



Review of the Northern Ireland Prison Service

Conditions, management and
oversight of all prisons

Interim Report

February 2011

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Background

The Hillsborough Agreement of February 2010 led to the devolution of policing and justice powers to the Northern Ireland Assembly and Ministers. It envisaged that key priorities in the devolved system would be to deal with ‘confidence, avoidable delay, rehabilitation, recidivism and the interests of victims and witnesses’. Actions to further those policies included: learning from international best practice; reviewing alternatives to custody; providing diversion from prosecution; developing a comprehensive strategy for the management of offenders; and reviewing how children and young people are dealt with in criminal justice, to ensure compliance with international obligations and best practice. In addition, there was to be a review of the ‘conditions of detention, management and oversight of all prisons’ and also ‘consideration of a women’s prison which is fit for purpose and meets international obligations and best practice’¹.

This review was set up in July 2010 by the new Minister of Justice to carry out the last two of these actions, and began work in August. The team is chaired by Dame Anne Owers (previously Chief Inspector of Prisons for England and Wales). Its other members are Paul Leighton (previously Deputy Chief Constable, Police Service of Northern Ireland), Clodach McGrory (barrister, former Human Rights Commissioner, and a Parole Commissioner), Fergus McNeill (Professor of Criminology and Social Work at Glasgow University), and Phil Wheatley (previously Director General of the National Offender Management Service for England and Wales).

During August and September, we carried out a number of exploratory visits and sent out a call for evidence to groups, agencies and individuals. The autumn was spent analysing and following up the evidence received – including meetings with a range of interested parties – and carrying out visits to gather evidence from and outside prisons.

¹ Hillsborough Agreement, February 2010, paras 6-7

Our initial terms of reference² envisaged that we would first produce a report on Maghaberry, the largest, most complex and most difficult of the three prison establishments, before going on to examine the other two prisons, the issue of women and other specialist groups in prison, and the oversight and management of the system in general.

It became apparent at an early stage that it would be difficult or impossible to deal with the problems facing Maghaberry without tackling the underlying issues - management, leadership, vision, objectives and culture - in the prison system of which it is a part; and indeed without reference to the wider picture in criminal justice and related services. It was also clear that significant change was taking place, or would shortly take place, within the Northern Ireland Prison Service (NIPS) itself, to which we wanted our report to contribute. We therefore reached an agreement with the Minister that we would instead produce an interim report, in the early part of 2011, setting out what we saw as the components of the problem facing NIPS, and what we believed should be the solutions. Following that, we would carry out more work on the shape and detail of a new service, and in particular deal with the needs and treatment of specialist groups, such as women, young adults, foreign nationals and those with mental health disorders, in order to publish a final report in mid-2011.

In undertaking this work, we have been guided by the general policy directions set out in the Hillsborough Agreement. They stress rehabilitation, diversion from and alternatives to custody, compliance with international obligations, and the search for international best practice. Inevitably, this means that some of our conclusions stray into, or have significant relevance for, the other reviews or task forces³ that are currently taking place or are being set up. Where this is the case, we do not propose to develop detail, but to indicate what in our view should be the direction of travel and the underlying aims or objectives of this work.

² At Appendix 1

³ This includes the Youth Justice Review Group, chaired by John Graham; the task force on reducing offending; the independent reference group for both these work strands; and the work being carried out on delays in criminal justice.

Our work and findings also touch upon the responsibilities of other departments and agencies in the devolved administration.

We are grateful to all of those who have provided written or oral evidence to us, or who have facilitated visits to prisons and outside agencies. We are particularly grateful to the past and current Directors General of NIPS, who have been generous both in their approach to our work and in ensuring that we were provided with both access and information. Those who gave evidence and who we met are listed in Appendix 2. In our final report, we will draw on the range of views that have been expressed to us to define the shape and operation of a new and different prison service for Northern Ireland.

Introduction

The Northern Ireland Prison Service (NIPS) is at a critical stage. It has been subject to numerous damaging reports and incidents - casting doubt on whether it can hold prisoners in a safe, secure and rehabilitative environment - and has struggled to respond effectively to the subsequent findings and recommendations. Most recently, the Criminal Justice Inspectorate of Northern Ireland (CJINI)'s report on corporate governance has highlighted the weaknesses in management, oversight, accountability, leadership, culture and working practices that underlie these well-rehearsed problems.

We recognise and appreciate the effect of the Troubles, during which 29 prison officers were killed and all staff lived under threat, both within and outside prisons, and coped by maintaining a distance from prisoners. It has frequently been said that NIPS has not had a 'Patten moment': a programme of major investment and culture change like that which transformed the Royal Ulster Constabulary (RUC) into the Police Service for Northern Ireland (PSNI). The review of the criminal justice system carried out in 2000 skated over prison reform. There was, however, an opportunity for change in that year, when over 1,000 staff were able to leave with generous redundancy payments, and some very limited training was made available for those remaining. This could have marked the beginning of a transition to a post-conflict prison service, but it was never followed through. This was partly because of a combination of internal and external pressures and disputes that bred distrust and reinforced old methods of working. But it was largely because the underlying issues were not tackled.

Our own interactions with staff and managers during autumn 2010 showed that NIPS had become a demoralised and dysfunctional service, resigned to bad press and routine criticism, and reacting to it by putting up defensive barriers, with little confidence that anything could, or in some cases should, change. This is at risk of infecting even the good staff that we have spoken to. Meanwhile, outside the prison system, among those organisations and groups committed to rehabilitation and prisoner care, there is little confidence that the prison system as a whole is one that values their approaches or involvement, or that responds effectively to their legitimate concerns.

More broadly, there is not yet a sense, within or between government departments and agencies, of a coherent vision for dealing with offending in Northern Ireland, with the core objective of creating a safer society. Prisons are only a part of such a vision, but they must be an effective part. The devolution of justice now makes it both possible and necessary to elaborate and agree on such a vision, and we set out in Chapter 2 what we believe are its essential components. However, a vision is worthless unless it is underpinned by mechanisms that ensure it can be put into practice.

That is equally true of reviews, reports and recommendations. We do not want our report to be another worthy document that gathers dust on a shelf, is referred to in regretful terms in five years' time, or simply adds to the sense of defeatism within the service.

For that reason, this interim report aims to set out the necessary components of a solution to the problems of the system in general. They need to be put in place before any significant change can happen. This report therefore focuses on the internal problems and the need for internal change within the prison service and system; though we recognise some of the external factors that need to play into that change. That is not because we ignore or undervalue the essential contribution of organisations that operate outside the system; nor do we believe that 'success' will be simply the creation of a better-run prison system. That is far from being the case. However, the basics have not been in place in the system itself to deliver or respond to the scale of change that is required.

In our final report, we will develop our proposals for a better, more outward-facing prison system, its provision for specialist groups, including women, and its relationship with communities, families, academics and other statutory and voluntary agencies. We will want to continue the extremely helpful conversations we have already had with those agencies and groups, as a key part of achieving the change we envisage. We believe that civil society as a whole must be engaged in the discussions about what kind of prison service it needs for the future. We will also remain in close contact with the CJINI, which will have a particularly crucial role in validating and monitoring progress.

The current financial situation has undoubtedly injected a note of urgency and realism into the approach of those responsible for, and working within, NIPS. This is an expensive service: in 2010 the CJINI estimated that, at current occupancy levels, it cost around £95,000 per prisoner per year. There is no doubt that the current operating costs of the service can and should be reduced. However, the kind of transformative change that is necessary, and that happened in the police service, also requires reinvestment. This is needed not only within the prison system - to develop the staff who remain, let go of those who wish to leave, and recruit new staff - but also outside prisons, to strengthen the services that can provide alternatives to prison, or post-release support. A future direction that is only based on the need to save money could produce a worse, not a better, service.

Real and sustainable improvement is not simply about structures and the mechanics of their operation. It will require significant changes of approach, culture and ways of working: in prisons, and at every level of the prison service and those responsible for it. Like all change programmes, it will involve people letting go of processes or attitudes that are familiar and comfortable. It will also require much better communication skills, within and outside the prison service, stronger and more visible leadership, and support and professional development for those undergoing and implementing change. Crucially, there will also need to be broad political will and backing for those leading and managing the process.

This is a big task, and not one that can be completed within weeks or months. But that does not mean, as seems to have happened in the past, that hard things should be left to fester in the 'too difficult' tray, while reactive instant fixes are applied inconsistently and incoherently. It means that managers, ministers and the Assembly will need to commit to a clear and coherent vision for the prison system, which can be realised through a coordinated and properly-resourced programme of change, with clear measures of success and timescales for action, the identification of immediate and urgent priorities, the creation of the tools that are needed to achieve effective governance and accountability, and the use of external expertise to influence and help monitor and evaluate progress.

For prisons to be effective, it is not only the prison service that will need to change its outlook and objectives. There will also need to be changes in the criminal justice system,

and indeed in government and society as a whole, including those other services and opportunities without which the rehabilitative aims of criminal justice cannot succeed. This is something we refer to here and will develop further in the final report.

Critical moments are also moments of opportunity. This report is produced at a time of change for justice and NIPS: the devolution of justice to the Assembly and the creation of a new Justice Department; the commitments in the Hillsborough Agreement to develop criminal justice policies more widely; the need, as in the whole of the public sector, to work with fewer resources and use them to maximum effect; and the arrival of a new Director General with a relatively new senior team.

This is now a prison service that belongs to Northern Ireland, rather than to the Northern Ireland Office. That carries risks as well as opportunities for those with political responsibility. The extensively chronicled problems and failings of the prison service are now the responsibility of the Northern Ireland political system.

The prison system in Northern Ireland should have considerable strengths. Even with budget cuts, it is likely to remain relatively well-resourced compared to other prison systems in these islands. It is located within a small jurisdiction which offers, and indeed demands, partnership working within government and with outside organisations and communities. There is therefore an opportunity to create something which draws on best practice, rather than simply replicating what has been done elsewhere in the UK.

During the course of our review, in spite of the demoralisation we refer to above, we have noted a cautious but significant change of mood within the service and the political world: a recognition that things need to change, and that structures are being put in place which may allow that to happen. This is not universal, and there remains considerable distrust and disenchantment, particularly among rank and file officers in the service and among some outside organisations.

In spite of these more positive signs, no one should be in any doubt about the scale of change required to create an effective 21st century prison system for Northern Ireland. In

other jurisdictions, particularly England and Wales, the existence of private sector prisons – the fact that there is an alternative – has prompted change and flexibility in the public sector. That does not exist in Northern Ireland. There is therefore a window of opportunity for the public sector prison system to raise its game to the extent needed – but it is not a window that can realistically remain open indefinitely, given the need for an effective prison system and the resources being expended. That is a challenge for prison managers, staff and their associations, officials and government. It is one that this report defines and then seeks to address.

Summary and findings

This report focuses on the internal structures and operation of the prison service. In the final report, we will range more widely and consider in greater detail such issues as the conditions and treatment of women and young adults, diversity, healthcare (including mental health and substance use), and how best to assist desistance from crime and engage with outside communities and groups.

There are fundamental and longstanding problems in the Northern Ireland prison system, as evidenced in many critical reports and incidents. Like the Police Service of Northern Ireland, it faced huge risks and challenges during the Troubles: unlike the PSNI, it has never been the subject of a fundamental review, to determine what a post-conflict service should be for, and should look like.

Despite high levels of spending, the service is not effectively contributing towards a safer society, and there are serious problems of governance, accountability, performance and culture. This cannot be solved just by gradual incremental improvements. It will need a high-level and well-resourced change programme, with political support, leadership and direction, to equip the service to meet the needs and challenges that now face it. We believe the time is ripe for such change and that there is a window of opportunity for the service to embrace it.

1. The outside environment

For the change programme to succeed, there will also need to be buy-in from other departments and other parts of the criminal justice system.

There are far too many people committed to prison for fine default, or remaining in prison on remand. Though fine defaulters are a small proportion of the total population, they have a disproportionate effect on movements in and out: over half the women who arrived in prison in 2010 went there because of fine default. Over a third of the prison population is on remand, and this rises to over half at Maghaberry. This creates huge problems for the

individuals themselves and for the prison system and these figures have remained stubbornly high in spite of numerous reports and recommendations.

Current plans for the prison estate assume a doubling in the male and female populations. This is unnecessary but is likely to be self-fulfilling. There should be a 'safer society' strategy to plan for investment outside as well as inside prison: in prevention, resettlement and alternative disposals. Some existing schemes provide a model for this. There should also be investment in half-way houses and supported accommodation. In particular, there is a need for more diversion schemes for those with mental health problems and more supportive environments and services for them in the community.

Hydebank Wood is not, and cannot be, an appropriate environment for children and alternative accommodation needs to be found.

Ministers should task the Criminal Justice Board to liaise with the CJINI and to report regularly to the Justice Committee, to achieve real and measurable reductions in the fine defaulter and remand prison population within 12 months. Failing that, legislation on time limits should be brought forward, as recommended in the Criminal Justice Review 2000.

There should be a 'safer society strategy' to plan for investment outside as well as inside prison. It should be an inter-departmental initiative, led by the Department of Justice, and should link in and reinforce corporate cross-departmental policies for crime prevention, mental health, rehabilitation, resettlement and desistance. We will consider this in more detail, after further discussions, in our final report.

Children and young people under 18 should not be held in Hydebank Wood. Suitable accommodation for all children that meets the best interests of the child should be found on the Woodlands site or elsewhere. We will be discussing transitional issues, and the provision for young adults in general, in our final report.

2. Vision and values

It is essential to define what the prison system is for, in order to ensure that its objectives are clear and agreed and that relevant targets can be set and measured. We believe that central aim of the prison system should be to contribute to the creation of a safer society. There are three pillars that need to be in place to support this: justice and fairness; security and safety; and decency and dignity. But the prison system cannot achieve results on its own; it therefore needs to be outward-facing and to engage with and be engaged by society at large.

This vision, and its aims, should inform decision-making and practice at all levels: the shape of the prison estate, the targets and outcomes set by Ministers, the services and support provided from headquarters, and the work of every governor, officer and service provider in the system. However, a vision on its own is merely a wish-list, without the mechanisms and structures to make it effective. They are not in place at present.

3. Inside the prison system

In order to provide solutions, it is necessary to identify the problems.

The problems

There are two fundamental problems. One is the absence of effective leadership and operational management. The other is culture - both the security-led culture among prison staff, which developed during and has continued since the Troubles, and a culture of denial and compromise within the service as a whole. Governance and accountability mechanisms are weak and disciplinary and dispute resolution procedures are largely ineffective. The issues surrounding separated prisoners have also disproportionately affected the prison system as a whole.

Despite considerable expense, all three prisons, and Maghaberry in particular, have unacceptably poor regimes, which waste resources and do not allow prisoners access to the activities and interventions they need to support change and reduce reoffending.

There are three issues that underlie this:

- *Staffing issues*

Restrictive working practices and excessive and inflexible agreed staffing levels, together with a recruitment freeze, mean that it is in practice impossible to run agreed regimes. In spite of the resources expended, staff are demoralised.

- *Security issues*

Levels of security and control are not consistent with assessed risk. This affects staffing levels and restricts prisoner movements. The over-reliance on physical security has allowed gaps to develop in procedural and dynamic security.

- *Management and support*

The role and number of operational managers needs review. Managers have had too little accountability and there is an absence of visible leadership and oversight. Communication is poor, as is succession planning. The role of headquarters vis-à-vis establishments is not clear, leading to duplication and added cost.

