standards allows individual prisons to measure their performance, identify areas of weakness, and work to improve on them.

Prisons in England and Wales are subject to two measures of routine performance management, one internal, and the other external. The National Offender Management Service (NOMS) publishes an annual report³⁶ outlining the performance of public and private prisons against 27 defined indicators. This includes performance on security measures such as escapes, absconds and release on temporary licence failures, and on rehabilitative measures such as employment and accommodation outcomes on release, mandatory drug testing failure rates, completion rates of offender behaviour courses and violence management. These measures are then used to rate each prison's performance on a scale of one to four. NOMS previously set annual national level targets known as key performance indicators (KPIs), however the majority of these were removed in 2011/12, and there don't appear to be any plans to reintroduce them.

This internal scrutiny of prison standards still falls short of what Lord Woolf was hoping to achieve. He argued that prisons should have clearly defined standards for the care and rehabilitation of people held in them, and that the people responsible for delivering these should be held to account if they didn't meet them.

External and independent scrutiny of prison performance is provided by HM Inspectorate of Prisons. The inspectorate assesses prisons against its expectations, which are linked to international standards, and – for each prison – are tested on the basis of outcomes for prisoners. There are four tests of a healthy prison against which the inspectorate of prisons benchmarks standards and performance – prisons must be safe, respectful, have sufficient purposeful activity, and provide resettlement for release. These standards are set independently of government by the inspectorate and are clearly defined in each inspection report.

The inspectorate and its reports present an authoritative account of the state of the prison system in England and Wales. However, there are problems with the powers and oversight of the inspectorate which limit its role. The inspectorate has no regulatory powers to compel prisons to change their behaviour, merely to make recommendations. This approach has its benefits. It means that the inspectorate can act freely, setting its own standards rather than merely enforcing those of the Ministry of Justice's choosing. However, it lacks the direct authority to demand that changes are made. In addition, whilst there is no suggestion that the inspectorate is anything but independent, it

receives “sponsorship” from the Ministry of Justice as a non-departmental public body. Furthermore, as the current chief inspector has highlighted, the current appointment process for the role, conducted by the Ministry of Justice, risks undermining this independence.³⁷

The justice committee has recommended that the inspectorate should be held directly accountable to Parliament through the committee, similar to the arrangement between the National Audit Office and the public accounts committee. Appointments for the role of chief inspector would be conducted solely by the committee, rather than only interviewing the Ministry of Justice’s preferred candidate. This would remove any perception of political interference by the government. The committee has recently criticised the flawed appointment process for a new chief inspector of prisons, which has since been postponed.³⁸

7. A new prison rule that no establishment should hold more prisoners than is provided for in its certified normal level of accommodation with provisions for Parliament to be informed if exceptionally there is to be a material departure from that rule.

Giving evidence to the Woolf inquiry, the then director general of the Prison Service described the effect of overcrowding and his belief

*that the life and work of the Prison Service have, for the last 20 years, been distorted by the problems of overcrowding. That single factor has dominated prisoners’ lives, it has produced often intolerable pressure on the staff, and as a consequence it has soured industrial relations...The removal of overcrowding is, in my view, an indispensable pre-condition of sustained and universal improvement in prison conditions...for improvement to be solid and service-wide, the canker of overcrowding must be rooted out.*³⁹

Unfortunately this “canker” still remains in our prison system today, although under the new moniker from the Ministry of Justice – “crowding”. Despite a change in name, the effects of overcrowding remain the same, and continue to undermine rehabilitation. As HM chief inspector of prisons has made clear:

*Overcrowding is not simply an issue of how many prisoners can be crammed into the available cells but also affects whether the activities, staff and other resources are available to keep them purposefully occupied and reduce the likelihood they will reoffend. A prisoner who is unemployed because there is no activity available for him might spend 22 hours a day, and eat all his meals, with another prisoner in a small cell designed for one, perhaps eight foot by six foot, with an unscreened toilet.*⁴⁰

Overcrowding in the prison system is calculated based on two measures. Certified normal accommodation (CNA), or uncrowded accommodation, is the Prison Service's own measure of accommodation, and represents the good, decent standard of accommodation that they aspire to provide all prisoners. Operational capacity, is the total number of people that a prison can hold taking into account control, security and the proper operation of the planned regime. Operational capacity is higher than CNA and is determined by area managers. The difference between these two figures provides the level of overcrowding. Population levels have not been at CNA in recent memory, and appear to be nothing more than aspirational. Operational capacity is now treated as the 'true' level of accommodation, despite the damaging effects that cell sharing and overcrowding can have on the effectiveness of a prison regime.

At the end of February 2015, 71 of the 118 prisons in England and Wales were overcrowded.⁴¹ Based on previous years' trends this is likely to increase further as the prison population returns to its pre-Christmas level. In 2013-14 an average of 19,383 prisoners were held in overcrowded accommodation, accounting for 23% of the total prison population.⁴² The problem is particularly acute in male local establishments, with overcrowding levels almost twice the national average.⁴³ Wandsworth prison for example, built to hold 943 men, currently holds 1,626.⁴⁴

Following the publication of the Woolf report, early release measures were introduced which led to some improvement in the level of overcrowding. However, most of these measures were reversed by the then home secretary, Michael Howard, marking the beginning of a rapid rise in the prison population that has continued to this day.

