Almost exactly nine years ago, I sat in this audience as David Ramsbotham delivered his final lecture as Chief Inspector, and realised, with considerable trepidation, what I had to follow. I don’t know whether David found it as difficult as I do – because there is only a certain number of things that you can say about prisons, and I feel that I have said most of them, more than once, and quite possibly to many of you; but also because it will be my last speech as Chief Inspector, and that will be a real wrench, for it is the best job I could think of.

Leaving a job inevitably reminds you of starting it – and those first impressions, of a new and unique environment, are important: not only as a benchmark for what has happened since, but also as a warning against the process of normalisation that can infect even independent inspectorates, steeped in the operational realities of prisons and detention.

My first two introductory visits, on consecutive days, were to Whitemoor and Birmingham. There could not have been clearer examples of what the Prison Service could do well, and what it was doing badly. Whitemoor, in the wake of the inquiries that followed the disastrous escapes, was part of a very well-resourced and well-managed high security estate. It had been described by the Inspectorate as full of ‘innovation and good practice’. It was a clean, well-ordered environment, with masses of investment – of technology, people and equipment. Two things stood out during that visit. The first was that, because there were problems with the water supply that day, so that outside exercise and PE had to be curtailed, a note was put under each prisoner’s door to explain this, and the timing of re-connection. Communication with prisoners was seen as essential to preserving good order and stability. The second was the newly-opened DSPD unit, a calm and extremely well-resourced environment for severely personality disordered men, brimming with mental health and psychology professionals and specially trained and eager prison staff – considerably more than there were prisoners.

Birmingham was a different experience: a large Victorian local prison, with a transitory, low-risk population of short-sentenced or remanded prisoners, and a
disengaged staff group. It was described in the Inspectorate’s 2000 report as ‘appalling, depressing and disturbing’. Neither prisoners nor staff acknowledged our presence as we walked around. Prisoners had no idea what, if any, regime they would get from day to day – except that in most cases it would amount to 23 hours in a cell. The then governor was struggling to turn around a staff culture that had regarded happiness as door-shaped, and he still had a lot to do. In a memorable phrase, he described his task as like pulling on an elastic band – once you let go, stopped micro-managing, it sprang back to its restricted original shape. We went into the so-called healthcare centre. It was a dark and dingy corridor, either side of which were cells in which seriously mentally ill prisoners were shouting, banging or moaning – while one over-stretched mentally health trained nurse, largely disregarded and even undermined by the uniformed staff around, tried to offer professional care. Had you not been mentally disordered when you were admitted there, you would soon have been. Patients needing to be transferred to NHS facilities could wait months for this to happen. In another part of the prison, primary healthcare was represented by a closed door, behind which sat a medical officer who was out of registration and therefore not allowed to practise – but still being paid.

There were other contrasts in those early weeks – one week, inspecting Leyhill open prison, in its expansive grounds, many of whose prisoners worked outside the prison and some of whom soon after won the popular prize at the Chelsea Flower Show and met the Queen. The next, going to Dartmoor – the prison that time forgot, with an outdated culture of over-control and disrespect for prisoners. Its segregation unit had a caged cell (referred to by staff as the Hannibal Lecter suite) where suicidal prisoners could talk through a Perspex screen to those offering them support. We were told it was unsafe to enter the prison corridors while prisoners were moving. Yet Dartmoor, in spite of its history and forbidding buildings was and is a low-security prison, whose prisoners would mostly either be released – or go to Leyhill. There could not have been a clearer example of how institutions, institutional memory, and staff convenience, define and reinforce culture.

Finally, memories from a woman’s prison. At Styal, I recall sitting in on a disciplinary hearing on a young woman diagnosed with paranoid schizophrenia, whose medication had been reduced and whose psychiatrist was on leave. She said
that she became anxious and distressed - ‘out of my head’ - in between medications. At such a time, she had refused to come in off the prison yard. The governor, a kindly woman, asked ‘And what did you hope to achieve by that?’ A second young woman under adjudication had a long history of substance abuse – she had been on Valium, for head-banging, since she was nine – and had scars all the way up her arms. That was a powerful introduction to the experience of women in prison – as was the comment of the governor that she was now locking up the children of women she remembered as prisoners – a somewhat different definition of a mother and baby unit. Styal, of course, was the prison where a little later six young women died in the space of 18 months, all of them in the early days of custody and all of them with substance abuse problems.

So, a hugely varied system, with a wide range of people, from the very vulnerable to the extremely dangerous, having come through a decade of focusing on risk and security, and uncertainly embracing a more recent focus on the need for decency and culture change – stung by the murder of Zahid Mubarek at Feltham, a high and rising suicide rate, and the pervasive negative cultures in many large local prisons, where little happened or was expected to.

Fast forward then to 2010 – how have things changed, and what does that tell us about prisons, their progress and weaknesses and the penal policies that have underpinned this?

Birmingham holds nearly half as many prisoners again as it did in 2000. But it does so in a much-improved environment and nowhere are those improvements more obvious than in healthcare. There is a new, purpose-built healthcare centre, staffed by healthcare professionals, commissioned by the primary care trust, managed by a nurse director, and locked into external systems of clinical governance, supervision and training. Our last inspection found a dedicated primary mental health team, dealing with 200 referrals a month, an on-site mental health in-reach team, supported by two full-time psychiatrists, providing secondary mental healthcare to 60 patients, and a very good daycare centre. The average waiting time for transfer to specialist NHS mental health services was four to six weeks. That is a reflection of the changes made throughout the prison system since the commissioning, funding and support for
healthcare transferred to the NHS, with the aim of providing equivalence of care to that outside prisons.