There have been recent attempts to deal with some of these: notably the Northern Ireland Prison Service's Strategic Efficiency and Effectiveness (SEE) programme and a recent agreement with the POA which envisages a move to a 37-hour week in exchange for 'robust efficiencies', beginning with changes to the detailing of staff and to the management of sickness leave. However, a much wider and more comprehensive change programme is required.

The starting point is to create the foundations for a more effective prison system. That will involve:

- *Vision and values*

There should be agreement on and ownership of the vision and aims of the system: that prisons should contribute to the creation of a safer society. The values that underpin this are: justice and fairness; safety and security; decency and dignity. That vision will determine the outcomes and objectives. Performance measures and targets should be aligned to these objectives and to international best practice and human rights standards.

- *Change programme*

There needs to be a properly-resourced change programme, led by the Director General, with a programme manager with experience of change management heading up a dedicated team. This should be supported by effective and democratically accountable systems of internal audit and monitoring; and external oversight and inspection. There will need to be a proactive and improved communication strategy. Existing recommendations should be rationalised and timetabled for action. The change programme must be a whole package, to be implemented over a period of time.

- *A new deal*

There are two essential components of a new deal for those working in and running prisons:

- *measures to ensure and reinforce governance, accountability and performance*

This includes ensuring more flexible and efficient working practices and staff deployment, a review of staffing numbers at all levels of the service, and the reform of disciplinary and dispute resolution procedures. Operational managers need to have the space and support to manage; but they also need to occupy that space effectively and exert positive leadership.

- ***a staff development package, with an early retirement scheme and recruitment and progression programme***

The comprises a training programme, externally delivered, to reach a significant number of staff and managers within 18 months, together with personal development packages for leaders and managers. Alongside this should be an early retirement scheme for those wishing to leave, and a recruitment and progression programme to refresh and diversify the workforce.

- ***Security***

There should be a planned and implemented strategy for improved and consistent procedural and dynamic security, and a reconfiguration of existing prison space and operations to allow freer movement within prisons for lower risk prisoners. This needs to include settlement of the continuing issues around separated prisoners, to provide a less restrictive regime with appropriate levels of supervision and security.

Prisons for a safer society

These are only the first steps, providing a platform for a more effective system, with rehabilitation as one of its core aims. Assisting prisoners desist from crime should be a task for the whole prison, and will involve significant changes in culture and organisation. Our final report will explore these ideas in more detail, and in particular the needs of specialist populations, such as women, young adults and those with mental disorders and difficulties.

A rehabilitative system

The barriers to effective rehabilitation at present are:

- Offender management, education and training are among the first tasks to be dropped when there are insufficient staff.

- Offender management units are under pressure and focused on risk assessment. They operate in silos: separate from the rest of the prison and with too few links to external probation and voluntary sector organisations.
- Education and training departments also operate in silos, without effective direction from the centre and unable to ensure full and consistent attendance. Valuable resources are wasted, and prisoners under-employed.
- Residential staff are not sufficiently engaged with, or involved in, rehabilitation or in positive work with prisoners.
- There is no effective sentence and custody planning, to plot an individual prisoner's route through custody by identifying needs and risks.
- Information flow and exchange are poor.
- Essential partnerships with the outside world and other organisations are under-developed.

We will develop further in our final report what a rehabilitative prison system should look like. A new approach would include:

- **Central and local strategies, targets and standards that support and reflect the aim of creating a safer society by supporting desistance from crime.**
- **A profile of the whole population which describes risks, needs and resources for change, so that rehabilitation strategies can be evidence-based.**
- **Individual sentence and custody plans for each prisoner that actively support change rather than simply assessing risk or need.**
- **Effective partnerships with outside agencies and groups for crime prevention, rehabilitation and reintegration.**
- **A revision of education and skills provision, offending behaviour programmes and information systems so that they all support the core safer custody strategy.**

This would support and develop work within prisons and criminal justice. But it needs to be part of a much wider strategy, which will require an outward-facing approach: a

considerable culture shift, not only for prisons but also for other departments and local agencies.

We therefore suggest that NIPS should create a 'safer society' post, at a senior level, for someone with external experience, who can champion this work and make the necessary links. This could be supported by a reference group that includes civil society: families, victims and communities with a direct interest in effective rehabilitation.

The prison estate

Current plans for the adult male prison estate do not focus on rehabilitation as a core aim. They are essentially 'business as usual' and do not offer any new thinking or approach. There is no discussion of open or semi-open prisons, or of half-way houses or supported accommodation (see above).

Women and young adults

There is need for a separate custodial facility for the small number of women who need to be in prison, but more work is needed to ensure that it is appropriate to need and linked to the community. Provision for young adults, who are at a transitional stage, also needs improvement. Other diverse populations also need appropriate provision and support.

Plans for the prison estate should be revisited and revised, with a focus on rehabilitation as well as safety and cost, so as to be able to provide acceptable accommodation, regimes and interventions for all populations and all levels of security: including open, semi-open and step-down facilities. That must include a separate custodial facility for women.

In the next phase of our work, we will look at diversity and the extent to which the prison system is meeting the needs of diverse groups, such as women, young adults, those with mental disorders or disabilities and foreign nationals.

Healthcare and substance use

Healthcare services are an essential component of safer prisons. Healthcare and substance use provision has improved since responsibility transferred to the South Eastern Health and Social Care Trust, but there remain some problems:

- Staff previously in post have not transferred to the Trust, leading to some professional isolation and supervision issues.
- There is insufficient mental health support to meet need, particularly for primary mental healthcare and for those with personality disorders and learning difficulties.
- Regime restrictions impact badly on healthcare provision, and medicines administration has taken up too much clinical time.
- There is insufficient engagement of and communication with other parts of the prison, particularly residential staff, who lack training and confidence in dealing with mentally disordered or vulnerable prisoners.
- Links with the external health economy are under-developed, and mental health provision outside prison inadequate.

Historically, the two main substance use problems have been alcohol and the over-prescription of benzodiazepine-type drugs. There is now also a growing problem of class A drugs. Inside prisons, drugs – including prescription drugs – are currency. There are attempts to monitor and reduce supply, but no comprehensive policy to link this with interventions to reduce demand.

Substance use services have improved under the Trust, but, like other activities, are inhibited by regime restrictions. There is a limited range of interventions, and as yet no agreed strategy or policy, either at the level of NIPS or of individual establishments.

We are aware that work is going on in both healthcare and substance use to develop strategies and improve services. We will want to examine this more closely in the next stage of this review.

Chapter 1: The outside environment

In subsequent chapters, we set out the problems, some of them significant, that the prison service needs to address. However, prisons do not operate in a vacuum. They need the support of the systems that surround them, both within and outside criminal justice. Prisons in Northern Ireland are not well-served by those systems, in a number of ways.

Fine defaulters and remands

First, in spite of numerous reports, committees, action plans and recommendations, prisons hold far too many fine defaulters and remanded prisoners (those awaiting trial or sentence) – a much higher proportion in Northern Ireland than in any other prison system in the UK. The number of fine defaulters in the system at any one time is low (about 30 prisoners, 3% of the population). But this disguises the true cost and effect of a constantly moving tide of people in and out of prisons: fine defaulters spend an average of 4 days in prison. The processes of committal (reception into prisons) and induction are, and need to be, among the most labour-intensive and therefore expensive: involving assessments of risk, vulnerability and health. Figures from Hydebank Wood Prison and Young Offenders Centre for 2010 show that a third of all committals were for fine default; for women committed there, it was a staggering 52%. We did not need to look far to find women imprisoned for non-payment of television licences (or even in one case a dog licence) - and in some cases even after payment had been made but not yet processed. This would be wholly exceptional in other jurisdictions. Apart from the effect on individuals and their families, the costs (well over £3,000⁴, allowing for the additional costs of committal) are entirely disproportionate to the initial default and do nothing to recover money owed.

As well as the cost, and the harm done to those directly concerned, this disrupts work with other, long-sentenced prisoners. Men and women looking at 20 years or more in prison can find themselves adjacent to those who will be out in two days, and this is highly

⁴ The CJINI has estimated that in practice the average occupancy cost in Northern Ireland is nearly £95,000 per prisoner per year, i.e. around £260 a day. The average sentence length for those failing to pay television licences is 11.5 days.

destabilising. Moreover, resources that should be available to provide care and to work with them to tackle their offending are instead deployed in processing trivial cases. Ultimately, this damages lives unnecessarily and is likely to make society less safe.

At the same time, over one third of the prison population is on remand. This proportion has remained obstinately high over the last 13 years – indeed by December 2010 it had risen to 35%, compared with 33% in December 2009 and in 2005 (when the NIPS statistical department was optimistically projecting a gradual decline). The problem is particularly acute at Maghaberry, where 55% of prisoners were on remand in December 2010. Remands also disproportionately affect the committal process - at Hydebank Wood they accounted for 58% of all committals in 2010.

This is, at least in part, a consequence of a chronically slow justice system – a problem which has long been recognised and has spawned a stream of reports, committees and action teams, without any significant effect. Most recently, the CJINI issued a second report on delays⁵, which showed that only one of the five timeliness standards set up after its previous report had been achieved and that the overall time period between charge and committal was 20% above target, rising to 33-34% in relation to youth cases in magistrates' courts. The situation was particularly critical in relation to youth court cases: cases dealt with by charge were taking over 21 weeks to process; summons cases were taking 40 weeks, seven times as long as in England and Wales.

The problem that delays cause is compounded by the fact that there are too few alternatives to custodial remand for those spending months awaiting trial and who do not have stable or acceptable accommodation. There are relatively few hostels providing approved accommodation for adults. This was identified in a CJINI report of 2008⁶, and has been exacerbated by the need to use scarce hostel accommodation for some of those released under the Criminal Justice (NI) Order 2008 and requiring statutory supervision. There is even more of a scarcity for children: indeed the Juvenile Justice Centre continues to

⁵ *Available Delay (June 2010)*

⁶ *Inspection of Approved Premises (July 2008)*

hold children and young people under Police and Criminal Evidence Act powers, for questioning or for their own safety.

The high proportion of remand prisoners seriously undermines the effectiveness of prisons and of the criminal justice system in general. The period of time spent on remand can be so long that some young people are undertaking youth conferences in relation to offences they barely remember and which may not even be their most recent offence. Many prisoners will serve the great proportion of their sentence on remand – during which time, work to deal with the underlying causes of offending is necessarily limited. Indeed, some are released directly from court without any focused rehabilitation work having been done. Remand prisoners cannot be forced to undertake work or education, and those who choose to do so, even if they are able, will find their courses disrupted by court appearances or unanticipated discharge from court. The extremely high proportion of remand prisoners in some establishments also affects the mindset of both prisoners and officers and their perception of what can and should be done to engage constructively with those sentenced by the courts in order to reduce their risk of reoffending.

It is true that the presence of fine defaulters or remanded prisoners can be an excuse, rather than a reason, for failures to plan and manage resources or regimes. There will always be a proportion (in other parts of the UK nearer 10%) of unsentenced prisoners, and it is the job of a prison system to ensure that their needs are provided for, and their time in custody is planned and constructive, as far as possible, without prejudice to the majority of sentenced prisoners. As we set out below, in the current prison system, we would not yet have confidence that this would happen, even with a significantly reduced number of remanded prisoners. However, the scale of the remand population is a persistent and damaging drag on the capacity of any system to deliver rehabilitation and therefore contribute to public safety.

Part of the solution to the problems in prisons must be the speedy resolution of the chronic problems of imprisoned fine defaulters and lengthy periods spent on remand. There is no shortage of recommendations and reports; what is needed is action.

Ministers should task the Criminal Justice Board to liaise with the CJINI, and to report regularly to the Justice Committee, to achieve real and measurable reductions in the fine defaulter and remand prison population within 12 months. Failing that, legislation on time limits should be brought forward, as recommended in the Criminal Justice Review 2000.

Community solutions: before, instead of, and after prison

In 2006, NIPS produced a blueprint for its estate strategy. It planned for an adult male prison population that would more than double within 15 years to 2,274. This was followed by a strategic business case to meet presumed long-term accommodation needs for adult men, based on the same projections. Among the planning assumptions were pessimistic predictions that devolution would produce a more retributive and punishment-oriented government, and that reoffending rates would rise. The projections also foresaw that by 2022 there would still be nearly a third of prisoners on remand. The strategy therefore envisaged an adult male prison estate where capital costs alone would be £560 million. At the same time, a strategic outline case for a women's prison projected a need for 120 places at a capital cost of £59 million; this was later reduced to 90 places, and £41 million – still more than double the 42 women in prison in January 2011 (of whom 41% were on remand).

In Chapter 4 we refer to our broader concerns about the shape of the prison estate being planned in these documents, and our concerns about provision for specialist populations, such as women. At this point, though, we want to raise our concerns about its planned size. For both reasons, we consider that the strategy is flawed and needs revisiting. In our view, neither a more punitive penal policy nor an increase in reoffending should be assumptions underlying an estate strategy: this is planning to fail. Overall prisoner numbers are in fact slightly less than those predicted over a 5-year period. Evidence shows that if prisons are built they are filled, and that resources are diverted from the interventions and environments outside prison which could be both preventive and supportive. These are important political decisions: prisons once built are there for the long-term, and are extremely expensive, not just to build but to staff and run.

In other jurisdictions, there have been recent moves towards justice reinvestment: moving resources out of prisons and into more effective alternative, preventive and resettlement work outside. The need to talk down, rather than up, the prison population was central to the findings of the Scottish Prisons Commission, *Scotland's Choice*, which in fact proposed a cap of 5,000, which would have required a 37% reduction in the Scottish prison population. Ministerial priorities in England and Wales have also recently changed, with a much greater emphasis on restorative justice, investment outside prisons and reducing the use of short sentences. Northern Ireland could benefit from these new approaches, without having to experience the painful and expensive mistakes made in other UK jurisdictions.

Looking beyond the prison system, Northern Ireland already has some excellent voluntary and statutory sector provision. An example is the Inspire project for women, which is probation-led but also draws upon the long experience of women's centres throughout Northern Ireland. There is also a range of preventive and post-prison work carried out by organisations like NIACRO, Include Youth, Extern and the Prince's Trust – all of whom provided very useful evidence and proposals to us. Just as the youth conferencing system is now an internationally-respected model, so there are the foundations, in a society that is socially cohesive, for an innovative and properly mixed economy of interventions. This will require some capital investment (for example halfway houses or supported accommodation) as well as revenue costs. But, even at a time of public spending cuts, resources could be sprung from a generously-financed prison system, particularly if its remand and fine default population were significantly reduced or removed, to provide more effective alternatives for those who need not be there.

This could include some of those serving short sentences for non-violent and less serious offences. It should certainly include some of those with mental disorders. As in England and Wales, mental health services in prisons, along with other healthcare services, are provided and funded by the same organisation that provides healthcare in the community – in this case the South Eastern Health and Social Care Trust. This is improving services (see Chapter 4). But the underlying problem is broader. First, there are insufficient opportunities for diverting offenders from prison to appropriate mental health facilities and interventions. Those diversion schemes should be in place at police stations and courts, and

sentencing courts should have assessments before them, particularly at remand stage, and information about the range of alternative disposals. These issues were explored and set out in the CJINI report of March 2010, which recommended an integrated approach, like that put forward in Lord Bradley's report in England and Wales, and the creation of a joint criminal justice and health programme board⁷.