When the disturbances occurred in 1990 the prison population was 45,000; today it stands at over 84,000.⁴⁵ Between 2002 and 2014 the prison population rose by 14,291 (20%).⁴⁶ Average sentence length has also been increasing and is now three months longer than in 2004, with an average of 15.5 months.⁴⁷ England and Wales has the highest rate of imprisonment in Western Europe, imprisoning 149 people for every 100,000. This compares to 98 in France, and 76 in Germany.⁴⁸

Significantly more people are now sent to prison to serve indeterminate sentences with no idea when or if they might be released. There has been a doubling, from 9% in 1993 to 18% in 2014, of the proportion of the sentenced prison population serving a life sentence or indeterminate sentence for public protection (IPP).⁴⁹ Of the 4,894 people in custody at the end of December 2014 serving an IPP sentence, 3,608 (74%) remained in prison beyond their tariff expiry date, the minimum period they must serve in custody.⁵⁰ For those serving mandatory life sentences, the average time they spend in prison increased from 13 years in 2001 to 17 years in 2013.⁵¹

Increases in the prison population have not only been driven by longer sentences and increased use of mandatory penalties. The high numbers of people sent to prison on

remand continue to create significant demand for prison places. Remand prisoners account for 14% of the prison population.⁵²

In the 12 months to March 2014, there were 49,304 people remanded into custody to await trial.⁵³ Of these, 10,832 people (11%) were subsequently acquitted.⁵⁴ A further 16,024 people (16%) who were remanded into custody went on to be given a non-custodial sentence.⁵⁵

The problem of overcrowding reached crisis point in 2008, when, for the first time, the number of prisoners exceeded the supply of prison places. This required Operation Safeguard to be implemented, leading to prisoners being held in police and court cells until space became available. Between 20 November 2007 and 22 September 2008, Operation Safeguard was used on 22,748 prisoner nights, at an estimated average cost of £385 a night.⁵⁶ The total amount of payments from the Ministry of Justice to police forces in 2008 reached nearly £50m.⁵⁷

Rather than getting to grips with an over-reliance on custody, the trend has been for governments to try and cope with the demands of a rising prison population by building more prison places. This trend has continued under the coalition government. In the current spending review period, 2011-12 to 2014-15, the Ministry of Justice announced that a total of approximately £219m would be spent on new prison places.⁵⁸ As part of the government's prison modernisation programme 17 prisons have closed since 2010,⁵⁹ and two new prisons, HMP Thameside (capacity 900) and HMP Oakwood (capacity 1,605) opened in spring 2012.⁶⁰ Building is also underway to construct new houseblocks at HMPs Thameside, The Mount, Parc and Peterborough. They are all scheduled to be operational by April 2015.⁶¹ Work to develop a new 2,100-place prison in Wrexham, North Wales has also begun and is scheduled to be fully operational by late 2017.⁶²

Giving evidence to the justice committee, Steve Gillan, general secretary of the Prison Officers' Association, said:

...If you go back to a variety of inquiries and reports, such as the Lord Woolf report after the Strangeways riot, one of the recommendations from that was to make a prison rule that they could not go above the certified normal accommodation. The reality is that no government has ever implemented that, and we have what I call institutional overcrowding.⁶³

The experience of the past 25 years has shown that you cannot simply build your way out of an overcrowding crisis. In order to successfully reduce overcrowding, the government should curb the unnecessary use of imprisonment, curb sentence inflation and invest in effective community alternatives that command the confidence of the courts and public.

8. A public commitment from ministers setting a timetable to provide access to sanitation for all inmates at the earliest practicable date not later than February 1996.

Lord Woolf highlighted concerns that had already been raised by successive HM chief inspectors of prisons over the continued practice of slopping out. He said it was “uncivilised, unhygienic and degrading” and “a blot on our prison system...which undermines the justice of the sentence which prisoners are serving”. It was a concern shared by prisoners and staff; Lord Woolf argued it was extremely damaging to the morale of both, undermining the relationship between them.

Much of the prison estate was designed without integral sanitation in cells, and the Prison Service had begun to remedy this as part of a major building and refurbishment programme. However, the Prison Service stated that by the end of March 1990, only 53% of prison places would have access to sanitation facilities at night.⁶⁴ Increasing levels of overcrowding within the estate, with prisons holding two, or even three people in a cell designed for one, made the practice of slopping out even more degrading, increasing the sense of urgency with which it needed to be addressed.

During Lord Woolf’s visits to other prisons outside of the United Kingdom, with the exception of one segregation unit, he saw no other prison in which slopping out was used, and called for the practice to end.

On 12 April 1996, the then prisons minister, Anne Widdecombe, ceremoniously discarded the last plastic pot to mark the official end of slopping out. However, it is troubling to note that, to this day, not all prison cells have integral sanitation. In 2010 there were 1,973 prison places without in-cell sanitation or open access to toilet facilities.⁶⁵

Some existing prison accommodation poses significant challenges for retrofitting in-cell sanitation. HM Inspectorate of Prisons has continued to raise their objections about this situation along with the National Preventive Mechanism,⁶⁶ calling for appropriate solutions to be delivered. The problem has historically been more acute at night-time whilst people are locked in their cells.