But the problem is that there is not equivalence of need. The clue is in the numbers – those 200 primary mental health referrals a month, 60 prisoners with severe and enduring mental health needs. Nor do all prisons have such supportive and engaged primary care trusts. Routinely, inspections find gaps in primary mental health services, and severely overloaded secondary services. Overall, our mental health thematic report in 2007 found that four out of five mental health in-reach teams felt that they were unable to respond adequately to the scale, range and complexity of need they discovered when they went into prisons.

The amount, and quality, of activity at Birmingham had also measurably improved by 2009. Two-thirds of prisoners were able to access activities, a third of workplaces provided vocational training – ranging from radio production to forklift truck driving – and there were over 200 good quality education places. In general, as with healthcare, prisons have benefited from both ring-fenced external resources and professional expertise. Education and training have been funded through learning and skills councils, contracted out to FE colleges, managed by heads of learning and skills, inspected with us by Ofsted to the same standards as those outside. In 2002-3 education inspectors found that 78% of all education provision was inadequate: by 2008-9 this was only 6% (two prisons).

But in general it is the quantity, not just the quality, of activity that is the main problem. Birmingham is one of the more active local prisons, but even there we found one in four prisoners unoccupied. More recently, at Norwich, half the prisoners were locked up during the working day, and there were few, and very low-level, vocational training opportunities. Though it is rarer, we still find workshops where prisoners are engaged in repetitive and mundane tasks which do nothing to meet their educational deficits and lack of work experience, and which simply send the message that work is boring and largely to be avoided – only recently we inspected a so-called training prison where the only skill being learnt, in an under-employed and unskilled packing shop, was poker. Overall, we assessed only four out of 21 training prisons last year as providing enough good quality work and training, and two were actually
poor. Most have expanded hugely over the last nine years – some have doubled in size – and the resources, spaces and scope of activity have struggled to keep pace with this rise. Once again, the clue is in the numbers.

There has also been progress in other key areas. In 2001, resettlement work in prisons was an optional add-on – provided, usually at governor’s whim, if there was a self-funded voluntary sector organisation or a time-limited grant from the European Social Fund. Nine years on, resettlement, or its somewhat smaller shadow, reducing reoffending, is clearly part of core business. That includes not just specifically offence-related interventions but also resettlement ‘pathways’ that recognise that these are people, not just ‘offenders’ and aim to provide what people need to thrive – jobs, homes, family support, the ability to manage money.

Yet all of this work depends crucially not only on what happens in prisons, but on what happens – or fails to happen – next. And progress here is harder and much more fragile. It is harder partly because of the distance from home of many prisoners, particularly women and young people. In one recent women’s prison, one in five women, and more than one in three young adults were over 100 miles from home. But there is also the disconnect between the hopes and expectations that may, with luck, have been engendered in prison and the reality of the world to which prisoners return. Prisoners may leave prison with their first certificated achievements, with some low-level but much-prized vocational qualification, with the promise of a job-centre interview or a hard-to-let flat. But, particularly for those serving short sentences, there is little to help them cope with the inevitable rebuffs and problems when they return to the real world. A great deal of effort is put into meeting fairly crude resettlement targets, yet there is no proper evaluation, or links, to find out when and whether this works.

In another important area, suicide rates in prisons have declined appreciably since 2004, from a peak of 95 a year (133 per hundred thousand prisoners) to 60 (72 per 100,000) since 2008. There have been a number of factors: improved first night support systems in many prisons, including Styal; much better clinical support for the high proportion of prisoners arriving with substance misuse problems; improved mental health services for some of the most vulnerable; internal support systems that
aim – even if they do not always succeed – in providing tailored, structured, multi-
disciplinary support for the most vulnerable. Yet the incidence, as well as the
prevalence, of suicides is still a cause for considerable concern. Half of self-inflicted
deaths last year were among those who were unsentenced, and a third took place
within seven days of a prisoner’s arrival at his or her current prison – a shocking
reminder of the effect of prison itself, and of movements between prisons, often
driven by overcrowding rather than prisoner need.

Less noticeable, but more insidious, is the rate and severity of self-harm, particularly
among women in prison. As our recent report on women in prison shows, women,
though only about 5% of the prison population, account for nearly half the self-harm
incidents – often gruesome and repeated acts of laceration or ligaturing. Holloway,
when we last inspected it, was averaging 5 reportable self-harm incidents a day.
Some of those are severe – repeated ligaturing, cutting or swallowing toxic objects.
Time after time, prison staff arrive just in time to save lives, bandage wounds, hit
panic buttons – sometimes they arrive too late.

The balance between life-saving and human dignity is a hard one. Suicides can be
prevented in extreme cases by placing prisoners in strip clothing or unfurnished cells,
or else watching the most vulnerable on camera 24 hours a day, rather than engaging
with, them. That does nothing to deal with the underlying problems – of which being
in prison, with too little activity or interaction, may itself be one. When asked in our
mental health thematic what helped them most, mentally disordered prisoners listed
activity and having someone to talk to far above healthcare. Prisoners locked in their
cells all day are likely to be locked into their despair.