Moreover, as in other jurisdictions in the UK, many people with mental health disorders end up in prison, or return there, because of the inadequacy of mental health services in the community. This applies both to community-based services, which too often fail to pick up need at an early stage, and also to secure and residential facilities.

In relation to community provision, a particular issue, which is unique to Northern Ireland within the UK, is the extremely high level of benzodiazepine prescribing in the community. This appears to have become a routine way of dealing with anxiety disorders, probably originating during the Troubles, rather than using talking therapies. This too affects prisons, where 'blues' become currency, or alternatively where those whose dosages are suddenly reduced may turn to other, illegal, anxiety-blockers.

There should be a 'safer society strategy' to plan for investment outside as well as inside prison. It should be an inter-departmental initiative, led by the Department of Justice, and should link in and reinforce corporate cross-departmental policies for crime prevention, mental health, rehabilitation, resettlement and desistance. We will consider this in more detail, after further discussions, in our final report.

Children and young people under 18

We are aware that there is a separate review of youth justice under way and we do not therefore offer any thoughts on this system in general. Our remit is the prison system, which currently contains a small number of 15-18 year olds held at Hydebank Wood. We do not believe that Hydebank Wood is, or can ever be, an appropriate environment for

⁷ *Not a Marginal Issue* (March 2010). See also *Vulnerable Prisoners*, December 2009

children. We have visited the Juvenile Justice Centre at Woodlands, and were impressed with the quality of care, the relaxed atmosphere, the social work approach and culture, and the wide range and quality of activities available.

Nothing could be further from the experience of those under-18s who end up in Hydebank Wood – of whom there could be anything from 7 to 20. The regime available to them is extremely poor: sometimes even worse than that available to the 18 to 21 year old young prisoners there, which itself is far from ideal. At the time of our visit, education staff told us that they estimated that up to 30% of children and young people had learning difficulties, and that they could only access two education sessions a week – in spite of the legal requirement that those of 16 or under should have a full education timetable. Those under 18 have also been unable to access workshops, because they cannot mix with the over-18 population. More recently, parental permission has been sought for juveniles to mix with young adults in classes and workshops. This is in itself extremely unsatisfactory and simply increases pressure on already over-stretched facilities.

Children are sent to Hydebank Wood for one of three reasons. On rare occasions, they are transferred from Woodlands because they are considered to be too difficult and disruptive to be managed in the relaxed regime there, or else they are sent to Hydebank Wood by the courts, either because they have already had a custodial sentence within the last two years or because they are 17 and will become 18 during this sentence.

None of these are adequate reasons for holding juveniles in an environment that is entirely inappropriate for them. It can result in the most difficult, damaged or needy children ending up in the environment least able to cope with them – in terms of the number and training of staff, the quality and safety of the accommodation, and the activities and interventions available. There also seems to be a residual belief that 17 year olds are not really children, in spite of the change in domestic law and the provisions of all international and human rights standards.

Woodlands has in practice dealt with some very difficult and damaged children. It is clearly important to preserve its openness and social work ethos. We would like to see that

approach and those opportunities extended to those under-18s who need to be in a custodial setting and who cannot be or are not currently held there. We would also like to see a much better managed transition between the very different environments of Woodlands and Hydebank Wood for those young people who reach 18 and need to be transferred between the two settings.

If there is a robust attempt to deal with remands into custody this should reduce the number of children and young people in custody. We also anticipate that the youth justice review will be examining whether there are alternatives to custodial disposal for some children and young people, including those held under PACE powers, which ought to be examined or provided.

We recognise that there have been, exceptionally, some young people who are too disturbed to be held in the open environment of Woodlands, and who require specialist help, which may need to be in a therapeutic unit. We also recognise that the needs and behaviour of more mature young people (mainly, but not exclusively, age-related) may be different from those of younger and less mature children. However, we believe that this argues for a more developed and differentiated provision for under-18s who have to be in a custodial setting, including where appropriate the use of the new mental health facility at Beechcroft and of secure children's homes for younger children.

Children and young people under 18 should not be held in Hydebank Wood. Suitable accommodation for all children that meets the best interests of the child should be found on the Woodlands site or elsewhere. We will be discussing transitional issues, and the provision for young adults in general, in our final report.

Chapter 2: What is prison for?

Much of this report deals with the practicalities and internal changes required to create a more effective prison system. We set out, among other things, the steps that will need to be taken to invest in and support staff and managers in making this transition. However, this process needs to be based on a clear vision of what prison is for, and therefore what it should be. Change will not be successfully implemented unless all the relevant actors are clear about the core values, objectives and deliverables which determine what success would look like.

Prison is never a neutral experience: it can reinforce a criminal identity or lifestyle, or alternatively help to change the narrative of a life. That is a reason for using prison sparingly, and for using it positively.

'The first time I went into prison it was really scary. But the next time was easier, because all my friends were ex-prisoners.' (young adult)

Vision and values

The Hillsborough Agreement envisages a criminal justice system which reflects best practice and complies with the relevant human rights standards and principles. This must underpin the vision and values of the prison system.

Specifically, we believe that the reference point for the prison system is whether it is contributing to the creation of a safer society. There are three pillars that need to be in place to support this.

Justice and fairness. First and foremost, prisons are and must be part of a system of justice. Under our law, imprisonment is the most extreme measure and the severest sanction available. In administering the sentence of the court, the prison service is required to deliver punishment justly and fairly. The deprivation of liberty is that punishment, and

represents its proper limits. In other words, people are sent to prison as punishment and not for punishment.

Security and safety. Prisons must contribute towards a safer society. That means they must keep people in custody safely and securely and must be safe and ordered places for prisoners to live and for staff to work. Keeping prisons and prisoners safe and secure is a continuous and active task, requiring dynamic as well as physical and procedural security. The wider task of promoting community safety also means that prisons must create opportunities and challenge prisoners to change their behaviour and their lives, repair the harm or address the conflicts linked to their offending, and improve their prospects for successful resettlement. Failure to create and promote these opportunities condemns prisoners and communities to living with the consequences. It represents a wasted opportunity and a waste of resources.

Decency and dignity. Prisons must uphold, maintain and promote decency and the respect for human dignity which is at the heart of human rights. That should be reflected in conditions, behaviour and treatment. The conditions in which prisoners live must be reasonable and appropriate; prisoners' proper concerns should be recognised and taken seriously; and they should be protected from harm. Most importantly, the treatment of prisoners must be consistent and fair, and should encourage and promote responsibility. Prison staff at all levels should challenge inappropriate behaviour and model the attitudes and behaviours which they and we expect from prisoners both in prison and after release.

These are the three preconditions for a modern, progressive and effective prison system. However, even where these values are expressed, prisons cannot by themselves produce safer and fairer communities. There are complex challenges involved, and many of the resources and skills that can support resettlement and reduce offending lie beyond the prison walls, in communities themselves. Prisons must therefore be outward-facing; the corollary is that society needs to be receptive and inclusive.

All of these elements are expressed in practical terms in the CJINI's four tests of a 'healthy prison': one that provides proper standards of care and also seeks to improve the life

chances of prisoners and therefore the safety of society. Those tests - safety, respect, purposeful activity and resettlement - have been adopted in many other jurisdictions and custodial settings, in order to define whether a prison system is achieving its aims. A vision, and its aims, should inform decision-making and practice at all levels: the shape of the prison estate, the targets and outcomes set by Ministers, the services and support provided from headquarters, and the work of every governor, officer and service provider in the system. We outline what that might mean in Chapter 4, and will return to this in more detail in our final report.

Yet a vision on its own is not enough. The Northern Ireland Prison Service already has a statement of vision and values, which, though it needs refreshing and refocusing, does contain aims such as rehabilitation, decency and human rights. However, at present, it is little more than a wish-list. It bears little relation to what actually happens in prisons. That is because there are ineffective mechanisms for translating it, or many of the other policies promulgated from headquarters, into the actual running and culture of prisons or the prison service.

Chapter 3: Inside the prison system

There has been no shortage of reviews, reports and recommendations for change in the prison system. Reports from the Criminal Justice Inspectorate (CJINI) and the Prisoner Ombudsman have produced detailed recommendations for change in particular establishments or on particular topics, such as suicide prevention. Ad hoc inquiries into critical incidents, such as the Pearson Review, have produced more general recommendations for change. Since 2005, those reports have produced over 1500 recommendations that have been accepted. But little has changed, and many hundreds of unachieved recommendations hang around the service like a dead weight, recorded in ever-lengthening 'action' plans, many of which cannot be actioned without addressing more fundamental issues. As a consequence, monitoring and reviewing bodies are constantly frustrated, most prison staff are demoralised at the constant barrage of criticism, and many managers have reverted to a 'can't do' mentality. Each failure to change has reinforced poor cultures and practice and further disheartened the managers and staff who want and are committed to a more positive approach.

This was the rationale behind the CJINI's recent report on corporate governance, which made no new recommendations, but exposed some of the real systemic and historic problems that have led to the current impasse. At the same time, the Northern Ireland Prison Service (NIPS) itself, under a new Director of Operations, had put together for the first time a coherent and time-bound process for fundamental change, the Strategic Efficiency and Effectiveness (SEE) programme.

An agreement was reached between NIPS and the Prison Officers' Association (POA) in December 2010, for a process of reform, driven by the need to save money. It envisages movement towards a 37 hour week for prison officers, to be accompanied by a 'robust and sustainable package of efficiencies' to be agreed by June 2011. As evidence of goodwill, NIPS agreed to review procedures for dealing with sick absence caused by work-related injury. Similarly, the POA agreed to a 6 month pilot of central detailing (i.e. the organisation of staff deployment from one point within each prison, rather than by senior officers at group level) – though this has not yet been implemented.

We believe, and set out below, that this should be part of a wider package of measures. But that is only the beginning. The challenge facing the prison service and those responsible for it is not simply to deliver 'efficiencies' (i.e. cuts), but how to use the resources available to create a system that is a model of excellence, and not a cause of embarrassment; where staff want to work and are able to use their skills, and which genuinely contributes to fairness and public safety in Northern Ireland. That is not simply a technical and operational matter. It requires commitment to a programme of fundamental change and transformation – a new deal within the prison service, for those working in it, running it and responsible for it – and a new deal for prisoners and society.

The problems

This report is designed to be solution-focused. But we cannot do that without identifying very clearly the shape and scale of the problems - which have often been hidden. There are two fundamental problems which have disabled those who have tried to change and improve the system over recent years. One is leadership and management; the other is culture. Both have been clearly evidenced in the CJINI governance report and in other inspection and Ombudsman reports.

The space that should exist for governors to govern and middle managers to manage has been occupied by others. That includes the POA, which has expanded its remit from legitimate industrial relations into policing and second-guessing operational management decisions. It also includes NIPS headquarters, which has made detailed decisions about personnel and resourcing and handed down policies which, because they are not properly owned, integrated or sometimes well-grounded, are then micromanaged from the centre.

It is essential to preserve and defend a proper space for operational management if the system is to progress, and to make it clear what outcomes management has to achieve. As the CJINI report notes, that is a crucial part of accountability to society for the performance of prisons against the large amounts of public money that they require. The management vacuum means that the service is running like a car with a faulty transmission system. Irrespective of hard work and good intentions - and these have undoubtedly been present -

there has been no effective process for converting agreed aims, and the associated implementation strategies and policies, into consistent and reliable action and movement. It will, however, be necessary for managers to occupy that space effectively, taking on responsibility, performance management and leadership roles that they have not had in the past. Without a history of effective and appropriate operational management, there are few if any role models for governors, nearly all of whom came up through the ranks of the prison service during the Troubles. They will need to be more visible, more decisive and much better at leadership and communication. We discuss this more fully below.

Creating effective management is, however, not just a technical and operational issue. It requires a change of culture. Much has been said about the culture of prison officers, created and forged during the Troubles, when 29 prison officers were killed. All staff lived under threat, both inside and outside prisons, and this resulted in a security-led mindset, and a distancing of staff from prisoners. That approach to prisoner management still continues, particularly at Maghaberry, as evidenced in our discussions with staff and the staff survey we commissioned. It is not the whole story: we met staff who are engaged, positive and proactive. But the underlying culture on the residential wings is one of 'getting by', where little is expected, either of or by prisoners or staff. That is hardly surprising: this is a service which has been neither refreshed nor retrained for 15 years. Many staff are genuinely puzzled and hurt that the skills and resilience for which they were once publicly admired and thanked now seem to be devalued or even turned against them, because there are now different expectations of their role.

It is not, though, only the culture of those working within prisons that needs to change. That culture has been able to survive, and indeed gain strength, because of a wider culture of denial and compromise in the system as a whole. The priority for Ministers until April 2010 was, understandably, to steer the whole justice system into the harbour of devolution. The required role of civil servants and senior prison managers was to avoid any unexploded mines, rather than to clear the minefield. There were two consequences, both very damaging to progress and reform. The first was that reports to both Ministers and the Prisons Board were seriously over-optimistic about what was being, or could be, achieved.

The second was the immediate search for compromise whenever a difficulty arose, rather than attempting to tackle the underlying problems.

Managers at all levels did not believe that difficult decisions, or challenges to working practices, would be supported – indeed we heard many examples of attempts at disciplinary action or challenge being undermined by staff going round them to a higher, and more acquiescent, authority. Disciplinary processes are also convoluted and complex. Even when disciplinary decisions are not undermined or second-guessed, too often they cannot in the end be implemented – even when there is clear evidence of wrong-doing – because procedures have not been followed to the letter, with the result that industrial action is threatened and managers are told to back down.

If real change is to happen, managers need to have confidence that legitimate decisions, in pursuit of new and challenging policies, can be implemented and will be supported all the way up the line, even – and especially – when they meet resistance. As experience in other jurisdictions has shown, when a step-change is needed there should not be any space between the Minister, the Director General and the individual prison manager.

In addition, as the CJINI report clearly shows, performance management systems, one of the key planks of accountability, have been weak and ineffective. In relation to staff performance, current appraisal systems are largely a meaningless formality, where the great majority of staff are graded as satisfactory and above (and indeed 25% were said to be outstanding)⁸. Targets set for the service as a whole measured what was measurable and could be achieved, rather than what was important and what should be happening. There was a serious disconnect between what inspectorates, human rights bodies and the Ombudsman expected of a well-running prison system and what it expected of itself. Into that gap fell hundreds of outstanding recommendations.

More generally, the current arrangements for settling disputes between management and unions disable effective management. There are two principal problems. The first is that a

⁸ *Northern Ireland Prison Service Corporate Governance Arrangements (December 2010)*

practice has arisen of using the 'failure to agree' process to challenge individual operational decisions: including, for example, the movement of a prisoner, or the deployment of a staff member⁹. The second is that there is no procedure for settling disputes that do arise. The current process is silent about what can or should happen if there is a failure to agree. In practice, nothing happens: there is simply a stalemate. This can happen even where decisions have been politically approved, which raises issues of democratic accountability.

Finally, we do not underestimate the political, practical and cultural consequences of the issues surrounding separated paramilitary prisoners in Maghaberry, both inside and outside the prison. The background to separation is set out in Appendix 3. The 2003 decision to separate Republican and Loyalist paramilitary prisoners, following the Steele report and designed to resolve a serious immediate situation, created unresolved tensions. For prison officers in general, it brought back memories of the Maze prison, and fears of a gradual slide into a prison environment controlled by prisoners, not staff. For separated prisoners, the general failure to provide a consistent and reasonable regime at Maghaberry (which we describe below) was magnified in the separated wings because of the high levels of staffing and control that had been negotiated with the POA. This was exacerbated by industrial action during 2009 and particularly in 2010, resulting in an extremely restrictive regime.