Commenting on the problem in the inspectorate’s 2013-14 annual report, Nick Hardwick said:

We continued to find – and be critical of – ‘night sanitation’ systems in some prisons, such as Blundeston and Coldingley, where there were no in-cell toilets and prisoners used an electronic queuing system to access external toilets. These systems sometimes break down, leaving prisoners little option than to use buckets.⁶⁷

Reductions in staffing levels over the last four years have led to acute pressures in some prisons, with some introducing a 'restricted regime' to maintain security and order. Whilst these moves do nothing to improve opportunities for rehabilitation, they also restrict opportunities to use toilet facilities for those without in-cell sanitation.

This poses particular problems for the growing numbers of older people in our prisons. People aged 60 and over are the fastest growing age group in the prison population, with a 146% increase between 2002 and 2014,⁶⁸ making up 13% of the total prison population.⁶⁹ Many older people in prison experience problems with continence, which makes access to in-cell sanitation especially important. One older prisoner interviewed for the Prison Reform Trust's report 'Doing Time' explained:

*I have bladder trouble especially at night and I often wet my clothes and bedding. I am very embarrassed and don't want to be a nuisance. When I mentioned this to my officer he laughed and said that we all have problems like that as we get older. But now I'm wetting myself in the daytime too and can't get to the toilet...because it is locked. Some of the younger men and officers are teasing me.*⁷⁰

The introduction of equivalence of healthcare in prisons, with the NHS assuming responsibility in 2006, saw welcome improvements in prisoners' access to medical treatment. Similarly, the Care Act 2014 has at long last enshrined equivalence of social care in law, with local authorities ultimately responsible for ensuring that the social care needs of people in prison are met. The Act will place a duty on staff to make reasonable adjustments in order to meet prisoners' social care needs. It is hoped this change will act as a catalyst to consign the degrading practice of slopping out to the history books once and for all.

9. Better prospects for prisoners to maintain their links with families and the community through more visits and home leave and through being located in community prisons as near to their homes as possible.

Lord Woolf recognised the critical role that families can play in helping to keep people in prison motivated, preparing and supporting them on release and encouraging them to desist from crime. Despite the importance of maintaining ties with families and loved ones, many prisoners submitting evidence to the inquiry had commented on limitations to visits, letters, calls and home leave. The Prison Service acknowledged these concerns and said that more should be done to strengthen arrangements for maintaining ties. Giving evidence to the inquiry, it said, "Inmates generally prize visits above all other privileges".⁷¹

The report recommended that the visiting allowance be increased to at least one visit each week for convicted prisoners. Lord Woolf asserted that, for people held in prison, visits were a right, not a privilege. This is especially important for people who are on remand, and presumed innocent until proven guilty.

The large distances people are held from home and the associated travel costs are a significant barrier for many people hoping to regularly visit a loved one in prison. The report commended the expansion of the assisted prison visits scheme, which helped to cover the costs of visits for families requiring financial assistance.

The importance of maintaining family ties remains just as relevant now as it did at the time of the Woolf report. People still rely on and need the support of their loved ones whilst they are in prison and also on release. A recent criminal justice joint inspection report on the resettlement of adult offenders found “the central importance of an offender’s family and friends to their successful rehabilitation...this inspection confirmed our view that an offender’s family are the most effective resettlement agency.”⁷²

An increasing prison population, and a prison estate often dispersed in remote locations which are challenging to access without a car, continue to make visiting people in prison difficult. Unfortunately, visiting people in prison is still extremely restricted, with convicted prisoners entitled to at least two, one-hour social visits in every four week period. Whilst the visit duration has increased from the entitlement to “at least 30 minutes” when the Woolf report was published, this is still far too limited for many.

The government’s new for old prison building programme has accelerated the trend of prisons getting fewer and larger, through the building of new jails, increasing the number of places in existing establishments and the closure of smaller local prisons. This has increased the average distance which prisoners are held from home, adding to the difficulties of maintaining contact. In 2009, the average distance from home for men was 50 miles.⁷³ For women, the average distance was 60 miles.⁷⁴

Despite this, the Prison Service has made positive changes for visitors over the last ten years, with visits and family contact recognised as an important part of rehabilitation. This includes the introduction of a more sensitive policy on ‘reasonable physical contact’ between prisoner and visitor. Unless it is a closed visit, or there are individual security restrictions, visitors should be able to embrace the person in prison at least at the start and end of the visit. In addition, when young children are visiting, they should be allowed a greater level of contact with their family member. If prison staff need to restrict any contact between the person in prison and the visitors, the reasons why should be explained, unless there are good security reasons not to do this.

A greater emphasis on trying to help families to maintain links has seen the development of family days and visitors’ centres. The days provide a more relaxed and informal environment for prisoners to spend time with their families. There are often fewer restrictions than during regular social visits, allowing prisoners to get up, interact and play with their children. Visitors’ centres vary considerably, but aim to provide assistance and support outside of the prison gate.