The links between suicide, safety and the culture and regime of a prison – the
relationships between staff and prisoners, the quality of life within the walls – are
clear. The focus on decency at the most senior levels of the prison system has
undoubtedly led to changes. It is noticeable, for example, that a Prison Service which
began by being very resistant to inspectorate surveys of prisoners as any kind of
measure of the good and bad in a prison now relies heavily on its own ‘measuring the
quality of prison life’ prisoner surveys. There is an expectation that residential staff
will be more than turnkeys, a resistance to the historic and embedded cultures
represented in 2001 Dartmoor. Such cultures can become abusive, but they can also be collusive, with both prisoners and staff having an investment in ‘getting along’ with low expectations of each other and little challenging or changing – staff sitting in offices and prisoners lying on beds behind their doors.

It is no accident that the best prisons we inspect are those, usually open and resettlement prisons, that are outward-focused: trying to manage safely the transition between prison and the community, using release on temporary licence to allow suitably risk-assessed prisoners to do voluntary or paid work, making and sustaining crucial links with employers, voluntary and statutory agencies. Even in women’s prisons, there is very low incidence of self-harm. Many times, prisoners say that for the first time they have gained self-esteem, and employers who come in are astonished at the potential locked up in prisons. There are far too few such opportunities in our present prison system. By contrast, too many closed prisons prioritise compliance – innumerable entries in prisoners’ records that say ‘quiet and compliant – no problem’. In one prison I remember a young woman describing how she had been able to go on, and had been helped by, a course on assertiveness – but when she went on the wings and practised it ‘they nick you for it’. Yet compliant prisoners may be people whom prison barely touches, who know how to keep their heads down and do their time – again and again. Prison can encourage irresponsibility – prisoners can be insulated from responsibility for themselves, their victims, their families or communities. Giving responsibility creates risk; but it is more risky in the long run to try to avoid, rather than manage, risk.

Inspections have charted improvements in individual prisons with historically poor cultures – Leeds is perhaps the most recent example. Racist sub-cultures there and at Feltham have been robustly tackled – even if the reported experience of black and minority ethnic prisoners is often worse (and that of many Muslim prisoners even more so). But recent inspections have also shown the difficulty of maintaining that progress, in a hard-pressed service that demands much of its senior managers and staff, and in closed institutions which can too easily default to a setting of institutional convenience. Dartmoor is a sad example of a prison that was progressing, only to regress, once management grip was lost; Birmingham, in spite of improvements in healthcare and education, still showed a troubling majority culture of disengagement
by residential staff – with visitors and inspectors as well as with prisoners. Close attention is still needed to how and when force and segregation are used. The slippery slope of cultural disrespect and its potentially severe, even if unintended, consequences were probably most evident in the recent Wandsworth-Pentonville prisoner ‘swaps’ – where some managers, in prisons desperate to have good inspection reports and rise up the Prison Service scorecard, resorted to moving potentially difficult prisoners for the duration of the inspection, risking – and resulting in – serious incidents of self-harm. The message this sent to more junior staff, in prisons that had struggled to overcome poor cultures, was that the needs and wellbeing of prisoners were a negotiable commodity.

In this, as in other areas, one important warning is the same as that given to those who newly bought shares in the 1990s – prisons can go down as well as up, and indeed upward pressure is harder to sustain, with a gravitational pull towards institutional comfort or convenience.

I have frequently talked about the virtual prison, or the virtual prison system – the one that runs in the governor’s office, or reaches the Minister’s red box, through a series of charcoal filters that have removed any impurities – and of the important role of the inspectorate in revealing and reporting the actual, rather than the virtual. It is important not to overstate the improvements and the change in prisons - but it is also important to recognise that there has been real and measurable progress in the prison system as a whole. If that were not the case, we would be a virtual inspectorate, talking to ourselves in splendid but irrelevant isolation – whereas in fact we can report thousands of recommendations achieved between one inspection and another in individual prisons, and a slow but gradual rise in our assessments, especially of local prisons. It is just as important, therefore, that incoming Ministers do not have a picture of a virtual prison system that is unremittingly negative, where nothing has been or can be achieved. This is not a broken system, and it is one where considerable effort, and resources have been devoted in trying to rehabilitate those within it and improve their life chances.

Over the last nine years, there is no doubt that prisons became better places - better able to keep prisoners safe, provide a decent environment, offer some purposeful
activity and provide some resettlement opportunities. To do this, they have drawn in
money and professional expertise from outside. But they have also drawn in 27%
more people. There are 20,000 more adult men incarcerated than there were when I
started. That is one of the underlying reasons why progress has been slow and patchy,
why recidivism remains obstinately high, and why hard worked-for changes often do
not stick.

And the future will be even more difficult. Not only is there no new money to deploy
on immediate alternatives, the old money that has kept an overpopulated system
relatively safe, decent, purposeful and incident-free is being reduced, both directly
and indirectly. The National Offender Management System, like the rest of the public
sector, is working out what sacrificial offerings it can lay before the Treasury.
Already, under a benchmarking process that aims to reduce cost, prison governors
have been told that they should not aim for the gold standard of best practice, but the
bronze standard of what is affordable – and, in the few prisons genuinely offering
purposeful activity for all, that this is unsustainable. The need to make swift and
bankable savings in the course of this year alone is leading to arbitrary recruitment
freezes that may leave important areas bereft. This has a direct effect on regimes, and
an indirect effect on the morale of the many motivated staff who have worked hard to
aim for the best.