What followed - months of protest, including a 'dirty protest', on the Republican separated wing - created intolerable living and working conditions there and was extremely damaging to relationships between those prisoners and staff. It also affected the rest of the prison and indeed the whole prison system. It raised and appeared to validate prison officers' continuing concerns about their personal security, particularly as it was accompanied by threats to individual officers; it has also dominated the time and energy both of local managers and also of headquarters and politicians, because of the still unresolved issues around separation and the potential links with sectarian violence outside the prison. As a consequence, 60 or so paramilitary prisoners have had a disproportionate effect on the prison system's ability to move forward and deliver an effective service for the other 1450¹⁰.

⁹ *Northern Ireland Prison Service Corporate Governance Arrangements (December 2010)*

¹⁰ Figures at 27 January 2011

The evidence

It is evident that, in spite of the significant financial resources expended, Northern Ireland's prisons have been unable to run acceptable, consistent and positive regimes. This varies between and within the three prisons, but is a fundamental problem in them all.

At Maghaberry, there has been a maximum of only three and a half hours on weekdays for prisoners' off-wing activity (education, work and training, gym, offending behaviour or resettlement work). Even during those hours, for reasons that we explore below, prisoners' attendance is unreliable and often late and the activity spaces that are available are not fully utilised. Fewer than half of education spaces are usually taken up, and few prisoners are able to complete accredited offending behaviour programmes¹¹, without which some will not be eligible for parole. There are some very frustrated prisoners, as well as frustrated education, psychology, offender management and chaplaincy staff who are unable reliably to work with the prisoners who need their services. Expensive resources are being wasted.

Hydebank Wood holds young offenders, who can be volatile and are often under-educated, as well as women, many of whom are vulnerable and some of whom are extremely disturbed. The provision of sufficient and consistent constructive activity is therefore extremely important, but it is not being delivered. As at Maghaberry, much-needed education provision is significantly under-used and workshops have been running at only about 65% of capacity. Prisoners arrive late, or sometimes not at all, to many classes.

Magilligan has been faring better, as its recent inspection report confirmed – and it does not have to deal with the same range of prisoners and functions as the other two prisons. The quality of some of the activities provided was commended by the Inspectorate, but take-up of employment and education places is well below capacity: we found a large number of prisoners (70% on two of the main house blocks) remaining on the wings.

¹¹ 2 prisoners completed Enhanced Thinking Skills, and 2 completed anger management in 2009-10. Between April 2010 and January 2011, the figures were 14 and 3, and 5 prisoners were also on a rolling cognitive self change programme.

These problems arise from three separate but interlocking issues: the inability to meet agreed - and in many cases excessive - regime staffing levels; the over-emphasis on security and consequent restriction of movement; and inconsistencies and weaknesses in central and local management.

Staffing issues

It has been impossible for any of Northern Ireland's three prisons to run its stated regime. That is because of the deployment and working practices of the staff in post. The CJINI report described them: 'reserve hours' (a notional and never-used half an hour for emergency duty), shift patterns (resulting in, on average, a 4.3 day working week), leave that is calculated in days while shifts are measured in hours, and poor time-keeping¹². Along with high levels of sickness absence, this means that a notional 39-hour week in fact produces an average weekly out-turn of just over 28 hours on front-line duties. These practices have developed over time, are sometimes the consequence of locally-agreed deals between managers and staff side unions, and are exacerbated by the fact that individuals' working hours and deployment have been organised at group level by senior officers, most of whom are only temporarily promoted into a management role (see below). Sickness levels have been unfeasibly high: the average at Hydebank Wood has been 17 days (around four working weeks) per officer per year, and at Maghaberry 13 days (this compares to a PSNI average of 8.2 days)¹³.

The system therefore has relied on officers' 'good will' in working overtime or additional hours and days. This means that the problem is cumulative – officers at Maghaberry carried over an average of 24 days of untaken leave at the beginning of the last leave year, and were also owed an average of 51 hours' time off in lieu for additional voluntary hours worked. The overtime bill for Maghaberry in this financial year is forecast to be over £1.6 million. Even at Magilligan, the one prison which has been able to manage a fairly predictable and acceptable regime, this relied on a self-rostering arrangement agreed with

¹² *Northern Ireland Prison Service Corporate Governance Arrangements (December 2010)*

¹³ *Northern Ireland Prison Service Corporate Governance Arrangements (December 2010)*

local management which has now collapsed because it was not consistent or reliable. Magilligan has therefore also been subject to recent lockdowns and closures.

The situation is further exacerbated by a recruitment freeze, which has been a reactive response to financial pressures, without tackling the underlying causes of high costs. As a result, the number and grade of staff actually in post do not fit the profile agreed for the work that needs to be done. Maghaberry has too many main grade officers, who are therefore detailed to tasks that should be performed by less expensive support grades. Because of deficits in both support and officer grades, Hydebank Wood is in practice running with 17 officers short of what would be needed to cover agreed officer staffing levels, with consequent redeployment and an inability to cover agreed tasks and regimes.

There are now moves to tackle sickness absence and an agreement in principle to use central detailing. This will require management skills and a robustness of approach that have not so far been apparent, and it will test both managers and their superiors. But the current levels of absenteeism and working patterns also point to a deeper malaise among staff, which managers need to address just as much as the operational and technical issues.

We were struck, in all the prisons we visited, by the demoralisation of most of those that we met in staff groups – the belief that they were ignored and poorly led, that nothing could or would change and that the pride that they used to have in being a well-respected service in the eyes of the public had been eroded by constant outside criticism. Some staff were clearly counting the days to retirement, or told us that the pay was the only good thing about the job. We also, of course, encountered staff who took a pride in their work, and could see a better way of working, but they often felt isolated and under-valued. Almost all staff referred to the invisibility of managers on the landings where they worked, and to poor communication, in which they were informed rather than consulted, presented with new processes which were not explained and in which they had not been trained, and then ‘lambasted’ for not doing them, or not doing them well enough. Whatever the rights and wrongs of these feelings, they exist and need to be dealt with; at the same time, the good and progressive members of staff must be identified, encouraged and supported.

'Q: What is a good day? A: I don't have any good days any more. No, I did have a good day recently: a day's training on personality disorders. I learned a lot and could talk about things with others. That was really good.'

'I hear more and more staff say that they are only here for the money. I don't want to be like that.'

'John retires in 7 days 5 hours 4 minutes and 32 seconds' (on electronic notice-board in training department).

It is not only working practices that will need to change. In order for prisons to run efficiently and effectively, it will also be essential to revise the levels of staffing that are deemed necessary for wings and landings to run. Current arrangements are partly dictated by an overall framework agreement made 15 years ago, and partly by local agreements when new units have been set up or new tasks created. There is no business model based on a realistic assessment of risk and need. It is important that staffing levels are adequate for safety and to allow positive engagement between staff and prisoners, and we recognise (see Chapter 4) that the design of much of the accommodation in Northern Ireland prisons is unsatisfactory. Nevertheless, as we show in Appendix 4, current staffing levels in normal residential wings and houses are significantly out of line with agreed and risk-assessed levels in comparative prisons in England: often twice as high and sometimes more. These levels are unsustainable. It would be of less concern if this reflected regular and proactive staff engagement with prisoners, and an active regime, but this is demonstrably not the case. A great deal of staff time is spent in offices, or in 'circles' and 'pods', locking and unlocking doors.

These problems are exacerbated by the inflexibility of current arrangements. Staffing levels and operational practice remain the same even in those relatively few environments where the majority of prisoners move off residential units to activities during the core day, or when wings and landings are not full. Braid House at Maghaberry has three staff per landing of life-sentenced prisoners even when the prisoners are off the landing and being supervised elsewhere in the prison. The same staffing levels applied during our visit to a landing that

held 7 fine defaulters locked up for 23 hours a day. Similarly, at Magilligan, staff on weekend duties are divided into two 'sides' to cover alternate weekends. Over time, the 'sides' have become unbalanced, as staff have left or retired, with the result that there are 27 staff available on one weekend and only 17 on the other – but managers are unable to secure union cooperation to redeploy between them.

This is a leadership challenge, as well as a challenge for staff. Effective leadership, and appropriate staff development and support, will become even more necessary, as and when changes to staffing levels are made.

Security issues

The high staffing levels reflect a general approach to security and control which is not consistent with assessed risk, but rather with an apprehensive and security-dominated mind-set. At Maghaberry, for example, outside the separated houses, there are only 16 category A prisoners in a population of around 800, yet the internal running and staffing of the whole prison is configured to that level of risk. In addition, in the two 'separated' houses that hold prisoners with paramilitary affiliations, staffing levels have been set at five officers per three prisoners: these are levels that would not obtain in maximum security prisons in England, dealing with the most serious and dangerous prisoners - even in the special secure unit within Belmarsh, which holds high and exceptionally risky prisoners, including suspected would-be suicide bombers (see Appendix 4). The high staffing levels agreed at Maghaberry, and the failure in practice to resource them, led to an extremely restrictive regime for separated prisoners during the early part of 2010.

Throughout all prisons, prisoner movements are made much more difficult by current arrangements for accessing and leaving wings, which are controlled by (often two) officer support grades sitting in a 'pod' and operating electronic locks. This also prevents managers having free and unannounced access to wings and landings. These labour-intensive methods are particularly inappropriate at Magilligan, with its population of low-security prisoners. Prisoner movements across all prisons are also over-controlled, sometimes resulting in a staff member walking one or two prisoners to their allotted activity or

appointment. Further restrictions result from the practice of locking down the entire prison if there is an incident on a single wing or house – even if it involves only one prisoner.

Yet the levels of staffing and the over-control we observed do not necessarily lead to a prison which is, or which is perceived to be, safer. In the recent past, journalists have been able to gain access to the prison complex, and prisoners have been released in error. During our review we observed or were told of basic gaps in procedural and dynamic security, particularly at Maghaberry, which are now being identified and addressed: CCTV cameras not working for years, cell searches not routinely carried out, potential escape equipment lying round in the grounds. When we enquired, staff on the landings were not able to tell us how many prisoners should have been actually present there. As identified in the CJINI report¹⁴, prisoners in the square houses were unlocked for relatively long periods in association areas and exercise yards, sometimes even over lunchtime, without any staff being physically present; allowing the opportunity for unremarked violence and bullying to take place, as well as covert criminal activity, such as drug-dealing or the planning of future crimes. The heavy security blanket has therefore hidden, and has provided an excuse for not addressing, some real risks.

Prisons are not, however, made safe only by physical security measures. They need to rely on dynamic security: the interaction between staff and prisoners that can identify, prevent and defuse risk. Our observations were that many staff working in the residential units lacked confidence, and were at times genuinely nervous about contact with prisoners. Though many officers told us that it was only thanks to their experience and ‘jailcraft’ that prisons remained secure and operative, we found that this was largely defined in terms of order, control and compliance, particularly at Maghaberry. One officer told us that he would not want to walk a landing alone for fear of false allegations from prisoners; others suspected that there were ‘sleepers’ within the prison population, waiting to destabilise the entire prison. There is over-reliance on dedicated search teams to deal with routine, rather than exceptional, control issues, and, as we observed, this has resulted in a heavy-handed approach that has exacerbated tensions.

¹⁴ *Northern Ireland Prison Service Corporate Governance Arrangements (December 2010)*

This is supported by the staff survey we commissioned at Maghaberry¹⁵, which shows a surprising level of insecurity among staff, given the levels of staffing and control. Among disciplinary staff with prisoner contact, the scores for perceptions of safety, control and security were worse than at any of the 14 other similar prisons that the team had surveyed¹⁶. Some of this is the ripple effect of the issues around separated paramilitary prisoners and the real threats that continue to be made against prison officers. But it also seems to indicate that, paradoxically, the levels of physical and procedural security reinforce a feeling that the prisoner population in general is inherently dangerous and threatening.

As with staffing levels, the changes in culture and working practice needed to run a prison that does not simply rely on physical security will be considerable, and require careful preparation, management and leadership.

Management and support

It is not only at officer level that changes and efficiencies are needed. Management and headquarters systems are also not functioning effectively.

For a very small service, NIPS has a long and top-heavy chain of management. There are five separate governor grades (as well as the middle management role of principal officer). There are currently 46 employed governors, 35 of them deployed in the three prisons: a ratio of one operational governor per 43 prisoners. Again, as Appendix 4 shows, this is greatly in excess of the ratio in England and Wales, even allowing for the additional cover needed in a smaller system. Just as with prison officers, a slimmed-down and more effective governor complement will be challenging for those in post and will require active development, recruitment and support policies.

¹⁵ Survey of the quality of staff life (SQL) carried out at Maghaberry 5 – 7 October 2010 by NOMS Audit and Corporate Assurance Team

¹⁶ We have commissioned similar surveys for the other two prisons, the results of which will be published when available.

As we have already stated, governing governors have been given too little accountability and responsibility – for example over the deployment of budgets or staff – and too little support for difficult decisions. The experience of the previous Governor of Maghaberry, brought in to oversee major change following the damning Pearson and Ombudsman reports, but unable to do so, stands as a lesson both to other governors and to staff. On the other hand, governors have been able to agree local deals with staff side unions, or new ways of working, which are not always consistent, sustainable or in line with the objectives of the system, and which their successors then overturn¹⁷. Staff referred to ‘management by whiteboard’, as one governor wipes out the plans of his predecessor and substitutes new ones. This is exacerbated by failures in succession planning and frequent changes of governor: Maghaberry has had five governing governors in 2 years (some of them only acting up), which is unacceptable for such a complex and important prison.

Though there are many governors, their presence and perceived impact on the residential wings is extremely limited. We were repeatedly told, and we observed ourselves, that governors are not visible on most wings and landings (though there were some notable exceptions) and are not therefore able to challenge inappropriate behaviour, encourage and support good working practices, or effectively monitor whether agreed policies are being implemented. For example, members of the review team found poorly-completed suicide prevention documentation on the REACH landing for very vulnerable prisoners at Maghaberry, which, given recent tragic deaths and extremely critical Ombudsman reports, should have been subject to routine and rigorous management checks.

Along with an absence of visible management, there is a leadership vacuum. Managers – in some cases bruised by the lack of support for decisive action – tend to operate through backstairs deals (with each other as well as with officers). It has often been more convenient not to know, or not to recognise, what is going wrong, without the means or confidence to put it right. We saw examples of ‘hit and run’ management, rather than

¹⁷ See also comments in CJINI report about the differences between the three different local improvement teams, and the approaches to responding to inspection reports.

confident leadership: for example, managers giving bad news to staff by email, sometimes before being absent from the prison for a number of days.

In general, communication to and within prisons is poor. Too often, it has taken the form of instructions, initiatives or guidance promulgated from the centre without any proper explanation, consultation or preparation. Whole staff meetings are usually (though irregularly) held, but these are not forums in which there can be detailed discussion or individual issues can easily be raised. It is typical of the general information deficit that, in two of the three prisons, officers who turned up for discussions with us, at times arranged some weeks previously, had no idea why they were there or who we were. Unsurprisingly, communication with prisoners and their families, legal representatives and support networks has been equally unreliable.

There are some personnel issues that hinder effective management. The first is the number of managers, at all levels, who are 'acting up' (i.e. who are temporarily promoted, without any additional training or assurance of continuation in post). Over a third of governor grades, a quarter of principal officers and nearly one in five senior officers are on temporary promotion to those grades. This makes it hard to create and sustain proper boundaries and exercise authority and accountability, especially as it is likely in Northern Ireland that those individuals will be promoted within the same prison and will therefore be managing people that they were previously working alongside as colleagues, and who may become colleagues again if the promotion is not confirmed.