As one prison visitor said at an event hosted by the Prison Reform Trust:

*It's a facility where independent, well-trained and caring staff can attempt to breach the barriers between the Prison Service and the visiting public. Somewhere that can answer the many questions that continually arise, to be sympathetic to our problems and even to provide practical help wherever possible.*⁷⁵

Telephones are also more widely available within prisons since the publication of the Woolf report. Whilst for many people in prison phones are only available on wing landings, some newer prisons such as HMP Oakwood have phones in prison cells. This can help to alleviate the problem on prison wings of lots of people wanting to use the phones at the same time. However, regime restrictions, owing to staffing shortages, have resulted in prisoners being locked up in their cells before their family gets home to take a call. Despite a successful super-complaint to OFCOM taken by the National Consumer Council and the Prison Reform Trust, call costs for prisoners remain disproportionately high; this is particularly acute given the extremely low wages which prisoners are able to earn whilst in work.

The criminal justice joint inspection report was critical of the lack of involvement of prisoners' families in resettlement work or sentence planning reviews at prisons. It said this was a missed opportunity to provide support and be involved in planning for release:

*Helping offenders maintain or restore relationships with their family and friends, where this is appropriate, should be central to the resettlement effort. But too often, these relationships are seen simply as a matter of visits which may be increased or reduced according to an offender's behaviour. We were told that offenders were able to maintain contact with their family, partners and/or friends via telephones on the wing, letters and visits held at the prison. However, this is dependent on access to telephones, offenders having money to make calls and whether an offender is held close enough to their home area to make visits viable.*⁷⁶

This mirrors findings from the 2010-11 HM chief inspector of prisons annual report which found that an average of 40% of prisoners reported difficulties with sending or receiving mail, and around a quarter of prisoners reported difficulty in accessing telephones.⁷⁷

Recent restrictions on the use of release on temporary licence (ROTL) are likely to have limited opportunities for family contact. ROTL can enable people in prison to establish contact with families, as well as sort out jobs and housing prior to release, all of which help them to reduce their risk of reoffending. There were 484,951 incidents of ROTL in 2012; just 26 resulted in an arrest for a suspected further offence.⁷⁸ The government has conducted a review into ROTL following three tragic incidents involving people on temporary release in the summer of 2013 and a small number of high profile absconds from open prisons in 2014. The latest Ministry of Justice statistics show that the number of releases on temporary licence has decreased by nearly one quarter since 2013.⁷⁹

Changes to the incentive and earned privileges (IEP) scheme, particularly the ban on prisoners receiving parcels including books and other basic items, have also had a significant impact on the level and quality of family contact. A mother of a prisoner spoke about the impact of the ban at a meeting of the all party parliamentary penal affairs group:

*We have heard a lot about the ban on books in recent weeks. But this is the one tangible link you can have with your family:... 'I thought you might enjoy this – I did' or 'a few crosswords to keep you busy'. This prohibition isn't only about reducing opportunities for learning. It also removes the last possibility of a gift, a tangible piece of human warmth.*⁸⁰

Around 70 establishments have been designated as “resettlement prisons” under the government’s transforming rehabilitation programme. These are intended to hold prisoners coming to the end of their sentences to help them prepare for release as near as possible to their local area. Whilst any attempt to reduce the distances people are held from home and their families is to be welcomed, it is unclear what the expectations will be for the remaining prison estate which doesn’t have a specified resettlement focus.

While significant improvements have been made since the publication of the Woolf report to enable people in prison to maintain contact with families, including the greater involvement of voluntary organisations, the central importance of families to successful rehabilitation and resettlement is still not sufficiently recognised in prison policy. The criminal justice joint inspection report called for the development of “a national strategy...to better help offenders maintain and repair relationships with their families and, where appropriate, involve the family and friends of offenders in the rehabilitation process.”⁸¹

10. A division of prison establishments into small and more manageable and secure units.

Lord Woolf said the disturbances highlighted the need to reconsider the size of existing larger local prisons, many of which were overcrowded. He recommended that prisoners should be accommodated and managed in units containing 50-70 people, and that larger wings be divided to achieve this. He stated that prisons should not hold more than 400 people, but recognised there may be instances where this is unavoidable given existing accommodation.

These figures were based on evidence submitted to the inquiry from criminal justice experts and practitioners from the United Kingdom and abroad. It suggested that if the proposed figures were exceeded, there would be a marked drop in all aspects of the performance of a prison. Lord Woolf believed that prisons and units established in accordance with his recommended figures “should enable good relations to be maintained between staff and inmates, a constructive regime to be provided, and proper and effective management of the prison as a whole to be maintained, at a reasonable cost.”⁸²

Lord Woolf's view is supported by evidence published by the Prison Reform Trust in 2008, based on data provided by HM Inspectorate of Prisons. It showed that smaller prisons tend to be safer and more effective than larger establishments, holding people closer to home and with a higher ratio of prison staff to prisoners.⁸³

With the continued growth in supersized prisons and significant budget cuts placing pressure on the National Offender Management Service (NOMS) to drive down the costs of imprisonment, Lord Woolf's recommendation for smaller community prisons and secure units remains highly relevant today. Despite some early encouraging signs, a rapid expansion in the prison population has meant that successive governments have failed to curb the growth in the size of establishments.

The last Labour government abandoned plans for "Titan" prisons, which were intended to hold up to 2,500 prisoners each, but continued to build new prisons and create new capacity. Recent prison building has led to a growth in supersized prisons, with a concerted drive to close small community prisons, build larger jails, add additional capacity to existing establishments, and create "clusters" of prisons under the leadership of a single governing governor.