That is only the beginning. Further savings are being required this year, and more
next. No-one should underestimate the risk that this brings – of frustrated prisoners,
demotivated prison staff, barely usable buildings. But there are also going to be cuts
in the services from which crucial ancillary support has been leveraged in and has
made such a difference. What will be the future commitment to and investment in
prison healthcare if and when commissioning devolves to GPs and their budgets, even
if not cut, are tighter than the demands? Similarly, how will education and training
fare once the Skills Funding Agency looks at its reduced budget, now that ring-
fencing of prison education and training has been removed? How will positive
activities and training in prisons, even if sustained, translate into real opportunities for
prisoners competing for jobs in a time of high unemployment, with a reduction in
capital projects offering work for the barely skilled, as they look for support to local
authorities trying to balance housing and social services budgets?
Nevertheless, the present crisis does provide a welcome opportunity – I have heard it described in government as a once in a generation opportunity - to re-engineer the system. That is much-needed. Some of you in this audience have written or funded, and many of you have read, studies that show, time after time, that prison is more expensive and less effective than other interventions. My colleague the Chief Inspector of Probation has just produced some telling figures about the balance between risk and affordability and the choices that need to be made.

This is not, however, the first time that Ministers have promised a radical review of prisons and probation. In 2004, the then Home Secretary, David Blunkett, launched the National Offender Management Service (NOMS). It was also ‘the opportunity of a generation’ (perhaps generations are getting shorter). It was to be a ‘radical reform’ of prisons and probation, with the aim of significantly reducing reoffending, by introducing a system of individual case management operated jointly by prisons and probation, working closely with voluntary sector and statutory organisations. The prison population would be capped at 80,000 by 2009. It sounds very like a ‘rehabilitation revolution’ and it is therefore worth reflecting on what actually happened, and why.

The new approach undoubtedly had some positive effects. Resettlement, as I have said, is now recognised as a core function of prisons. Prison staff, particularly in training prisons, have a better appreciation of risk assessment and planning than they had – and where the system works, links with offender managers in the community can be productive and supportive. But the gains are fewer and less well embedded than they should be. It is only now, six years after the launch of NOMS, that an offender management approach that reaches all prisoners, including the short-sentenced, is being piloted, and that integrated offender management schemes, fully drawing in partners from external statutory and voluntary agencies, is starting to grow in some areas.

NOMS has, though, faced two intractable problems. The central idea - individualised case management, trying to identify and meet prisoners’ risks and needs from sentencing through custody and community interventions - is clearly a good one. But
the implementation began from entirely the wrong end. Rather than working out what
delirient management meant, or could realistically mean, in prisons or probation, and
then creating the most effective structure to support this, it began by creating a
structure (or claiming to have done so) and then trying to decide what and how it
would deliver. Inevitably, this created a huge and continually changing
superstructure, tweaked by passing consultants, spitting out heads of probation, now
in its third or fourth incarnation. We have had a NOM, some ROMS, several DOMS
and now two uber-OMs – in uncertain, undefined relationships with centrally-driven
prison management structures and locally-based, locally driven probation structures.
It is also worryingly unclear what the role of residential prison staff, key to supporting
and motivating prisoners, will be - and how individual offender management fits into
the need to engage and support a whole prison community.

But the second and more fundamental problem is that, almost from its birth, NOMS
has been devoting too much of its energy and resources to struggling to cope with
rising prison numbers – a trend, of course that began almost a decade previously, but
which accelerated alarmingly during 2006-7, at a rate which far outstripped capacity.
At times, officials worked through nights and weekends in a bizarre version of
musical cells, propelling prisoners, like human pinballs, between prisons and between
prisons and police stations – and even court cells. This placed huge strain on
prisoners – there was a 40% spike in self-inflicted deaths – and on those working in
and running prisons. It also wasted huge amounts of money on paying for police
cells. It was only the resilience of the system and its managers that prevented
catastrophe.

The consequence was an orgy of prison-building – as I remarked at the time, in an
attempt to build an ark after, rather than before, the flood. Useable capacity has risen
from just over 82,000 at the end of 2007 to just over 88,000 now – a rise of over 7%
in two and a half years. But what caused the flood and inhibited but then stimulated
ark-building? The crisis was essentially one of the casualties of the tussle between
different factions in government – a Chancellor who wanted to use financial
stringency as a back-door means of keeping a lid on the prison population, and a
Prime Minister and a Home Secretary who were initiating or supporting measures that
would inevitably drive the population up. And the population drivers won.
That is a lesson in how frighteningly easy it is to raise the prison population, and how much harder it is to reverse the trend. There are all kinds of levers within government and society that all too swiftly jerk into action, and that have the aim or the consequence of increasing incarceration. And those levers can be found in all parts of government, outside and within the departments directly responsible for prisons. Resisting the temptation to press them requires a close attention to evidence-based consequences as well as a coherent approach over the whole of government – both of which have sadly been lacking at crucial times.

It is now clear, for example, that the crude targets set centrally for ‘offences brought to justice’ had a direct effect on the prison population, particularly of young people. Police forces and chief constables, faced with reaching monthly targets for warnings, cautions or convictions – where the brownie points for a catching someone urinating in a public place were the same as those for catching a multiple murderer – not surprisingly focused on the low-hanging fruit that is likely to drop into the hands of a police officer accosting a crowd of young people hanging around on the street. This was one of the principal causes of the acute rise in young people in prison during 2006-7. The more people were criminalised, via cautions and warning for minor offences, the more they were likely to be drawn upwards within the criminal justice system and inwards to prison.