The roles of principal officer and senior officer have also been unclear, and sometimes inappropriate. Some principal officers have operated in functional or residential silos, separate from each other or from senior managers. Increasingly, they are now being brought into the senior management team – though this in itself can reduce still further visible management on the wings and houses. Senior officers, it is generally accepted, have occupied too much of the management vacuum: indeed it was often said to us by them and main grade staff that they 'run the prison'. Their role in determining the working hours and deployment of the groups of staff they work alongside has been particularly influential, opening the way for collusive relationships (particularly with those temporarily promoted)

and making overall staff deployment difficult. It has also dominated their time and role: at one prison, senior officers estimated that this took about a third of their time, though principal officers believed that this was a significant under-estimate, and that detailing duties provided an excuse for senior officers to communicate with their computers, rather than with staff and prisoners.

At a more general and higher level, there has been no agreed business model for the provision of administrative and support services, which are split between headquarters and individual establishments. This often results in duplication, resentment and additional cost. Overall, the cost of these functions is £26m, 19% of total NIPS spend, which is excessive, even allowing for the fact that a small service has had to provide the whole range of support services needed in a prison system. That has changed following the devolution of justice; there is now much more scope for shared services within the civil service as a whole.

The human resources, personnel and training function alone costs over 4% of total budget and employs more than 1 in 20 of NIPS staff. In an efficient organisation, the normal benchmark would be about 1.5% of total cost. The much higher level here would be hard to justify even if performance was exceptionally good – whereas personnel and HR practices, support and outcomes have been an Achilles heel for the service for many years; and there is very little output from the expensive training resource at Millisle. Finance and procurement, much of which can and should be provided centrally, is also over-resourced, largely because it is heavily weighted towards staff in individual establishments, whose role is unclear.

In a devolved service, and one undergoing a huge programme of change, the role and function of headquarters itself needs to be redefined and clarified. There are currently many directors, some of whom have no clear role and less heavily weighted jobs than should be expected of such senior staff. There are also 24 Grade 7 civil service posts. It is not clear, for example, in a devolved service running only three prisons, that there is a need for both a Director General and a Director of Operations. On the other hand, there are skills and competences that will need to be brought in, or strengthened, if headquarters is able to

provide the leadership and direction for a major change programme, and to define the role of the prison system within the wider criminal justice and socio-economic contexts.

Solutions

We are aware that we are reporting on a system that is already in a process of change. As we have already noted, there are some welcome signs of a new approach and realism within the service itself, the political system and the public. The combination of negative publicity, financial stringency and a devolved and locally-owned prison service has exposed the problems and demanded solutions. Managers are being encouraged and supported to tackle poor performance and inefficiency; some of the security deficiencies have been recognised and addressed; the SEE programme (see above) is now tackling some of the issues that have prevented progress. There is the opportunity for a devolved service to make a fresh start.

But those changes themselves are challenging. For example, the switch to central detailing, if implemented, will be a considerable practical and cultural shift, which is extremely unpopular with many main grade staff and senior officers. It will be a challenge for more senior managers, who will need to show that it works, and works better, against a backdrop of resistance - especially given that other key factors, such as staffing numbers and flexibility, have not yet been tackled. They will also need to engage senior officers in the change and prepare and support them for a new, less comfortable and more isolated role.

What is required is therefore more than an incremental and gradual process: the problems are too deep and too long-standing. Nor should the change simply aim to save money: a cheaper service could be a worse service. There are deep institutional and cultural issues to be addressed and accountability mechanisms to be put in place and implemented. Staff and managers will need support and development for new and different ways of working. This demands a process of transformational change through a properly-resourced change programme, with high-level political support, and with clear objectives, priorities, timescales and measures of success, drawing on and engaging with external expertise and services.

A change programme

The first step in the process has to be ownership of the vision, aims and objectives for the system. Politicians will need to be clear, and to clarify to the public and the prison service, what they want from the system and why, and what they will expect to see and by when.

Our view, set out above, is that the principal aim of a prison system should be to assist in the creation of a safer society, and that this is supported by three pillars: justice and fairness; safety and security; decency and dignity. From that aim will flow objectives – the outcomes that determine whether it is being realised. Targets and performance measures then need to be aligned with the agreed vision and objectives of the service, so that they reflect outcome rather than process and measure quality and not just quantity. This will bring the expectations for managers and staff more closely in line with the expectations of independent monitors and the requirements of human rights and international best practice.

There needs to be a properly-resourced change programme, with a dedicated change programme team, to support the work of the Director General and his senior team. They will have to continue to run a service that is operationally demanding and pressurised and it is unrealistic to expect them also to have sole responsibility for a change programme of the scale and difficulty required. While the Director General will remain the senior responsible officer for delivery, he will need the support of a dedicated programme manager, with experience of change management in a large and service-providing organisation, supported by a dedicated team, which must include a strong and professional HR capability. We also suggest (see Chapter 4) that, during the change period, the headquarters team should be broadened to include external expertise and skills relevant to the rehabilitative as well as the operational aims of a more outwardly-focused prison service.

At the same time, there should be a process of both internal and external auditing and monitoring to provide accountability and evaluation. The internal systems must include a reliable audit and performance capacity within headquarters, to provide accurate and up-to-date information, as well as a clear and effective role for the Prisons Board. However, there

is also a need for external validation and democratic accountability. The Justice Committee can play a key role in this, with regular sessions for the Minister and officials to report on progress. We also believe that it is essential for there to be external oversight of the process, to strengthen accountability, and increase public confidence. The CJINI clearly needs to play a key part in this, and we will be discussing further with them and with the Minister the form that external oversight should take and the process by which it should be achieved. Complaints dealt with by the Prisoner Ombudsman – whose role should be placed on a statutory footing – will also be an important feedback loop in relation to changed perceptions and realities.

An early task for the change management team will be to rationalise and prioritise the outstanding recommendations from the various external reviews and monitoring bodies. They have become a barrier rather than a stimulus to progress, with a plethora of action plans at local and central level, and a focus on servicing the plans rather than acting on them. This has led to inspection and monitoring being defined as a problem within the service, rather than a solution and a driver for change. There should therefore be an early review of the recommendations, discarding those that are no longer relevant or are time-expired, brigading into topic areas those that remain, identifying dependencies within the recommendations and with the change programme, and prioritising and timetabling action over a period of time. Inspectorates and monitors in return will expect real and measurable outcomes.

It will also be essential to have a much-improved and proactive communication strategy - both within the service, to keep staff abreast of current and proposed changes, and with the general public, to recognise, promote and explain the changes that have been made. Staff and managers who are making difficult adjustments will need to feel that their efforts are recognised and where appropriate celebrated, and to understand themselves why changes are being made and when.

We cannot stress sufficiently strongly that this change management programme needs to be a package, as the Patten reforms were. Patten was not just about reducing the size of the police service or incentivising those who wanted or needed to leave: it was a whole

programme of transformation. That is what is also needed here, not a process of cherry-picking - taking out and implementing those elements that are easier, cheaper or more immediately attractive. That is not to say that everything is of equal urgency or priority: clearly, the programme will need to be phased in over several years, with agreed priorities and milestones. We set out what we believe are the components of the total package: the timing and detail of implementation are matters for agreement between the Director General and Ministers.

First steps: a new deal

We believe that it is necessary, as a first step, to agree and begin to implement a new deal for those working in and running prisons, to lay the foundations for the fundamental change that is needed, and to allow agreed objectives to be delivered. That new deal should be part of any agreement about new working hours for prison officers. It should consist of two programmes: measures that can ensure and reinforce governance, accountability and performance; and a programme of development and professional education for the leaders, managers and staff of a differently focused service, together with a programme of severance, recruitment and progression. It is important that these two processes run in parallel. New and more effective ways of working will be challenging for those working in the service, at all levels. This will require active leadership, and investment in managers and staff to ensure that they are able and willing to work effectively and safely within a fundamentally changed service.

An accountable and effective service

The agreement made between NIPS and the POA in December 2010, referred to above, envisages movement towards a 37 hour week for prison officers, to be accompanied by a 'robust and sustainable package of efficiencies' to be agreed by June 2011, with early implementation of a pilot central detailing scheme and a review of the management of work-related sickness absence. We believe that it is important to clarify at the outset what the whole accompanying package of efficiencies must be, and to give the new Director General the political support to achieve them. Otherwise, we fear that the next year will be

characterised by debilitating wrangling about each component of that package, with the possibility of escalating every disputed point up to Ministerial level (particularly as there is at present no agreed and effective procedure for the resolution of disputes). Managers also need to be clear about what will need to be delivered.

The first essential will be to agree more flexible and efficient working practices and staff deployment to replace practices and agreements that have accrued over time, to ensure that they reflect agreed hours and allow a regular and consistent regime to be provided. The effective management of sickness absence, while recognising legitimate work-related causes, and the central detailing pilot are important first steps, and will need to be implemented effectively and consistently. But they are only first steps.

A 37-hour week in effect results in additional expenditure of nearly £2 million, at a time of budget cuts. It is therefore both reasonable and essential to expect that, in return, all the current anomalies in working practice are removed so that actual and agreed working hours are aligned. This will mean the abolition of the never-used 'reserve hours', as well as local agreements that in practice mean that shifts can start late and finish early. It will also require a move to a 5-day working week, and the calculation of annual leave in hours, rather than days.

There will also have to be agreement on revised staffing levels and shift patterns to supersede the current framework agreement and local agreements. That should be based upon a business model, an assessment of risk and a clear definition of the expected role of staff in post - which will require support and staff development, as set out below. In the meantime, and while those levels are uneven in relation to staff and prisoner numbers, there should be recognition of the need for management flexibility to redeploy staff to reflect workload.

As part of the new deal, there will also need to be agreement on a new, less complex and more transparent code of discipline, for both staff and managers, which provides for fair and timely resolution of disciplinary issues. We do not assume that this can be agreed immediately, and in the interim period we consider that it is important that disciplinary

matters can be dealt with more effectively and fairly. We therefore consider that a small professional standards team should be set up. For the present, and until a new disciplinary code is agreed and understood, all staff disciplinary and conduct issues should be referred to that team for investigation and action. Once a new code is agreed and understood, many of these matters could again become the responsibility of local managers and the central team reduced and deployed on other, more general, professional standards issues.

A further issue that needs to be tackled is the process for settling disputes between staff side unions and management. There should be a process for determining what action should be taken if there is a failure to agree, and which sets out clear timelines for each stage of a dispute, allowing properly risk-assessed operational changes, which do not change staff terms and conditions, to be implemented. This may be possible within the confines of the existing disputes resolution procedure.

There also need to be early steps to clarify and rationalise management and support structures. First, there needs to be a clear and stated definition of the separate but complementary roles, responsibilities and accountabilities of the Permanent Secretary; the Director General and headquarters; and the governing governors and management teams in individual prisons. During the period of the change programme, there will be considerable pressure on headquarters to set up and deliver the structures and accountability mechanisms required. Some aspects and roles will need to be strengthened, as we have indicated above, at least in the short term.

However, there is also the need to address over-staffing and anomalies in general management and support roles. The governor grade scale should be flattened, and managerial staffing levels in each prison reviewed and reconfigured to ensure clarity of role and effectiveness of management. Similarly, there should be a review of administrative and support staffing both at headquarters and in individual prisons to determine what support is needed and at what level, and what can and should be provided centrally. This would aim to reduce duplication, enhance efficiency and to ensure that the needs of running a small but complex service are matched by the skills available.

A professional staff

As we have stated here and in the previous chapter, staff and managers in the prison system have neither been refreshed nor trained and developed over many years. No main grade officers have been recruited since 1994; those recruited to officer support grades since 2007 have not had the progression opportunities they were promised; managers have learnt their trade within a small and unique service. That has affected both the culture and operation of the service. These problems have too often been addressed by micromanagement from headquarters or introducing specialist units as add-ons to fill the gaps. We have set out, in Chapter 2, a new vision for a service that can play a full part in making society safer and fairer. That will require not just the technical and operational skills to manage prison processes effectively, but a new outlook and culture at all levels of the service. An essential part of a new deal for the service must therefore be the development of existing staff and managers to equip them to run it, together with opportunities for new recruitment and exposure to external expertise.

Development and training of prison staff has been a low priority in prison services throughout the UK compared to many other countries. This is a chance for Northern Ireland to lead the way in creating a professionalised prison staff and management.

The proposal for a new joint services training college at Desertcreat, for police, prison and fire and rescue services, envisages the college as being 'a world leader in the provision of education and training for operational and support staff'. To become such a world leader, in relation to NIPS, the college will have to do more than simply equip staff with the technical skills they need to run or manage prisons. It will also need to enable staff and managers to understand 'why' as well as 'how'.

It is clear, for example, that the repeated failures to carry out suicide prevention procedures properly are underpinned by a more serious failure of understanding about why prisoners self-harm: every member of staff that we spoke to considered that this was simply or mainly manipulation, to gain attention or better conditions. Similarly, 'human rights' within the service has developed a negative connotation, as something done to, not owned by, staff

and managers. At managerial level, leadership skills will have to be developed, and managers will have to develop an interface with the outside world. They will need to understand why and how change happens, both in prisons and for prisoners and how desistance from crime can be assisted (see Chapter 4).

The new college is still, however, some way off. In the meantime there is a more urgent task to develop and equip staff and managers to work in and run the prison system during a period of fundamental change. There is already a programme of staff development being run through the University of Ulster, which focuses on conflict resolution and restorative practice within prisons, and whose first sixteen graduates obtained certificates in October 2010. A second course is under way. This has had the advantage of providing participants with a recognised qualification, professionally delivered, validating their skills and practice. It has, however, touched relatively few officers and managers, who are as yet far from being a critical mass. Nor does it specifically aim to identify and equip leaders of change.

We recommend that NIPS should develop a specification and invite outside organisations or consortia to tender for a training programme, or short training packages, which can reach a significant number of staff and managers within an 18 month timeframe, and which contains within it the drivers for the change that is needed: such as restorative and reflective practice; diversity, equality and human rights; mental health awareness; understanding of desistance; and leadership and management. The 3-day diversity programme undertaken for the PSNI by an outside body was, for example, extremely effective in stimulating new thinking and approaches. If successful, the new programme could be developed as part of routine training and education. There is considerable advantage in having some training that is externally provided and validated, both to open up a closed service to new ideas and to provide externally-recognised accreditation for the skills acquired. It would send a signal that the training and development of staff is as important as that of prisoners, and equally requires professional delivery.

As already stated, most leaders and managers currently in post have little or no experience of any other way of running prisons, or of prison systems that have focused on

rehabilitation. Each manager who remains in the service will need a personal development package, which should include exposure to well-run prisons in other jurisdictions. There is no substitute for seeing what can be done, and how. This would be an even more effective lever for change if it was accompanied by some external recruitment, on a short or long term basis, from other jurisdictions. Opportunities for peer mentoring, or twinning, with governors or prisons in other jurisdictions in the UK should also be explored.

The second component of staff refreshment is an exit strategy for those staff and managers who do not want to be part of a changed service. While it is important to encourage good staff, and particularly good senior staff, to stay, it is also necessary to allow those who are disaffected, exhausted or disengaged to leave with dignity. An early retirement scheme should be put in place and advertised soon: there are too many of the latter group who are hanging on just waiting for 'the package'.