Nearly half of people in prison in England and Wales could be warehoused in 1,000-plus supersized prisons under government plans. On current trends the proposed changes will result in around 38,000 people held in 30 supersized prisons across the country. This represents nearly half of the total number of people in prison in England in Wales.

Of the 84,000 people in prison today, more than 36,000 are held in establishments of 1,000 or more – 43% of the total prison population. The number of supersized jails has nearly trebled in the past decade with 33 out of 118 prisons in England and Wales currently holding over 1,000 men.⁸⁴ In 2003, only 10 prisons had numbers of over 1,000 holding 17% of the total prison population.⁸⁵

As part of the government's prison modernisation programme, 17 prisons have closed since 2010,⁸⁶ two new prisons, HMP Thameside (capacity 900) and HMP Oakwood (capacity 1,605) opened in spring 2012.⁸⁷ Building is also underway to construct new houseblocks at HMPs Thameside, The Mount, Parc and Peterborough. They are all scheduled to be operational by April 2015.⁸⁸ Work to develop a new 2,100-place prison in Wrexham, North Wales has also begun and is scheduled to be fully operational by late 2017.⁸⁹

HMP Northumberland is a cluster, bringing together two neighbouring prisons HMPs Castington and Acklington, with a total population of 1,333.⁹⁰ A recent report by HM Inspectorate of Prisons on HMP Northumberland found that safety had declined with 20% of prisoners saying that they felt unsafe, and activity places available for only 75% of the population.⁹¹

Another inspectorate report on HMP Nottingham, which holds over 1,000 people, found that the prison was not safe enough and that conditions were poor. Outcomes for prisoners were rated “poor”, the worst assessment inspectors can give, across three of the four tests of a healthy prison. Almost 40% of prisoners reported victimisation by other prisoners; levels of violence, including assaults on staff and prisoners, were very high and staff shortages meant that around half of prisoners were locked up in their cells doing nothing during the working day.⁹²

The National Audit Office found that NOMS is increasing the average size of prisons principally on the basis of economies of scale. The report highlighted statistical analyses which indicate that smaller prisons, on average, are more conducive environments for working with prisoners and that prisoners in small prisons are consistently more positive than those in larger ones, taking into account factors such as the quality of relationships prisoners form and the levels of professionalism, safety and security.⁹³

11. A separate statement of purpose, separate conditions and generally a lower security categorisation for remand prisoners.

The Woolf inquiry found that remand prisoners played a significant part in the lead up to the disturbances. The significantly poorer conditions in which they were held led to a widespread perception of injustice among remand prisoners. Lord Woolf was critical of the Prison Service’s statement of purpose, as it made no reference to the fundamental distinction between remand and convicted prisoners – that they are presumed innocent until proven guilty. Conditions for remand prisoners were often worse than for sentenced prisoners. Lord Woolf argued that, if regimes needed to be of a different quality between remand and sentenced prisoners, then the remand regime should be better.

Lord Woolf was also concerned at the length of time people were spending in custody on remand. The report found that the growing remand prison population was not the result of more people entering prison on remand; but that more committals to crown court were leading to an increase in the amount of time they spent in prison awaiting trial. Although remand prisoners are subject to fewer restrictions than sentenced prisoners, the effects of any period of imprisonment are still severe, including the loss of employment, accommodation and family breakdown.

Lord Woolf made a number of recommendations to reduce the remand population. These included only using remand in circumstances where it was likely that a custodial sentence would be given if the person was found guilty; that there should be strict limits on the length of time a person could be held on remand; that people should be given greater access to bail information schemes and that the building of bail hostels should be accelerated.

For those who needed to be remanded to custody, Lord Woolf recommended that they should be accommodated in separate prisons or separate units which were treated as separate prisons, in line with stated Prison Service policy and international agreements.

The remand population has remained relatively stable since the publication of the Woolf report, and there has been a slow decline over the last six years. However, numbers still remain too high, with many remand prisoners going on either to be acquitted or receive a non-custodial sentence. On 30 November 2014 the remand prison population was 12,335, accounting for 14% of the total population.⁹⁴ In the 12 months ending March 2014, 63% of people received into prison on remand awaiting trial were accused of non-violent offences.⁹⁵ During the same period, 10,832 people (11%) remanded in custody were subsequently acquitted, and a further 16,024 people (16%) went on to be given a non-custodial sentence.⁹⁶

Research has found that remand disproportionately affects the women's prison population, with a higher proportion held on remand than men. In September 2014, the proportion of women in prison on remand was 18%, whereas for men it was 14%. In 2009, women on remand spent an average of four to six weeks in prison; of these women over half did not go on to receive a custodial sentence.⁹⁷

In order to try and reduce the high number of people on remand, the government introduced the 'no real prospect test' in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. This created a presumption against remanding a person to custody if the offence of which they were accused was unlikely to attract a custodial penalty. Whilst the enactment of the provision saw an initial fall in the remand population, the impact was short lived, lasting around a year before figures spiked sharply and returned to their pre-LASPO level. The reason for this is unclear, and is currently the subject of a Ministry of Justice investigation.