But the crisis of 2007, and the continuing rise in prisoner numbers after that, was not just the result of an increase in short-sentenced prisoners. The 2003 Criminal Justice Act was crucial in feeding many more longer-sentenced people into the system. Over decades, the annual criminal justice bill has of course become as much of an autumn ritual as turning the clocks back (though last year was a welcome signal that this need not be the case). The 2003 Act contained provisions which would inevitably have a serious and lasting – but uncosted and unplanned-for - impact on the prison population.

One of them was the now notorious indeterminate sentence for public protection. As originally implemented, that sentence could be passed for relatively minor offences, on prisoners who therefore had quite short minimum periods of imprisonment – in
some cases weeks or months - but who would only be released after that if they could
demonstrate to the Parole Board that risk had been reduced. Inevitably, and as
predicted, there were 2,000 such prisoners within 20 months of the sentence becoming
operative. They came into a prison system that was already under severe strain, and
therefore incapable of ensuring that they could move swiftly to undertake the
interventions necessary to show that risk had reduced, and which had also recently
stood down its central national system for managing life and indeterminate-sentenced
prisoners. In order to be released at all, they had to prove diminished risk to a Parole
Board that had learnt the hard way that it would be subjected to severe public and
Ministerial criticism if it let out those who later proved to be risky.

This was a perfect storm, and for months and years IPP prisoners languished in local
prisons, before moving, sometimes en masse, to training prisons where they are still
finding it hard to access courses or prove their readiness for release. Only last month,
I had a not untypical letter from an IPP prisoner, initially sentenced to less than two
and a half years in prison, and who had already served nearly three and a half. He had
been moved to a prison to do an essential programme, turned away because there
were some prior programmes he should have done, returned to his previous prison and
completed them, only to be told that the course at the second course was now full.
‘To be given sight of progressing only to have it snatched away is unbearable. I was
placed on an ACCT (suicide prevention) document and the number one criteria on my
care map was to be given some hope of attending the course…but I was then told that
they would not consider me for a course until I was managing my depression better.
So it will be another 19 months before I can get on a course. I am being punished for
being depressed and the depression is because I cannot progress. I am in a catch 22
position.’

Though the ambit of the sentence has now been reduced, IPP prisoners are still
entering the system and very few are leaving it. There are now close to 5,800 IPP
prisoners, and only 130 have ever been released. At the same time, another provision
of the 2003 Act had created new and high mandatory ‘starting points’ for the
minimum period of imprisonment, called the tariff, for those sentenced to life for
murder – 15 years, 30 years or whole life. It is worth remembering that in 2001, the
average total length of time spent in prison by a released murderer – after as well as
before tariff - was just over 13 years. These provisions have also, incidentally, had the consequence not only of raising the minimum terms served by murderers, but also raising sentences for all offences of violence, in order to keep them in proportion to those for murder. For life-sentenced prisoners, too, release at the end of the minimum term has become slower and more difficult – release rates for lifers have halved since 2007. As a consequence of longer tariffs, low release rates and the IPP sentence itself, the total population of prisoners serving indeterminate sentences, for life or public protection, has risen nearly threefold since 2001. There are now over 13,000 of these prisoners, not counting those who have been recalled: nearly one in six of the prison population.

This is, and will continue to be, a significant upward driver of the prison population. It is also a source of increasing volatility and potential disruption in the prison system, and in individual prisons. It is something that needs to be addressed, if we are to have safe and effective prisons. As I have already said, prisons depend on dynamic security – relationships, something to work towards, and an investment in a safe environment within the walls – just as much as locks, bolts and bars. If this fails, the consequences can be serious. We already have much larger prisons than we used to – and one thing that inspections have shown rather clearly is that small prisons tend to be safer and easier to run than large ones.

The consequences are at their most extreme, and most dangerous, in the high security prisons that I began by describing. If local prisons have, as a rule and with exceptions, become better, safer and more positive places since 2001, the same cannot be said of high security prisons. Up till now they have, in general, been remarkably well-run and safe places - I know of few if any other countries where my inspectors and researchers could move freely around, with their own keys, in maximum security prisons – and in many such systems, there is reliance on widespread use of solitary confinement, combined with little more than a containment role for those rightly described as ‘guards’. However, I believe that our high security prisons are less stable, more difficult to run and potentially more unsafe than they were nine years ago. They hold a growing proportion of men, often young men, serving very long sentences, who may feel they have little to lose. There is – though this should not be overplayed – more gang activity and a small minority of terrorist prisoners. These
prisons require sophisticated and continuous management, and their long-serving prisoners need milestones – even if there are no immediate results in terms of reducing reoffending that can meet any individual or corporate targets.

There are some messages here for an incoming government. First, be very careful what you legislate for. When we produced our first report on the IPP sentence, we said ‘This report should be required reading particularly for those who propose and put in place new sentences or are responsible for implementing them. It is a worked example of how not to do so.’ I hope that it will indeed be required reading for those now considering new sentencing proposals, especially those, like maximum/minimum sentences, that increase discretion and make release conditional on something having been achieved by the right prisoner at the right time in a prison system that is, and will increasingly be, under considerable strain. In those circumstances, they may well become maximum/maximum sentences, driving up the medium and shorter-term prison population just as IPPs did for the more serious offences. It is welcome that there is to be a wide-ranging sentencing review in the autumn – and very welcome that there are proposals to link release with guaranteed support afterwards. But past experience suggests that there needs to be rigorous and realistic planning before the implementation of any changes – a kind of custodial impact assessment – to avoid the law of unintended consequences and to help determine whether the actual consequences are necessary, proportionate and affordable.