Thirdly, such a scheme would also create the opportunity, for the first time in 16 years, to recruit or offer progression to the main officer and governor grades. This would allow the service to bring in different skills, backgrounds and experiences. Some of this would be through external recruitment, some through allowing progression from support grade staff, and some from cross-hierarchical moves into management grades. The training package developed for existing staff could be used to train new recruits.

The service is currently unrepresentative of the community. At present, among prison managers and staff as a whole, 10% are Catholic, and 22% are women. But these overall figures disguise some important variations. Only 8% of main grade officers are Catholic and only 17% are women; and only 12% of managers are women. However, among the most recently-recruited officer support grades, 25% are Catholic and 51% are women.

The transformation of the police service was accompanied by a requirement for 50:50 Catholic/other recruitment, to correct the imbalance in a predominantly Protestant service. New recruitment also provided an opportunity to correct gender imbalance. A 50:50 recruitment strategy for the prison service, at this stage, would be politically unacceptable and in breach of equality legislation. Nevertheless, it is important for the future of the

service, its credibility and effectiveness, that it is more representative of the communities it serves, to break down insularity of approach. We heard examples of discriminatory attitudes and approaches, reflecting at best a failure to understand difference, both within and outside Northern Ireland (we have already said that diversity and equality training should be part of the package for staff who remain in the service). The above figures for recently-recruited support staff suggest that new recruitment would, in any event, attract a more diverse workforce. But work should also be done to encourage applications from groups that are currently under-represented and to identify any unnecessary barriers that deter them from joining or remaining in the prison service.

As well as external recruitment, there must be better systems for progression within the service. Succession planning has been considerably neglected – as witness the number of temporarily promoted managers. There should be a programme to identify and develop future leaders. That needs to grow out of, and be supported by, an effective appraisal system that recognises and promotes good performance at all levels. Additionally, there is huge frustration among the support grade staff, who are paid considerably less. They were promised the opportunity to progress to more interesting work, with opportunities for direct prisoner contact – for which some have transferable skills from their previous employment. Gaps in main grade staffing would open up progression routes for suitable support grade staff, and would also provide an opportunity to rationalise the three different support grades which have been created.

Security issues

Finally, there should be a general review of security within and across prisons. This must ensure that the basics of physical and procedural security are reliably and consistently carried out, including the processes that need to be in place to ensure that prisoners are held for the length of time specified by the court.

There are clearly inadequacies in the current prison estate and we refer to these in Chapter 4. However, there are ironies and inconsistencies in the way it is currently used. Irrespective of any new prison building, there should therefore be a strategy and a plan for

making best use of what exists: examining the physical layout of prisons and the allocation of prisoners within them to ensure that appropriate levels of security can be achieved for high-risk prisoners without providing an overly-restrictive regime for those of lower risk. This should also include the development of more effective and less resource-intensive procedures for movement from and access to wings.

Those physical and procedural changes also, however, need to be supported by more and better dynamic security that results from the appropriate interaction and proper boundaries between staff and prisoners: so that staff and managers are alert to, and able to take preventive action to avoid, threats to the safety of individual prisoners, the prison or the staff. This would need to be part of the programme of development for management and staff that we refer to above.

A key security issue is the operation of the regime for separated prisoners. The separation of paramilitary prisoners was a political decision, which needs to be operationally effective. That means that, as for all prisoners, there has to be a positive and decent regime for separated prisoners, without undermining the security of prisons or the safety of staff and without compromising the opportunities available to the great majority of other prisoners. All three of these aspects have been problematic. This requires resolution, otherwise it will continue to be a drain on managers and staff and take up a disproportionate amount of ministerial and political energy.

For as long as politicians deem separation necessary, they also need to accept and mandate its consequences, the first of which is that it is necessarily expensive. It involves duplicating provision, such as searching, education and activities. Separated prisoners, like all others, have to be held in decent and humane conditions; simple containment would be neither.

Given the high risk level of some of those separated, they will also require higher staffing levels than for the majority population. However, as we have already stated, the currently agreed staffing levels, as elsewhere in Maghaberry, are far higher than any reasonable risk assessment would demand. Even now, they mean that it is in practice impossible to provide opportunities for free movement within the separated houses, or for any direct engagement

between prisoners and staff – to do so on the current arrangements would require 45 staff on each house, which could not conceivably be resourced. Prisoners are therefore confined with each other in association rooms for lengthy periods, monitored by CCTV cameras but without any physical staff presence.

The agreement reached with the Roe House separated Republican prisoners in August 2010 (and applicable also to the separated Loyalist prisoners in Bush House) is predicated on certain principles. They include: mutual respect and safety of staff and prisoners; that the security of the prison should not be compromised; that staff should be free from threats and intimidation. There remain some unresolved issues about strip searching on entry to and exit from the prison and these need to be resolved in the light of evidenced essential security requirements. Provided that those principles are agreed and demonstrated, the agreement foresaw movement to a less restricted regime. Though this review is mentioned in the agreement, we were not party to it and do not consider ourselves bound by it. Its implementation is therefore the responsibility of the signatories. However, we do consider that the arrangements for staff supervision, and the regime available on the separated houses, can and should be revised, to allow for freer movement of prisoners and for appropriate supervision by and interaction with staff, with clear and understood boundaries.

In this, we recognise staff's legitimate apprehension – but we also note that the current arrangements, though they were stipulated by staff, are in practice fuelling fears of a 'return to the Maze'. We are clear that the changes we recommend will require supervision and support from managers, and the kind of staff development and rotation which is common in units of this kind in other jurisdictions. A freer regime should be entirely contingent on the behaviour of the separated prisoners themselves, and the absence of threats or intimidation, whether direct or indirect. Experience in other jurisdictions, including with those convicted of terrorist-related offences, has been that appropriate and professional behaviour by, and interaction with, staff reduces risks. We recognise the particular issues, sensitivities and history of Northern Ireland, and the risks posed by the interaction between prisons and the community; however, prisons need to be part of the reduction of risk in this as in other areas.

Summary of solutions

The starting point is to create the foundations for a more effective prison system. That will involve:

- ***Vision and values***

There should be agreement on and ownership of the vision and aims of the system: that prisons should contribute to a safer society. The values that underpin this are: justice and fairness; safety and security; decency and dignity. That vision will determine the outcomes and objectives. Performance measures and targets should be aligned to these objectives and to international best practice and human rights standards.

- ***Change programme***

There needs to be a properly-resourced change programme, led by the Director General, with a programme manager with experience of change management heading up a dedicated team. This should be supported by effective and democratically accountable systems of internal audit and monitoring; and external oversight and inspection. There will need to be a proactive and improved communication strategy. Existing recommendations should be rationalised and timetabled for action. The change programme must be a whole package, to be implemented over a period of time.

- ***A new deal***

There are two essential components of a new deal for those working in and running prisons:

- ***measures to ensure and reinforce governance, accountability and performance***

This includes ensuring more flexible and efficient working practices and staff deployment, a review of staffing numbers at all levels of the service, and the

reform of disciplinary and dispute resolution procedures. Operational managers need to have the space and support to manage; but they also need to occupy that space effectively and exert positive leadership.

- *a staff development package, with an early retirement scheme and recruitment and progression programme*

This comprises a training programme, externally delivered, to reach a significant number of staff and managers within 18 months, together with personal development packages for leaders and managers. Alongside this should be an early retirement scheme for those wishing to leave, and a recruitment and progression programme to refresh and diversify the workforce.

- *Security*

There should be a planned and implemented strategy for improved and consistent procedural and dynamic security, and a reconfiguration of existing prison space and operations to allow freer movement within prisons for lower risk prisoners. This needs to include settlement of the continuing issues around separated prisoners, to provide a less restrictive regime with appropriate levels of supervision and security.

Chapter 4: Prisons for a safer society

We have outlined above the comprehensive and complex process that will be needed to change the prison system; we have also made clear that we believe that prisons should play a part in creating a safer society and contribute to reducing reoffending. If they are to do this, prisons need to be places where people can be supported to change their lives for the better. There has been a great deal of research, not least by many academics based in Northern Ireland, which helps understand why and how some offenders succeed in desisting from crime, as well as the many obstacles that prisoners and their families face during and after imprisonment and that can impede efforts to reintegrate into the community. In general terms, this research suggests that desisting from crime is a complex process. Offenders rarely succeed at the first attempt, any more than any of us can easily succeed at dieting or giving up smoking. For someone with an established criminal identity, the change process is not just about acquiring new skills or changing behaviour; it is about changing that identity and accessing new opportunities¹⁸.

For that reason, relationships are crucial to getting out of crime - relationships with family and friends and with criminal justice professionals and other supporters and mentors. Desistance from crime can be encouraged and sustained by someone who demonstrates a real interest and understanding and who believes that the person can change¹⁹. Hope is critical to success; for those who do not hold out much hope for themselves, staff will need to help to create and nurture it²⁰. Conversely, if those working with offenders, their families, or they themselves have no hope, then the prospects for change are closed down²¹. Like most people, offenders are influenced more, for better or worse, by those they trust, whose advice they respect and whose support they welcome.

¹⁸ Maruna, S. (2001) *Making Good*. Washington: APA

¹⁹ Rex, S (1999), 'Desistance from Offending: Experiences of Probation', *Howard Journal*, 38(4): 366-383;
Burnett, R. and McNeill, F (2005) 'The place of the officer-offender relationship in assisting offenders to desist from crime', *Probation Journal*, 52(3):247-68

²⁰ Burnett, R. (1992) *The Dynamics of Recidivism*, Oxford: Centre for Criminological Research, University of Oxford; Farrall, S. and Calverley, A. (2006) *Understanding Desistance from Crime*, Crime and Justice Series, London: Open University Press.

²¹ Maruna (2001) op.cit.

Stopping offending is also an active process, involving taking on responsibility for directing one's life. That sense of self-determination is very hard to develop in prison regimes that make every choice for prisoners, so it is important to leave space for the development of individual responsibility and self-esteem – hence the significance of peer mentoring schemes, like Listeners and literacy support.

But even where hope and a sense of personal responsibility are present, desistance also requires social capital – access to opportunities, resources, the support of personal and social networks within communities²². Without such opportunities and resources, hope fades quickly and fatalism is reinforced. Conversely, when offenders are in a position to make a positive contribution, they are able to confirm both to themselves and to those around them that the criminal label no longer applies²³. Criminal justice is typically good at condemnation but leaves little space to celebrate change or progress. Prisons need to become places where change is supported, recognised and celebrated whenever it is achieved²⁴.

That progress also needs to be recognised in and by the community. Where conflict, resentment or anger in the community has played a part in the offending or endures because of it, these issues will need to be addressed. In this respect, Northern Ireland's experience of restorative justice initiatives, and the experience of community organisations that have supported ex-prisoner reintegration have much to contribute to the development of resettlement services in and beyond prisons. Civil society will need to play a part, if the objective of a safer society is to be delivered. This is something we will wish to return to and develop in our final report.

Here, we focus on the considerable challenges this approach poses within the prison system itself. Structures, cultures, systems and practices at all levels will need to change, as a first

²² Farrall, S. (2002) *Rethinking What Works with Offenders*, Cullompton: Willan.

²³ Burnett, R. and Maruna, S. (2006) 'The kindness of prisoners: Strengths-based resettlement in action' *Criminology and Criminal Justice* 6(1): 83-106

²⁴ Maruna, S. (2011) 'Reentry as a rite of passage,' *Punishment and Society*, 13(1): 3-28

step, so that rehabilitation becomes a core purpose and function of the whole prison system.

This is not the case at present. One stark example of this, as the CJINI governance report showed, is the place of offender management and purposeful activity in the 'diminishing task lines': the order of priorities determining which tasks are dropped on the all too frequent occasions when there are insufficient staff to meet the profile. First to go in those situations are library, family work, resettlement officers, instructors and education officers. This is merely a symptom of a wider problem: that prisons do not see rehabilitation and resettlement as a core activity for all staff, or see themselves as part of a wider community of agencies, services and families engaged in this task.

In this chapter, we set out some of the blocks and barriers to a rehabilitative prison system. First, we look at current activities and work in prisons. We then examine the prison estate and its implications for rehabilitation in general and for the needs of special groups: women and young adults. Finally, we touch on the important issues of healthcare and substance use. These are all issues that we want to explore in more depth in our final report, and we therefore offer only indications of the direction of travel, rather than fully worked-up solutions.

Current rehabilitation and resettlement

Offender management was introduced into prisons following the Criminal Justice Order 2008, which requires work to be done to reduce risk for those sentenced to indeterminate or extended custodial sentences. Offender Management Units (OMUs) were set up in all prisons.

The concept of offender management is still rather narrow and the NIPS practice manual for its operation is too prison-focused, even though there was Probation Board input into its development. It lacks a clear practice model for supporting desistance and instead reads like a set of procedural standards for the administrative processing of prisoners. Although prison-based probation officers play a key role in the OMUs, prisons work has not

historically been a major priority for community-based probation officers. The latter therefore play a marginal role during the custodial sentence, even though they will be supervising prisoners after release, and this weakens the continuity of contact and relationship that is critical to effective resettlement. Similarly, there are not yet well-developed systems for integrated offender management of prolific and persistent offenders: such work requires effective partnerships with police, probation and local services in the community.

There is considerable and growing pressure on staff in OMUs, as more prisoners are sentenced to indeterminate or extended custodial sentences under the Criminal Justice Order, or recalled to custody. Pressure is increased because of the lengthy period most prisoners spend on remand, which means that essential licence planning work too often has to be done in a very short period between sentence and release (see also Chapter 1). The understandable preoccupation with Criminal Justice Order cases and with risk assessment in cases going before the Parole Commissioners has also meant that in practice welfare work and support, especially for other categories of prisoner, has fallen by the wayside, and is not picked up elsewhere. Yet these tasks are key to successful resettlement.

There does not appear to be any profile of the needs and risks of prisoners, either in NIPS as a whole, or in individual establishments. Without such a profile, there is no evidential basis for planning the interventions needed both pre- and post-release. Partly because of pressure on psychologists to undertake assessments, partly because of regime problems and partly because the range of available programmes is narrow, little programme work is done at Maghaberry. There are similar problems in the other establishments. Long delays for some prisoners build up, as priority is given to those nearing release. There seems to be a need for a more clearly targeted range of interventions, more flexibly delivered, in order to meet the prisoner profile and to be suitable for a small service.

In spite of the pressures and gaps, it was clear that good multi-disciplinary work was taking place within OMUs, and that this was inspiring the prison officers engaged in this work to think differently about their role and about prisoners. However, what was equally clear was that those units operated in silos, patched on to and detached from the prisons in

which they sat. There was good teamwork within the group, between officers, psychologists and prison-based probation staff, but much less evidence of teamwork even with the community probation officers who would supervise those released on licence, or with the voluntary sector organisations delivering substance use, employment or housing support – and still less with residential prison staff.

One consequence is that offender management is seen in disparaging terms, or as of secondary importance, in prisons. In one prison the OMU was described as ‘the great white elephant over there’; officers operating in the OMU were routinely and disparagingly referred to as the ‘fluffy bunnies’. Offender management work is not given priority: like all other activities, it is affected by the restricted regime, exacerbated by late arrivals and frequent lockdowns. At Maghaberry, OMU staff were routinely detailed to other tasks to cover staff absence, particularly on Fridays, when lockdowns have become almost routine. In one case, an offender manager found himself one of three or four staff supervising a single fine defaulter.