Efforts to speed up and increase efficiencies in the criminal justice process led to the abolition of committal hearings at the magistrates' court in May 2013. This has meant that many cases are sent straight to the crown court as soon as it is clear the matter is serious enough, rather than having to await a committal hearing in the magistrates' court beforehand.

Time on remand for cases heard at the crown court has remained relatively stable, around nine weeks for triable-either-way cases, and 15 weeks for indictable cases.⁹⁸ However, following the abolition of committal hearings, there has been a sharp rise in the number of outstanding cases in 2014. This has had the effect of increasing the average length of time spent on remand, currently standing at nearly 12 weeks for triable-either-way cases.⁹⁹ If this trend continues, it will place greater strain on the prison system, with a greater proportion of prisoners held on remand, and a corresponding rise in the prison population.

Current policy on how to accommodate remand prisoners and sentenced prisoners is confusing and subject to local arrangements. This is despite national and international prison rules on the separation of remand and sentenced prisoners. Rule 7 of the Prison Rules states: “(2) Unconvicted prisoners shall be kept out of contact with convicted prisoners as far as this can reasonably be done.”

Furthermore, Rule 3 of the European Prison Rules states: “In principle untried prisoners shall be detained separately from convicted prisoners unless they consent to being accommodated or involved together in organised activities beneficial to them.”

Rule 8 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states: “(b) Untried prisoners shall be kept separate from convicted prisoners.”

HM Inspectorate of Prisons has found significant variation in how the rules are implemented, and that pressure on prison places and the turnover of prisoners makes complete separation problematic. In its thematic report on remand prisoners, published in 2012, the inspectorate revealed:

There is significant variation among local prisons in how they accommodate unconvicted prisoners, as Prison Service policy permits discretion to governors in deciding how to manage this. Some prisons continue to have designated wings allocated to their unconvicted population, and at others there is no distinction based on sentence status and all prisoners are mixed.¹⁰⁰

Many remand prisoners interviewed felt that staff didn’t make enough of a distinction between them and sentenced prisoners:

Prisoners in groups described staff as unaware and insensitive to the needs of remand prisoners undergoing a trial. As a consequence of being on mixed wings, some prisoners felt staff were not able to distinguish remand from sentenced prisoners.¹⁰¹

Remand prisoners have the same need for support as convicted prisoners. Remand prisoners are entitled to support with keeping their home, their job and staying in touch with their family, but very often don’t receive it. Despite legal entitlements including additional visits, the continuation of housing benefits payments, the right to support for maintaining business interests, and the right to vote, the inspectorate found that many prisoners and even staff were unaware of this.

The introduction of offender management and sentence planning has meant that limited resources are often targeted towards sentenced prisoners. Recent cuts to prison staff and budgets have intensified the trend to focus resources on sentenced prisoners who qualify for offender management. The inspectorate found that:

There continued to be little custody planning for prisoners on remand or short sentences...we found considerable variations in practice and effectiveness, particularly at local establishments holding remand prisoners.¹⁰²

The incentives and earned privileges (IEP) scheme has a disproportionately negative impact on people held on remand. Remand prisoners can often find it hard to get onto the highest level of the scheme, 'enhanced' status, as they don't always have the chance to show repeated good behaviour. This can have an impact on the access of remand prisoners to specific privileges, for instance the length of time you can have outside of your cell during the day. The iniquities of the scheme highlight the need for a separate regime for remand prisoners, who are innocent until proven guilty, and who should not be subject to the same requirements and restrictions as sentenced prisoners.

Another problem faced by remand prisoners is the lack of support when leaving prison. Someone can be found guilty at court and get a sentence but find that they have actually served this time on remand already. If their sentence is 14 days or over, they should be entitled to get a discharge grant (£46) and a travel warrant from the escort staff in the court. However, if they are acquitted, and therefore found not guilty, whilst on remand then they receive no discharge grant and rarely any compensation whatsoever. Furthermore, despite the extension of supervision and support for people serving prison sentences of under 12 months under the provisions of the Offender Rehabilitation Act 2014, no such support exists for people released from remand. Remand prisoners also have resettlement needs, including accommodation, employment and financial support, but they have no automatic entitlement to it.

12. Improved standards of justice within prisons involving the giving of reasons to a prisoner for any decision which materially and adversely affects him; a grievance procedure and disciplinary proceedings which ensure that the governor deals with most matters under his present powers; relieving Boards of Visitors of their adjudicatory role; and providing for final access to an independent complaints adjudicator.

The inquiry found that an abiding sense of injustice amongst prisoners contributed to the disturbances. A shared sense of unfairness helped the disturbances not only to start but grow and increase in seriousness. Lord Woolf concluded that, without sufficient outlets to voice their grievances, prisoners had turned to more drastic and direct action.