Second, be aware of the unintended consequences of processes, and the need for coherence across all of government. Centrally-set targets such as the OBJ target are now unfashionable, not least because of their capacity to produce perverse results and managerial ‘gaming’. They are being replaced by incentives and devolved decision-making. Replacing targets with incentives could be progress. But that entirely depends on what is incentivised and how. Many schemes to find work for high risk groups have produced apparent and paid-for results mainly because of cherry-picking – working with those who are most likely to succeed and who might have succeeded in any event. And the greater the financial benefit for the provider, the higher the risk of this happening. There are no magic buttons that can be pushed for the most difficult, prolific offenders - incentivising value added, even if that value is a drop in
the frequency or severity of offending, is hard to do, but essential if incentives are not simply to be a more acceptable word for targets.

In addition, how is coherence to be protected in a much more devolved system? For example, will the ‘directly-elected individuals’ who are to oversee police budgets, planning, community safety and the appointment of Chief Constables be responsive to the wider impact of actions that may be locally popular but may end up, just like the OBJ targets, increasing the use of the short and ultimately ineffective sentences that the Justice Minister wants to decrease?

That said, and with those warnings, it is very encouraging to hear a new mood music from incoming Ministers — not least that the success of the criminal justice system should not be measured by the number of people it imprisons — indeed, given the revolving doors of many prisons, it is more likely to reflect a failing system. The political game of ‘my prison system is bigger than your prison system’ has been profoundly unhelpful. However, though the message is very welcome, the timing is extremely poor.

We have a prison system that is locking up 85,000 men, women and children. As I said before, prisons are not broken — but they are increasingly brittle, for the reasons I have already outlined. There has been no major disturbance in Ministerial memory, though last year’s disturbance at Ashwell, with 300 places lost, shows that that is neither inevitable nor unimaginable. An inflated prison system in a shrinking state is not a legacy that anyone would choose to leave, or to inherit: reaching out its begging bowl — either to the Treasury or hoped-for private sector or social investment - in competition with other, much more popular, causes.

New Ministers should beware of any siren voices that whisper ‘humane containment’ in their ears — in other words, that money for regimes and for positive initiatives, such as education, training, soft skills, PE, offending behaviour programmes, personal officer schemes, can be stripped out of prisons to provide immediate savings. There is no such thing as humane containment. Containment is for objects, units, and goods, not human beings. Containment is carried out by guards who engage with security and keys, not officers whose task, even if not always achieved, is to engage with
people. Containment produces individuals who emerge, blinking into the light, more frustrated, less socialised and potentially more harmful. It also produces risky prisons – it is no coincidence that the number of assaults in prisons has traditionally been highest on Mondays, after a weekend largely confined to cell.

This means thinking differently about prison. Small prisons, close to home, is a message that is now carved on the inspectorate’s psyche – as it was of course nearly 30 years ago in Lord Woolf’s seminal report. I have already talked about the benefits of more permeable low security prisons, or even halfway houses that engender, rather than remove, responsibility. But it also means thinking differently about how we use prison.

Instead of creating and sustaining a prison system too big to fail, and drawing in more and more resources to make it better, the age of austerity offers the chance of tackling a prison system that has become too big to succeed – by doing things differently. That is a message that will be dear to the hearts of many in this audience. However well-resourced and well-run, prisons cannot be the solution to systemic social ills. Prisons are mirrors of society – they reflect fairly accurately what is happening, or failing to happen, outside. Look for example at the 90% of children and young people who were excluded from school, and who are now, sometimes, being educated in our prisons. Look at the problems of substance use – and in particular the neglected and under-resourced area of legal substance abuse, alcohol – and the extent to which prison merely provides respite care unless treatment and support continues afterwards. Look at how far too many people, access to the mental health support they need is through the door marked criminal justice. The fact that a part of criminal justice is now better equipped can at best only contain, not meet, that need. Indeed, there is a risk that importing better care into prisons increases the risk that prisons will be seen as appropriate places to treat the mentally ill. Look also at the histories and circumstances of many women in prison – Baroness Corston in her 2007 report found that over 50% had experienced violence in the home, one in three had experienced sexual abuse, up to 80% had diagnosable mental health disorders.

Simply investing in prisons runs the real risk of exacerbating these underlying problems – of signalling to others that they do not need to invest in prevention or
support, and that they can rely on the prison system to be a receptacle for the most
difficult, expensive and troublesome people in their area or on their caseload.

That makes it crucial to invest in ‘not prison’: both instead of and after prison. At a
much less propitious time, this will pose considerable problems for those in the new
administration who have signalled that they want to do things differently. For, as the
closure of the large mental hospitals showed, it is not enough simply to shut down or
reduce places that provide inappropriate responses to problematic human behaviour.
It is also necessary to invest sufficiently and appropriately in the alternatives. Justice
reinvestment is rather different from justice disinvestment.