There is little effective contact between offender management and residential staff on the wings – for example, there is no functioning personal officer scheme which would allow and require residential staff to take responsibility for, and comment on, individual prisoners and their progress. This disables residential staff, as well as increasing the pressure on OMUs. Residential staff spoke of OMU staff coming on to the wing or unit and seeing a prisoner without any contact being made with them, or any knowledge about the purpose or outcome of the visit. While some confidentiality is needed, their ability to care for and manage prisoners, and to be able to encourage them to invest in rehabilitative opportunities, is seriously weakened. Some staff clearly did not mind this, and did not see it as their role. Others, though, felt that they were being pushed into just a turnkey role, and that prisoners saw them as simply a negative force – locking them up and telling them off. Engaging residential staff in rehabilitation and resettlement, and equipping them to do so, will be a key part of turning round the culture of the service as a whole.

Quote: ‘When a prisoner leaves, I always say: “Come back and bring a friend”’. (told to us by a prison officer and confirmed later by a released prisoner)

Quote: 'An effective prison system would have motivated, well-trained professional staff [in] an organisation that keeps the community safe whilst trying to change the mindset and characteristics of a criminal..... I have witnessed this first hand - at a meeting in the OMU. I looked round the table at the experienced, skilled staff and the judgement and motivation that was in the room'. (prison officer in OMU)

This silo mentality could also undermine the assessment and intervention processes. We were told, for example, of a young man about whom the psychology department had grave concerns in relation to his attitudes, behaviour and strong likelihood of reoffending, but who had nevertheless been rewarded with much sought after super-enhanced status on the residential units – even though there is in theory a link between the privilege scheme and resettlement progress. Conversely, we heard of prisoners being downgraded under the privilege system, though offender managers did not know why.

Education and training work suffers from the same silo approach. Staff told us that prisoners assigned to their classes or workshops could suddenly be assigned to wing work by residential staff, or pulled out for a course, programme or event organised by the OMU. This could in some cases be an educational or training facility – such as the courses organised in Hydebank Wood by the fire service. We were frequently told that procedures for allocation to activities were random, not transparent, and dependent on individual relationships. In some cases, teaching staff believed that prisoners were taken off activity lists by residential staff as a punishment. Prisoners also spoke of the frustration of trying to get on the 'list' and the fact that those on the bottom of the list could simply stay there week after week.

The assessment process – crucial to determining a prisoner's needs and problems – was also sometimes ineffective. Even in the new induction arrangements at Maghaberry, this did not always take place automatically as part of the induction process: teachers were therefore having to chase up individual prisoners scattered throughout the prison.

This is symptomatic of a deeper problem, which is evident in Maghaberry and Hydebank Wood in particular. There is no coherent sentence or custody planning, particularly for

those prisoners not going before the Parole Commissioners. The sentence plans we looked at usually reflected the services and courses that were available or the things that prisoners wanted, rather than needed, to do, and interventions or courses were neither sequenced nor time-bound. As in most prisons, there is a minority of prisoners – around a quarter to a third – who actively want to be engaged in activity and training. Others are apathetic, vulnerable, resistant or simply ignorant of the possibilities. In both Hydebank Wood and Maghaberry, it was clear that those running activities, whether in education and training, offender management, or wing work, were competing for the same minority of actively engaged prisoners. This prisoner ‘beauty contest’ not only meant that the most needy missed out. It also meant that it was almost impossible to plan courses, as the prisoners meant to be attending could be pulled out, or pull out, in favour of other attractions available on the day. The same was true of offending behaviour programmes. Teachers and offender managers wasted valuable time trying to chase up those who should have been, but were not, attending.

As with offending behaviour work, these problems are compounded by the limited amount of time available for off-wing activity (especially at Maghaberry), late arrivals to classes and workshops, the low priority given to education and training and the over-focus on security. Even schemes that allowed trained prisoners to teach others literacy skills - which have a double benefit to the teacher and the learner - were undermined by the inability to move those prisoners to the places they were needed.

In all prisons, we were told of problems of information flow between one group or agency and another. There appeared to be a multiplicity of files and plans, and there were particular issues with the flow of information to and from healthcare. IT systems were said to be inadequate for planning, rather than simply recording, prisoners’ progress through custody and preventing clashes – though it is not clear to what extent this represented the fact that they were not effectively used.

There is also a problem in relation to the training and education that is provided. Much of it, in all three prisons, does not adequately reflect prisoners’ needs or current employment possibilities. There is, for example, too little provision of basic skills at Maghaberry, despite

the obvious need to improve prisoners' literacy and numeracy, and there are no links with any further education college. Other classes and workshops too often reflect the experience and preferences of existing staff, many of whom have been running the same programmes for many years and some of whom clearly resent change and 'interference' from outside, community-based groups. There are some good programmes and partnerships, for example between Magilligan and the local college for ICT programmes, or with the Prison Arts Foundation, but they are exceptions. The recently-appointed heads of learning and skills are trying to promote and provide a more relevant and professionally-staffed service, but that is still a long way off, and they will need a great deal of management support. Senior staff did not believe that there was sufficient understanding or knowledge about education and training in headquarters.

'The OMU organised a 'meet the employer' day but did not invite any cleaning companies, even though that is the only industrial qualification being offered.'

'[The course] is my baby. I don't want anyone outside involved.'

'The learning and skills strategic plan was developed by headquarters without consulting senior teaching staff. We think it is unworkable.'

Crucially, a prison service that is fully engaged in rehabilitation needs to be outward-facing, rather than inward-looking. It needs to understand, work with and call upon the community - statutory and voluntary organisations and families – as essential partners in resettlement work both within and after prison. This is not the case at present. Those working in OMUs were frustrated about the poor community links, leading to lack of continuity into college courses, employment or other opportunities post-release. There was equal frustration among those working outside prisons (Extern, NIACRO and Include Youth etc) about the lack of genuine partnership with prisons. The prison service is itself therefore operating in a silo – using, rather than working with, outside agencies, even in its offender management work. Changing this outlook will require strong leadership, and external input, at the top of the organisation.

A new approach

In the next phase of our work, we will want to consider these issues further, drawing on the best available evidence and practice experience and in discussion with internal and external services, agencies and community and family groups, academics and researchers. As we have already said, however, we are clear that there will need to be changes in the structure, culture, systems and practices of the whole prison service if it is to play its part in making Northern Ireland's communities safer by supporting prisoners to change. Clearly, some of the measures that we have already put forward in the previous chapter will contribute to this. A more accessible, reliable and less restrictive regime will allow more delivery of interventions, training and education. A new staff and management training programme will need to stress the importance of rehabilitation.

There are other key areas where change is required, if the prison service is to be able to engage with the outside world and play its part in reducing reoffending. We will want to develop our thinking on the detail in some of these areas in our final report, but the broad areas that need development are:

- **Central and local strategies, targets and standards that support and reflect the aim of creating a safer society by supporting desistance from crime.**
- **A profile of the whole population which describes risks, needs and resources for change, so that rehabilitation strategies can be evidence-based.**
- **Individual sentence and custody plans for each prisoner that actively support change rather than simply assessing risk or need.**
- **Effective partnerships with outside agencies and groups for crime prevention, rehabilitation and reintegration.**
- **A revision of education and skills provision, offending behaviour programmes and information systems so that they all support the core safer custody strategy.**

This would support and develop work within prisons and criminal justice. But it needs to be part of a much wider strategy, which will require an outward-facing approach: a

considerable culture shift, not only for prisons but also for other departments and local agencies.

We therefore suggest that NIPS should create a 'safer society' post, at a senior level, for someone with external experience, who can champion this work and make the necessary links. This could be supported by a reference group that includes civil society: families, victims and communities with a direct interest in effective rehabilitation.

This would feed into the cross-departmental work already under way, but should also range wider. It would provide the platform for an integrated 'safer society plan', linked to the estate strategy we propose in Chapter 1. We will want to look at this further in our final report.

The prison estate

It is clear that the current prison estate is far from ideal. In all three prisons, there is accommodation which does not facilitate effective staff deployment or staff-prisoner engagement. This is apparent in the 'square houses' at Maghaberry, the H-blocks at Magilligan, and the many units with poor sightlines at Hydebank Wood. The accommodation for women at Hydebank Wood is wholly unsatisfactory - because of the physical environment, the restrictions on access to some activities and to the outside, the close proximity to young men, and the lack of specialist staff and provision. There is very little open provision in the prison system (and none for women or young people), and it is either poorly sited (Foyleview) or inadequate (the Prisoner Assessment Unit – see below).

There are ironies and inconsistencies in the way that the current accommodation is used. We have already referred to the need to review population management and movement within the prison to ensure that low-risk prisoners do not experience over-restrictive security measures. Women were moved from a purpose-built and open environment at Maghaberry to an unsuitable, cramped and restrictive house at Hydebank Wood. The Prisoner Assessment Unit (PAU) in the Crumlin Road - where long-term prisoners are prepared for return to the community - is among the most dispiriting and under-invested

environments we have ever seen; and in addition the support available at this crucial stage of re-entry was, in our view, insufficient. Irrespective of any new prison building, there needs to be a clear strategy, and an action plan, for making best use of the current estate.

Beyond that, though, should be a strategy for the estate's future. In a small prison system, it is always difficult to ensure the necessary spread of provision for a mixed population, with appropriate levels of security for different risk categories, and with the possibility of progression or dispersal for long-serving prisoners. The cheapest option – large, multi-functional establishments – has not been shown to be effective, especially for niche populations, such as women and young people. They usually struggle to obtain the specialist services they need, and indeed often struggle to obtain even equivalent provision, as witness the current situation at Hydebank Wood for women and juveniles.

There is a NIPS business case for the adult male population, which we have already criticised on the grounds that it plans for a significantly increased population. But it is also deficient in other ways. First of all, the fact that it ignores young adults and women means that the prison estate is being configured around adult men, around which the other populations will have to fit.

Secondly, its approach to provision for the adult male population is extremely narrow. It does not start from first principles: what the prison system is for and how it can best be configured to deliver this. Rehabilitation is not a core purpose, around which other considerations coalesce. Rather, the provision of resettlement programmes (undefined) is one of thirteen 'primary objectives'; other measures to reduced reoffending are opaquely referred to in a sub-clause of one of seven 'secondary desirable objectives'. There is reference to the need for better regimes, and also for education, training and resettlement programmes, which are tellingly listed under 'support accommodation' – a key aim being, however, to prevent judicial review.

This is essentially a 'business as usual' plan, which does not offer any new thinking or approach. The cost-benefit analysis is weak and insufficiently evidenced or focused and some of the cost and planning assumptions are highly questionable. The implications of the

remote location of Magilligan, in terms of rehabilitation, family links and the ability to attract specialist staff, are not fully considered. Nor is there any mention of the need to provide or improve open or semi-open provision, or step-down or supported accommodation. Increasingly, as in England and Wales, the Parole Commissioners will be expecting that prisoners who can be released on licence after lengthy sentences will have had opportunities to test their readiness for release in open conditions.

We believe that it is necessary to develop more appropriate and properly evidenced and costed plans for the prison estate, to ensure that capital spending is aligned not only to immediate needs, but also to the longer-term aims and capabilities of a rehabilitative prison service.

Women and young adults

A new women's strategy was published in October 2010, aiming to provide a coordinated and multi-agency approach to the specific needs of women who have offended or may offend. It builds on some useful work already done by the women's policy lead co-located in Hydebank Wood. That includes the development of gender-specific standards for women in prison, and a partnership with the Inspire project to provide resettlement services to women prisoners in Ash House. There is also a consultation on alternatives to custody and proposals for diversion from custody. We welcome these initiatives and in the next stage of our review will be discussing and commenting on them in more detail.

The women's prison population is currently small, and should be smaller (see Chapter 1). As in other jurisdictions, there is a relatively small number of women who have committed serious and violent offences, and an even greater number than elsewhere who have been imprisoned for non-payment of fines or are on remand. Even more than for men, planning assumptions for dealing with women offenders should not focus solely on prison.

If the women's prison population were, however, reduced, this poses its own problem: of a small number of women spending years, or even decades, together, either in an adjunct to a male prison or in a separate establishment which would need all the ancillary facilities and

which would become very claustrophobic. It is clear that there is a need for a new custodial facility for women, and that they should not be held in Hydebank Wood. One option would be to examine the possibility of a custodial environment situated within a larger unit, which provided courses, programmes, counselling, step down accommodation and mental health support for women who had offended or were at risk of offending. We will want to discuss this, and other options, in more detail at the next stage.

Little thought seems to have been given to the special needs and provision for young adults, aged 18-21, who are at an important transitional stage. They were not referred to in the prison estate strategy for adult men, nor are they specifically covered in any other current review. This risks them becoming a 'lost generation' as they were and are in England and Wales: too old to gain the protections there are for children, but young enough to need, and to be able to benefit from, specialist support and services.

We have already said that under-18s should not be held at Hydebank Wood. If women were also placed in purpose-built accommodation, Hydebank Wood could focus on a single population of young adults. As we have already said, neither the accommodation nor the services and activities currently on offer provide a sufficiently safe or positive environment. Again, this is an issue we will want to explore in detail in our final report.

Similarly, we want to carry out more work on other aspects of diversity including the provision for foreign nationals and for those with mental illness, personality disorder and disability, both within and outside prisons.

Plans for the prison estate should be revisited and revised, with a focus on rehabilitation as well as safety and cost, so as to be able to provide acceptable accommodation, regimes and interventions for all populations and all levels of security: including open, semi-open and step-down facilities. That must include a separate custodial facility for women. These plans need to be part of the safer society strategy we outline in Chapter 1.

In the next phase of our work, we will focus on diversity and the extent to which the prison system is meeting the needs of diverse groups, such as women, young adults, those with mental disorders or disabilities and foreign nationals.

Healthcare and substance use

Appropriate, professionally-delivered healthcare and substance misuse services are an essential component of an effective and rehabilitation-focused prison system. As we have already said in the first chapter, these services cannot and should not be provided only in prisons – indeed prisons can be an entirely inappropriate setting to meet some of these needs. However, those who are in prison require services that are capable of meeting their needs – some of which are complex, long-standing or acute.

The provision of healthcare through the South Eastern Health and Social Care Trust has undoubtedly provided a framework for better and more professional health services within prisons. However, there remain some serious gaps and deficits. The first, and most pressing, problem is that those staff who were in post at the time of the transfer of responsibility are still employed by the prison service, rather than the Trust. At the time of the transfer of responsibility, it was understood that there would be a transfer of staff, but this failed to happen, due to union resistance. As a consequence, healthcare staff are not all managed by the Trust and are not subject to the same clinical governance and supervision arrangements. It also means that they are isolated and cannot be rotated between prison and the community so as to ensure better integrated services and to keep up to date with best practice in the community. It is not clear that the skills mix meets assessed prisoner need or that there is sufficient focus on staff development.

Steps are now being taken to introduce better governance, with a clinical lead and clinical standards and supervision, and to develop separate primary and mental health care teams. This is in the context of a five-year strategy being developed for prison healthcare. We will want to examine and comment on these developments and plans more fully in our final report.

Providing proper support and treatment for the large number of prisoners with mental disorders remains a challenge for prison healthcare services. Some have been identified in recent reports from CJINI²⁵ and in Prisoner Ombudsman investigations into deaths in custody²⁶. Though some community mental health nurses have been introduced into the teams, there remains a shortage of primary mental healthcare and talking therapies. There is, for example, no daycare provision in any Northern Ireland prison. There is a particular problem in relation to prisoners with personality disorder, or learning difficulties, for whom no effective services yet exist. There has been under-investment in the REACH landing at Maghaberry, which was designed to support particularly vulnerable prisoners. Though additional funds have been made available, it is not clear that they will be sufficient to meet need, or that there is an integrated and whole-prison approach to the support of those prisoners.