Lord Woolf said that it was important that there were systems and structures in prisons to ensure that "justice does not stop at the prison door". Ensuring that there was access to redress and an effective complaints system was vital in order to challenge decisions or actions believed to be unfair. Strengthening these systems would also benefit the Prison Service by improving decision making amongst staff, ensuring that their actions were not arbitrary, and that they could be fully justified. Lord Woolf said:

*The need to give reasons can reduce the risk of abuse and help to resolve any doubt in the prisoner's mind about whether an issue has been properly considered.*¹⁰³

The inquiry also recommended that there should be an independent adjudicator who would provide the last avenue of appeal, having the final say on complaints brought before them. The procedures that existed during the disturbances lacked the confidence of prisoners. Complaints were not subject to independent review or arbitration, and the power of remedy lay solely with the governor and home secretary. Lord Woolf said:

*A system without an independent element is not a system which accords with proper standards of justice...It [an independent adjudicator] would give the whole system a validity which it does not otherwise have. It would act as a spur to the Prison Service to maintain proper standards. It would encourage the resolution of difficulties in advance of an appeal.*¹⁰⁴

Despite the important part which Boards of Visitors (BoVs), now Independent Monitoring Boards (IMBs), play as impartial, outside observers on prison conditions, the inquiry found a potential conflict of interest in their role. Their responsibility as monitors, or “watch-dogs” as Lord Woolf termed them, was at risk of being undermined by their additional function as adjudicators in prisoner disciplinary cases. Cases could be passed up to them from the prison governor. Lord Woolf argued that, because BoVs also conducted adjudications, they were seen as neither fair nor impartial in either of their roles. Whether justified or not, it is essential that disciplinary proceedings are seen to be fair, that reasons are given, and that they hold the confidence of prisoners.

Lord Woolf found that there was a general expectation amongst BoV members that they should find charges against the prisoner and that the penalties imposed should exceed the maximum that could be passed by the governor. This was particularly concerning as their powers to impose additional days in custody were beyond those of the magistrates’ court. They were calculated by the Prison Service to have had a significant impact on the prison population - adding the equivalent of 600 to 700 people to the annual average prison population in 1988.¹⁰⁵

The inquiry recommended that, if such significant penalties were required, then there should be a distinction between disciplinary proceedings and criminal proceedings, the latter being subject to the safeguards of criminal law. The report recommended that disciplinary procedures should be overseen by a complaints adjudicator who would act as a body of final resort for appeal.

Many of these recommendations put forward by Lord Woolf have been either achieved or partially achieved since the report was published. Independent Monitoring Boards no longer have an adjudicatory role. Whilst governors still routinely chair disciplinary proceedings, if a charge is serious enough to warrant the imposition of extra days then

the case may be referred to an independent adjudicator. Independent adjudicators are magistrates who attend prisons to conduct disciplinary proceedings. Their rulings are based on a criminal standard of proof, as Lord Woolf advocated.

Speaking at a lecture hosted by the Prison Reform Trust, 10 years after the publication of the report, Lord Woolf called for the appointment of a president of Independent Monitoring Boards in order to raise the standing of boards and promote the important work that they do, particularly to the Home Office and Prison Service.¹⁰⁶ Such a role has since been created, however there still remain challenges in ensuring that the voice of Independent Monitoring Boards is heard, and that their findings, published in an annual report for each establishment, lead to meaningful changes inside prison. Some members have spoken publicly of their frustrations that recommendations are repeated and yet not acted on by prison staff.

Since the Woolf report, significant progress has been made in consulting prisoners about many aspects of prison life. Prisoner representative roles encompass prison councils, diversity and equality representatives, suicide prevention committees, violence reduction representatives, among others. Topics that prison authorities discuss with prisoners include: activities, regimes, work, education, rehabilitation, visits, diet, religious observance, race equality, drug treatment, discipline, and others. Consultation has given prisoners opportunities to voice their concerns, to feel that they are listened to, and to link their input into changes when they occur. It's a two-way process, which also gives the prison authorities a channel to articulate the reasoning behind decisions that are all-too-often opaque to prisoners. There is however a long way to go before prisoner consultation reaches anything like the standards of patient consultation in most hospitals and health centres.

In his election speech in 2011, the chair of the prison council at HMP Maidstone said:

*No matter what crime you commit;
no matter where you come from;
no matter what race you're from...*

We are all in this together, to make this a better prison for us. So we can work together. So we can be proud of our prison. So one day, when we are out there, and we see the prison, we can say, "Yes, I was there and we had a good relationship."

It is about building our life and our trust. We got children, we got families outside, that depend on us; that are suffering because we are in prison. It is not only us who are feeling it. People outside are feeling it more than us. So far that reason we should use this prison, a place to get our lives back together, so that we can go out there and be better in our society.¹⁰⁷

The Prisons and Probation Ombudsman was established in 1994, following Lord Woolf's recommendation, but is yet to be placed on a statutory footing. It now has a remit beyond what was originally anticipated. It investigates not only complaints from prison, but from those on probation supervision and immigration detention. Its role has also been expanded to include investigations into all deaths in prison, probation approved premises, immigration detention facilities and secure training centres. Such additional responsibilities inevitably place heavy demands on the ombudsman's office and its resources, particularly with an increasing prison population. This problem is only exacerbated if the complaints system and dealing with grievance is inadequate.