Reoffending happens after, not usually in, prison. Preventing it requires focused,
individualised, often one to one support for people struggling to create a new narrative
of their lives, often without a supportive framework and with little resilience for the
inevitable setbacks, rebuffs and temptations. Yet innovative approaches to this
systemic problem struggle to get traction in a system that tends to run on known
tramlines.

I have lost count, over the years, of the excellent schemes that have been set up in and
around prisons, usually by committed individuals or voluntary organisations:
excellent mentoring schemes, some outstanding work with families and children,
some community chaplaincies that try to locate released prisoners into supportive
communities, partnerships with local authorities or private companies. But these are
the welcome exceptions, rather than the general rule – and they are often time-limited
and fragile, and too often, especially at present, in the front line when cuts need to be
made – ‘nice to do’ rather than ‘must do’.

At a time when public money was free-flowing, the failure to invest consistently in
prevention and support, and in innovative alternatives to what clearly does not work,
is one of the great missed opportunities of the last nine years. It is welcome, for
example, that there are now far fewer under-18s in prison, a 33% drop since 2002. At
the same time, and in defiance of those who argue that a decrease in imprisonment
results inevitably in an increase in crime, there are 20% fewer young people coming
into criminal justice – a decrease that cannot just be explained by demography. Yet,
with the closure of many prisons for that age-group, those who are in prison are likely to be much further from home and in large establishments. When they reach 18, they will be decanted into a system which, in spite of manifesto promises made in 2001, lacks the resources and support they need. With reconviction rates of between 60% and 75% for these age-groups, expensive prisons clearly do not work.

In 2007 a proposal was launched for a young offenders’ academy in East London, put forward by those with decades of experience in supporting challenging young people in that area, and by a past chair of the Youth Justice Board. It proposed that, instead of decanting the most difficult young men to a large prison miles away, breaking links with the community, local agencies and families, there would be a holistic approach, where a small custodial unit would be part of a local response to youth offending. It is still on the drawing board.

There have been other, well-documented and powerfully-argued calls for a change of approach. Baroness Corston could not have been clearer about the need for a ‘radically different approach’ to women’s offending. Lord Bradley’s report focused on the need for more and better diversion – at police stations, not just at the point of sentencing – but for that to work there need to be more and better places to divert people to, and indeed to stop them getting into the criminal justice system in the first place. The Corston and Bradley reports stand as evidence that parts of government recognised that prison is not enough, and may even make things worse. But their slow, laboured and now hugely threatened implementation, in spite of commendable pressure from individual Ministers and officials – compared for example to the immediate (though later slightly modified) decision to implement Lord Carter’s report on huge industrial-sized Titan prisons — is testament to a failure of will or imagination within government as a whole. There are almost exactly the same number of women in prison as there were when Jean Corston reported – and they are now likely to be in more complex, often larger, prisons further from home.

There is no indication, as yet, whether the new government has a plan – however cunning – to get from here to there: from an over-used and therefore less effective prison system to a better and properly targeted series of interventions. That may be a blessing in disguise, given the history of grand schemes and over-ambitious structures - provided that what has been shown to work, even if on a small and local
scale, can be protected and scaled up. If the last few years have not resulted in the hoped-for radical changes of 2004, they have produced some examples of things that genuinely do work. There should, for a start, be detailed examination of how and why the 15-18 population has decreased – not only the effects of losing counter-productive targets, but also of inserting non criminal justice interventions and referrals, and the investment, outside the criminal justice system at all, in support programmes, like Sure Start, for vulnerable families and pre-school children – the generation that are now teenagers.

Elsewhere, some integrated offender management schemes – locally based and driven – are beginning to show results. The Spotlight schemes in the north-west, for example, provide an excellent model of integrated work between police, prisons, probation, local authorities and third sector agencies, which is starting to show results - as does the scheme for prolific offenders in and around Bristol prison. For short-sentenced prisoners, untouched so far by offender management, the pilot launch of the first social impact bond at Peterborough is designed to allow third sector organisations to provide intensive support inside prison and after release. Social Finance, the organisation set up to use unclaimed bank assets for social purposes, has said it will raise up to £5 million to fund the pilot. Investors in these bonds will receive dividends if reoffending is reduced by over 7.5 per cent. However, this is as yet untested, and taking any of these projects to scale – creating and sustaining the infrastructure of a national criminal justice system – is another, and more difficult, task, especially in the current financial climate.

One crucial lesson is that solutions need to begin and end outside prison, and indeed outside criminal justice. There is an argument for charging back the costs of imprisonment to local authorities, at least in relation to children and young people, so that there is a real commitment to prevention and support. But all these initiatives need time, and a sophisticated approach to what success looks like for fractured and previously chaotic lives. Those things are hard for any government, and particularly so for one needing to justify every penny spent – rather, there is a tendency to dig things up to see whether the root systems are sound, or to want speedy evaluations that demonstrate measurable success. Were that required in order to put funding into the prison system, we would have barely any prisons left standing.
One of the key lessons from the NOMS saga is the need to understand the specificity of different agencies – to play to their strengths, rather than cobble together a ramshackle structure that can expose their weaknesses. Which brings me to Inspectorates, and the Prisons Inspectorate in particular. Over the last nine years, the Inspectorate has grown and extended its scope – but not in the way that government originally intended. We now inspect across many different forms of custody – prisons, immigration detention, police and military. Our approach is rightly rooted in human rights principles, since places of detention, by definition, operate behind walls and out of sight, and can, as I have said, develop their own norms and realities.