There are other issues about the integration of prison healthcare both into prisons and into the community. Prison healthcare suffers, like other activities and services, from the restricted regime and silo mentality inside prisons. Regime restrictions severely limit the opportunity for interaction with healthcare staff, limiting the opportunities for therapeutic intervention. Moreover, it is well-known that a lack of activity and human contact exacerbates mental disorder and suicidal ideation. The CJINI definition of a 'healthy prison' specifically recognises the connection between the health of an establishment as a whole and that of the prisoners it holds.

The health and well-being of prisoners is, therefore, not the responsibility only of healthcare professionals. It requires a partnership between all of those working in prisons. This has not been the case so far. Communication and information systems have not been effective. Residential staff have tended to medicalise vulnerability and self-harm – partly because they are untrained and afraid of being blamed if something goes wrong. They assume that this will be dealt with by healthcare staff and/or in the in-patient unit, which has effectively become a mental health ward. Conversely, healthcare staff do not share information with

²⁵ *Vulnerable prisoners* (December 2009); *Not a Marginal Issue* (March 2010)

²⁶ For example, Colin Bell and John Deery

residential staff: medical confidentiality is too often used as a shield to prevent the flow of information which could be disclosed, sometimes with patients' consent, to those who are in effect the primary carers.

There has been a particular issue around the administration of medicine, which has been taking up far too much clinical time: nurses estimate that it uses up 50 hours' nursing time a week, but could be done in 10. Conversely, on some wings, the lack of direct contact with prisoners has led to secondary prescribing, which is contrary to Nursing and Midwifery Council guidance. A further pressure on healthcare services is the high number of new committals, many for fine default or on remand, who need to be fully assessed at the point of entry. The new committals procedure at Maghaberry was felt to have exacerbated problems for healthcare staff and added to the pressures on them: a further example of a disjointed approach. Proactive work, such as health promotion and clinics for those with long-term conditions, has suffered.

Any strategy for the development of prison healthcare also needs to locate it within the context of community services. That means ensuring the effective reintegration of those who have accessed healthcare, sometimes for the first time, in prisons. Though two discharge coordinators have been appointed, it remains the case that many prisoners have left with few or no support systems. Healthcare staff noted that GPs and psychiatrists often took people off their lists if they were imprisoned. This could create a catch-22: prisoners not registered with a GP could not be referred to a community mental health team, but they could not re-register with a GP until they had left prison. There was a strong feeling among prison healthcare staff that external services tried to exclude the people they did not want, who were often the most difficult and resource-intensive.

Equally, as we have said in Chapter 1 and above, it is essential to ensure that there is adequate provision outside prison to promote mental and physical well-being and to provide alternatives to prison. There is no step-down unit, no community provision at all for women with learning difficulties or personality disorder, and indeed insufficient supported accommodation in general. As developments in England and Wales have shown, there is a risk that improving healthcare provision, and particularly mental healthcare provision, inside

prisons means that those who should be providing those services in the community feel less pressure to do so. It is also important to ensure that social care, as well as healthcare, is part of an integrated service, particularly for the growing population of older and disabled prisoners.

Substance misuse

Historically, Northern Ireland has had relatively low levels of abuse of class A drugs (such as heroin and cocaine), whereas there have been high (but sometimes unrecognised) levels of use of alcohol and prescription drugs, principally benzodiazepines. Over the last two years, however, use of class A drugs has been on the increase, alongside continuing problems of alcohol and benzodiazepine misuse.

As stated in Chapter 1, the high level of community prescribing of benzodiazepines creates considerable problems in prisons. Healthcare staff at Maghaberry estimated that 280 men – nearly a third of the population – were on this medication, and the proportion was much higher among remand and short-sentenced prisoners. Drugs workers spoke of the extremely high levels of tolerance to prescription drugs that some young people had built up over years, having had access to tablets in their families from an early age. There is no effective psycho-social support, in the form of anxiety management for example, for those who need to come off these drugs. There is therefore a large quantity of medication in the prison – both officially prescribed and unofficially obtained (and often adulterated) – which becomes currency and leads to debt and bullying.

There have been attempts to implement mandatory drug testing, aligned with the privileges scheme in order to encourage compliance. This has not, however, been matched with a prison service strategy to provide clinical support and treatment options for those with substance use problems and to ensure joined up working between prison staff, healthcare staff and the voluntary agencies providing interventions and post-prison support. We are told that there are plans to produce both a NIPS strategy and policy and a joint criminal justice and health strategy.

Like healthcare, the provision of substance use services has passed to the South Eastern Trust, and it appears that services have improved. A needs assessment has been carried out, and gaps identified, but not yet filled. Substance use services are provided through AD:EPT. Like all other service providers in prisons, they have found it difficult consistently to reach the prisoners they need to because of the deficiencies in the prison regimes, and the lack of coherent sentence planning or accurate management information. The range of interventions offered is also limited, and current assessments do not sufficiently identify individual needs and therefore the desired outcomes. The recent CJINI inspection of Magilligan identified that there were still no accredited substance use programmes, no nurse with dual diagnosis training and no prison strategy for addressing drug and alcohol problems, though some useful non-accredited work was being done.

As with healthcare, there are considerable problems in ensuring follow-up in the community for those who access substance use services in prison. AD:EPT cannot go directly to addiction services in the community; referral has to come via a GP, but many prisoners do not have, or no longer have, a GP in the community. There needs to be a direct link from prison to community providers.

Overall, there is a need for a comprehensive strategy, reflected and implemented in each prison, which deals both with supply and demand, is based on a needs analysis, and links in to community provision and community prescribing both before and after prison.

We are aware that work is going on in both healthcare and substance use to develop strategies and improve services. We will want to examine this more closely in the next stage of this review.

Appendix 1: Terms of reference

“To conduct a rolling review, in line with the agreement at Hillsborough Castle of 5 February 2010, encompassing the conditions of detention, management and oversight of all prisons. The review is to report to the Minister of Justice.

It is envisaged that the review will consist of several stages. The first will include a review of the regime at Maghaberry Prison. That will take account of:

- (a) recent reports on Maghaberry (including the CJINI/HMCIP inspection and the two Pearson reports),
- (b) developments in both the integrated and the separated regimes already in place and previous reviews of the regime,
- (c) the development plans already in hand by the Governor of Maghaberry, in consultation with Prison Service management,
- (d) NIPS management’s programme for Workforce Reform and associated projects.

Second, the review will cover the remaining matters identified in the Hillsborough Agreement, building on the work achieved in the first stage. It is envisaged this stage may be in two strands. One strand would include:

- (a) issues specific to Magilligan Prison, including particularly the replacement of the prison recognising that much of the accommodation and infrastructure is not fit for purpose, and
- (b) issues at Hydebank Wood relating in particular to the development of the strategy for women offenders including the scope for a discrete facility, and developments in relation to juvenile offenders at Hydebank Wood in liaison with the Youth Justice Agency.

The second strand would consider wider issues affecting the future development of the Northern Ireland Prison Service, including its future composition and its culture and ethos.

The Review Team will draw on the extensive body of work that has been undertaken by the Criminal Justice Inspectorate in its consideration of the current issues facing the Prison Service. The Chief Inspector of Criminal Justice will also act as an adviser to the Review on these issues, including the current review of governance.

In all its work, the Review Team will wish to take the views of the full range of stakeholders, including prison management, staff, trades unions, prisoner fora and other prisoner representative groups, and the Assembly Justice Committee. It will also be informed by developments in Prison Services across these islands.

It is envisaged that the first stage of the review should be reported to the Minister by autumn 2010 and the second stage by early 2011.”

Appendix 2: Evidence and meetings

Responses to call for evidence

Staff

Nine serving members of the Northern Ireland Prison Service, at all levels, plus the Magilligan Redevelopment Team

Prisoners

A prisoner and an ex-prisoner, and the Republican separated prisoners

Outside organisations working in prisons

Barnardo's
Children's Law Centre
Extern
Include Youth
NIACRO
Parole Commissioners for NI
Prison Fellowship NI
Probation Board NI
Quaker Service
Shannon Trust – Toe by Toe

Independent bodies

British Irish Rights Watch
Committee on the Administration of Justice
Maghaberry Independent Monitoring Board
NI Ombudsman
Northern Ireland Human Rights Commission
Prisoner Ombudsman
The Law Centre (NI)

Health

Department of Health, Social Services & Public Safety

Northern Health & Social Care Trust

Public Health Agency, Health and Social Care Board

Royal College of Nursing

South Eastern Health & Social Care Trust

Ministerial/Departmental

DENI Education & Training Inspectorate

Department for Employment & Learning

Department of Culture Arts & Leisure

Director General NIO

Political

Alliance Party

DUP

SDLP

Sinn Fein

Lisburn City Council

NGOs

Disability Action

Prison Reform Trust

Victim Support

Academics

Director, Institute of Criminology & Criminal Justice, Queens University Belfast

Meetings held

Access to Justice Review Team
Children's Law Centre
Church Leaders
Coiste na nIarchimí
Committee on the Administration of Justice
Community Restorative Justice Ireland
Criminal Justice Inspectorate NI
DHSSPS
DOJ Permanent Secretary
DUP Senior Team
Ex-prisoner representatives
Ex-prisoners Interpretation Centre
EXTERN
First Minister & Deputy First Minister
Hydebank Wood staff groups: all levels
Include Youth
Independent Monitoring Boards
Inspire Project
Integrated Prisoners
Irish Congress of Trade Unions
Justice Committee
Justice Minister David Ford
Maghaberry healthcare staff
Maghaberry staff groups: all levels
Magilligan staff groups: all levels
NI Human Rights Commission
NIACRO
NIPS Director General and Directors
NIPS Governing Governors and Deputies
NIPS Prison Service Management Board

NIPS Psychology staff

NIPS Strategic Efficiency and Effectiveness Programme Team

NIPS Women's Project

NIPSA

Opportunity Youth

Prince's Trust - 1-1 Project

Prison Governors Association

Prison Officers Association

Prisoner Ombudsman NI

Probation Board NI

Professor Roy McClelland

PSNI

Public Health Agency

Quakers

Queen's University Belfast – Institute of Criminology and Criminal Justice, School of Law;
School of Sociology, Social Policy & Social Work.

Reducing Reoffending Review Team

Samaritans

SDLP

Separated Prisoners (Loyalist and Republican)

Sinn Féin

Tar Isteach

University of Ulster – Society Sciences; School of Sociology & Applied Social Studies; School of
Criminology, Politics and Social Policy; School of Education; School of Law.

Young Voices

Youth Justice Review Team

Research commissioned

Survey of prisoners at Maghaberry (HM Inspectorate of Prisons for England and Wales)

Survey of the quality of staff life (SQL) (NOMS Audit and Corporate Assurance Team)

Visits carried out

Hydebank Wood Prison and Young Offenders' Centre

Maghaberry prison

Magilligan prison

Portlaoise and Midlands prisons, Republic of Ireland

HMPs Belmarsh and Wormwood Scrubs, England

Appendix 3: Separation

Since September 2003, following the Steele report, there has been separated accommodation for prisoners with paramilitary connections. Prisoners who meet defined criteria are able to apply for separation. They sign a compact setting out the basics of the separated regime. In practice the numbers have never risen above the mid 50s for Loyalists and the mid 40s for Republicans. Current figures are 30 and 22 respectively.

In May 2006, Ministers confirmed changes to the regime and a revised compact was published on 1 July 2006. POA industrial action during 2009 increased the number of lockdowns and significantly limited time spent in the separated gym. Industrial action during March-April 2010 resulted in still further lockdowns and restrictions to the regime. Protests, culminating in a 'dirty protest', followed.

The Prisoner Ombudsman's report into complaints by Republican separated prisoners, published on 11 June 2010, gives an analysis of events leading up to the unrest and made recommendations for improvement which were accepted. Intense negotiations were held between NIPS management, the prisoners and facilitators to reach an agreement on a way forward and the text of an agreement was signed on 12 August 2010.

Since devolution, it remains the responsibility of the Secretary of State to decide whether a prisoner is to be accommodated in separated conditions or to cease to be accommodated there, and to set the criteria on which any such decision is to be based. However, the Northern Ireland Minister of Justice and the Executive are responsible for deciding, in consultation with the Secretary of State, whether separated accommodation as an entity should continue and the regime to be provided.

Appendix 4: Staffing levels

Residential staff

Direct comparisons between staffing levels in different jurisdictions are difficult: much depends on the regime, the security and risk category of prisoners, and the physical layout. It is accepted that some parts of the Northern Ireland prison estate are not ideally configured for the most effective deployment of staff. Nor are some prisons and wings in England and Wales. We have chosen for comparison prisons that most closely compare to both the population and the physical environment of Northern Ireland prisons. On any view, they show that staffing levels in Northern Ireland are excessive, particularly given the limited engagement of staff with prisoners, and the limited regime opportunities available.

Each of the square houses in Maghaberry can hold up to 164 prisoners. Agreed staffing levels for each house, when prisoners can be unlocked, are: a senior officer, 2 staff in the entrance 'pod' and 17 officers. This is one staff member for every 8.2 prisoners. These are levels of staffing that would only apply in maximum security prisons in England, holding the most serious, highest risk and long-sentenced prisoners in the system, a third of them Category A. This is nothing like the general population in the Maghaberry houses: there are currently only 16 category A prisoners in the general population, outside the separated houses. Comparisons for Belmarsh prison, which holds a similar population mix to Maghaberry, would be one officer to 16 prisoners. Even allowing for the different physical arrangement of the Belmarsh wings, this is a huge difference.

Braid House at Maghaberry is a better design, and is meant to hold life sentenced prisoners. Agreed staffing ratios are 16 officers per 120 prisoners. This equates to 1 member of staff per 7.5 prisoners. In a lifer prison in England, such as Gartree, which has poorer sightlines, the ratio would be 1 officer per 20 prisoners.

Magilligan is the equivalent of a category C prison, holding lower risk prisoners. The staffing level on each of the H blocks, holding 100 prisoners, is 2 senior officers, one member of staff in the circle, one member of staff in the control room and 8 officers on the wings. This equates to 1 staff member per 8.3 prisoners. A category C prison, such as Wayland, would

expect to have one member of staff per 24 prisoners in one of its older and harder to supervise units.

The main young adult houses at Hydebank Wood can hold up to 72 prisoners. Agreed staffing levels are: a senior officer, one officer in the pod and 9 officers, a ratio of one member of staff per 6.5 prisoners. Similar accommodation at Glen Parva young offender institution, with equally poor sightlines, operates on ratios of 1:16.

Belmarsh prison special secure unit

The special secure unit inside Belmarsh prison holds exceptionally high risk prisoners, including alleged attempted suicide bombers. It operates on staffing levels of 3 officers to 12 prisoners, backed up by an officer in the control bubble and 3 officers as a response unit if needed. This compares to the 5 staff: 3 prisoners ratio agreed in the separated houses at Maghaberry.

Governors

In England and Wales, in public sector prisons, there are 1164 operational governors for a prison population of 76,800. This equates to 1 governor per 66 prisoners. The ratio in Northern Ireland is one governor per 43 prisoners. This is very high, even after allowance has been made for the coverage needed in a small service with multi-functional prisons and very little open or semi-open facility.