Giving evidence to the justice committee inquiry into prisons: planning and policies, the current ombudsman, Nigel Newcomen said:

We have had a 35% increase in independent complaints in the ombudsman's office, having already gone through the internal complaints process...I get a lot of complaints about the complaints system. I know that the inspectorate, when it surveys prisoners, finds that there is lack of confidence in the complaints system...Complaints in prison have a fundamentally important role in easing tensions and allowing people to feel that they are being treated justly. The independent element externally does that as well, and the IMB provide another level, but it is fair to say that it is not a subject of great confidence among prisoners. If it lacks confidence it will add to frustrations, and if it adds to frustrations that adds to problems for the prison itself.¹⁰⁸

Prisoners who have exhausted all other avenues of redress have previously had the option of applying for judicial review of breaches of prison rules. However, in December 2013, the government removed the option of legal aid for prisoners seeking to undertake a judicial review. The provisions of the Criminal Justice and Courts Act 2015 have also imposed tighter restrictions on applications for judicial review. Closing this avenue off is particularly concerning when it could affect a decision regarding the continued deprivation of their liberty. This makes it all the more important that safeguards are in place to ensure that our prison system is fair, decent and open to legitimate challenge.

Conclusion

Measuring progress against Lord Woolf's recommendations reveals a prison system that has made heroic strides in some areas and worrying lapses in others. Chronic overcrowding driven by a near doubling of the prison population over the past two decades continues to undermine standards of decency in prisons and restrict opportunities for rehabilitation. Successive governments have poured taxpayers' money into expensive prison building programmes while closing smaller prisons and opening supersized prisons in order to meet the demands of a growing prison population. More than four in 10 prisoners are now held in establishments of 1,000 places or more, despite Lord Woolf's call for prisons to be no larger than 400 places to maintain an acceptable level of performance.

Recent moves to cut costs and maximise efficiencies have led to a dangerous reduction in staff numbers and plummeting workforce morale. Punitive changes to prison policies including the incentives and earned privileges (IEP) scheme and disproportionate restriction on the use of release on temporary licence (ROTL) have led to a growing sense of grievance and injustice among prisoners. These trends are pointed to by the justice committee in its recent report on prison planning and policy as significant factors behind the recent deterioration in safety in prisons in the past two years.

Remand prisoners continue to be held in conditions unsuited to their innocent until proven guilty status and their additional entitlements often go unrecognised and unmet by prison regimes. With the growth of large multi-purpose establishments, other vulnerable groups including young adults are increasing mixed in with the adult sentenced prison population without sufficient provision for their distinct and separate needs.

While the past 25 years have seen improvements to the management of the Prison Service along the lines Lord Woolf envisaged, the criminal justice system as a whole still suffers from a lack of effective coordination, leadership and accountability. This is despite some positive moves to improve cross-government working through the expansion of liaison and diversion services and the troubled families programme. Prison governors' discretion over the running of establishments is increasingly compromised by ministerial interference in operational matters, cost cutting and changes to the commissioning of justice services.

Improvements to the arrangements for family contact still do not go far enough in recognising the central importance family plays in effective rehabilitation and resettlement; while the growth of supersized prison and the closure of smaller establishments have compromised closeness to home and the emphasis placed by Lord Woolf on the importance of small community prisons. Although the official end to

“slopping out” was announced nearly 20 years ago, parts of the prison estate still suffer from a lack of in cell sanitation. A rapidly aging prison population underlines the urgent need to ensure equivalence of social care for people in prison.

Arrangements for monitoring prison performance could be improved by more robust and comprehensive standards and a truly independent prisons inspectorate accountable directly to Parliament. A better system for handling prisoners’ complaints, improvements to the adjudication process and the appointment of a prisons ombudsman have helped to ensure appropriate avenues of redress; but at the same time restrictions on legal aid and judicial review have undermined the civil rights and legal protections afforded to people in prison.

Lord Woolf’s report was published in response to serious riots and disturbances across the prison estate. However, many of the factors identified as contributing to the disturbances have resurfaced today. The justice committee’s recent report offers a powerful indictment of complacency in the face of rapidly deteriorating standards and safety in our prisons. It reveals a dramatic increase in serious assaults and acts of concerted indiscipline, a rise in self-inflicted deaths and self-harm, a fall in rates purposeful activity, and a Prison Service struggling to maintain basic standards of safety and decency in the face of dangerously low staffing levels.

The echoes of Lord Woolf’s report can be heard in the committee’s insistence that a decent, humane prison system must be underpinned by an experienced and valued workforce, proper discretion for prison governors, an end to ministerial interference in operational matters, a halt to chronic overcrowding and a truly independent prisons inspectorate.

The committee has called for an urgent debate on the use of prison and alternatives to custody and warns of the “very real danger of unmanageable growth in the prison population that will prevent prisons from reducing future crime.”¹⁰⁹ An incoming administration in May 2015 must not accept this deterioration in prison standards and conditions as the new normal. Restoring prison to its proper function as an important place of last resort in a balanced justice system is the basis on which to create a just, fair and effective penal system.

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The Strangeways prison riot, which began on 1 April 1990 and lasted 25 days, leaving two men dead and 194 injured, was one of the most serious in British penal history. On 6 April 1990, the then home secretary, David Waddington, appointed Lord Woolf, now chairman of the Prison Reform Trust, to head an inquiry into the disturbances and to consider the wider implications for the prison system.

This briefing highlights the legacy of the report in establishing the fundamental principles of fairness and justice in our prisons. Using Lord Woolf's original 12 main recommendations, it commends progress made over 25 years, emphasises the importance of further reform and highlights areas where painstaking advances have been reversed.