Our own independent criteria reflect those standards – and any divergence of actual practice from them. For example, the fact that in our overcrowded prisons two men often live in a lavatory – a small two-bunked space with a shared toilet, on which one of them may need to sit and eat – is normal, but it should never be normative. That human rights grounding and necessity is now reflected in the Optional Protocol to the UN Convention against Torture and Inhuman and Degrading Treatment, which the UK was one of the earliest countries to ratify. Oppcat requires states to have in place a National Preventive Mechanism to provide independent monitoring, with a right of unannounced access to all places of detention. The Prisons Inspectorate is both a key part of that mechanism, and also coordinates the 17 other bodies, throughout the UK, which carry out that function. It is important to stress the role of inspection in preventing rather than monitoring inhuman treatment. For that to work, we need to be vigilant far upstream of torture – identifying the warning signs – the threats to human dignity and decency that signal that custodians have lost sight of their duty of care or are using power for its own sake. That is the particular value that inspection brings to the system.

We inspect in effective partnerships with colleague inspectorates: Ofsted to look at education and training, the Care Quality Commission (CQC) on healthcare, the Probation Inspectorate for offender management and, most recently, the Inspectorate of Constabulary for police custody. These operational partnerships add real value, focusing on outcomes. They have helped drive improvement and raise standards, and in the process both inspectorates and inspected bodies have learnt a great deal.
This is not the structure proposed in the regulatory reforms of the previous Government. The answer to public sector inspection was said to be four: the Audit Commission, Ofsted, the CQC and a Criminal Justice Inspectorate. Various reviews were set up to produce papers on how, rather than whether, this could work. This, in my view, was a triumph of policy-led evidence, rather than evidence-led policy. It is by no means clear to me that the mega-inspectorates that were formed, are better or more effectively able to do the range of tasks and specialist functions that their predecessors carried out.

I believe that I can hand on an inspectorate that provides an essential and valuable resource to Ministers, Parliament, the public, and the services that we inspect. Independence is not always easy for those being inspected, or receiving the results of inspection. I must pay tribute to all the Ministers, and to those at the head of the Prison Service, that I have worked alongside, in that I have never, in nine years, been under pressure to alter reports that were politically difficult or operationally embarrassing.

Over that time, I have come to understand and appreciate the work and commitment of those who work within the prison system, dealing day after day with difficult and challenging individuals that the rest of society has excluded. I hope that the progress that has been made has been inspired and assisted by inspection – but it has only been achieved as a result of the considerable efforts of those working in the system. Similarly, the response of the Service when abuses are found has been rapid and uncompromising. I have not been in any doubt that those running the prison system see inspection as a vital, if sometimes uncomfortable, part of accountability and intelligence. The same has been true of those in charge of police and military custody, where some difficult, and sometimes counter-cultural, messages have been received, absorbed and acted on. I would like at this point to pay particular tribute to the Provost Marshal (Army) and his staff, who have voluntarily exposed themselves to an inspection regime in order to enhance their ability to run good and better detention facilities – and I hope that it has done. I am less sure, however, that our messages are always heard and acted on by those in the UK Border Agency at senior level (rather than those who are trying to run detention centres). I fear that for the
agency as a whole, detention is often incidental to the core aim of enforcement and removal, and there is often insufficient understanding or acceptance of what is happening and what needs to change. This seems to me to argue for a greater separation between the detention function and the other, perfectly proper, functions of UKBA.

I leave this post at a crucial and difficult time for detention services in general in the public sector, and particularly the prison system. It will be challenging to maintain the progress that has been made, let alone continue it. This will be a particular challenge in the overpopulated prison system. There are 85,000 men, women and children in prison. Whatever decisions are taken now – by way of sentencing reform or incentivised support on release – that number is unlikely to fall noticeably in the immediate months ahead. At best, it may remain stabilised. Getting from here to the sunlit uplands of a small, properly-resourced prison estate, supported by effective interventions at either side, would be difficult at any time and in present circumstances will be fraught with all kinds of risks, both political and operational. It will require a bold and coordinated approach from government, constantly triangulating objectives, resources and outcomes.

In that process, the role of the Inspectorate will be, if anything, even more vital – defining the parameters of a safe, decent and effective custodial system – what should be as well as what is - providing an early warning system of the real effects of savings and cuts, giving independent feedback on the actual impact of changes in policy. I hope that Ministers will take timely note of the messages it sends back, even if they are not always those they would like to hear – which are probably the most important messages. I hope that they will also listen to the many people in this audience – not least the President of the Prison Reform Trust – who have experience and enthusiasm and who would like to do things better and differently.

I must end by paying tribute to all those I have worked with in the Inspectorate over the last nine years. Not only have they taught me a great deal, but I am full of admiration for their commitment, values and energy. Those values were set out in our recent annual report. I will mention only one – that ‘we believe that people and institutions can change’. It defines why the inspectorate exists – but it also seems an
apposite motto in such very changing times. Perhaps whole systems can also change. Being Chief Inspector has certainly changed me, and it will be hard to leave – as I have said, prisons draw people in. But I am extremely pleased to be handing over to Nick Hardwick, who brings new and valuable insights, and a considerable experience of robust and independent scrutiny, to steer the Inspectorate, advise Ministers and assist a hard-pressed prison service through those changes. I wish him, and all of you who care about prisons and prisoners, detainees and places of custody, well.