



House of Commons
Northern Ireland Affairs
Committee

The separation of paramilitary prisoners at HMP Maghaberry

Second Report of Session 2003–04

Volume I



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Report, together with formal minutes

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The Northern Ireland Affairs Committee

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Summary

Her Majesty's Prison (HMP) Maghaberry is situated near Lisburn in County Antrim. It opened in 1986. Following the closure of HMP Belfast in 1996 and HMP Maze in 2000, Maghaberry was required to absorb and accommodate a number of different prisoner groups including remand prisoners and those paramilitaries who were not released from prison early under the Belfast Agreement. HMP Maghaberry has historically functioned as an integrated establishment, in which prisoners of all persuasions and backgrounds are required to live and work together. The management of an institution dealing with such varied groups is a considerable operational challenge.

In the summer of 2003 a number of protests were mounted by prisoners claiming that the integrationist policy was putting individuals' safety at risk. A series of events within and outside the prison, in which individuals from both sides of the community divide participated, culminated in a dirty protest conducted specifically by prisoners affiliated to dissident republican organisations. The publicity generated by these incidents prompted community leaders and organisations to place considerable pressure on the Government to address the safety concerns raised.

In response the Government commissioned a short review of conditions in the prison which was led by John Steele, a former head of the Northern Ireland Prison Service. The Steele Review concluded that a degree of separation was required within HMP Maghaberry, to protect paramilitaries of opposing factions from each other, and to protect the 'ordinary' prisoners from the paramilitaries as a group. This recommendation was accepted by the Secretary of State in September 2003. Loyalist and Republican paramilitaries were swiftly transferred into a temporary special regime while two of the six prison wings, Bush House and Roe House, were physically adapted for use as a separate, highly-controlled, prison within the prison.

The Government's decision to implement separation, which we believe to have been taken for political reasons, was largely unwelcome to staff within the Prison Service. It was not believed that separation would result in greater safety either for prisoners or staff. It was feared that the paramilitaries would seek to take control of the separated areas as they had previously done at HMP Maze. Within the temporary arrangements which have preceded establishment of the permanent regime, there has been significant evidence of prisoners continuing to resist and challenge the management of their wings. Outside the prison, attacks on the homes of prison officers—primarily by Loyalist organisations—have continued at a high level.

The report recognises that, having made the decision to implement separation, the Government cannot now turn back from it. But it asserts that the Government must pay the full cost which arises from the decision in terms of support for the prison and for its staff. The Government must 'hold the line' within the prison and ensure that no concessions are ever made to the separated prisoners which might undermine or diminish the control exercised by prison officers. Recommendations are made on a number of subjects, such as the procedure for identifying prisoners eligible for separation, and the exercise of sanctions, where questions about the operation of the proposed new regime remain.

A number of related concerns were raised by the Steele Review and by witnesses to the Committee's inquiry. These included the fragile nature of the relationship between frontline staff and Prison Service Headquarters, and the importance of maintaining a full regime—including access to education and resettlement services—for the ordinary prisoner. The report addresses officers' concerns about the actions of Prison Service management and supports the Steele Review in its advocacy of the needs of non-paramilitary prisoners. A further review of the Northern Ireland prison estate is recommended in view of the change to separation, and the impact this will have upon the already complex management problems at HMP Maghaberry.

1 Introduction

1. Her Majesty's Prison (HMP) Maghaberry is situated near Lisburn in County Antrim. It opened in 1986. Originally run as two separate prisons for men and women, the establishment was consolidated in 1988 although the two original prisons still operate largely separately as the 'main prison' and 'Mourne House' respectively. In total, the prison is deemed to have the capacity to hold 718 prisoners in single cell accommodation.¹

2. This report is restricted to the main prison at Maghaberry. Within this area, there are six principal cellblocks for male prisoners. Four of these (Bann, Erne, Foyle and Lagan Houses), each with 108 cells, were first occupied in 1987; they have a design similar to that of HMP Frankland in England. The other two wings (Bush and Roe Houses), each with 96 cells, are more modern having opened in 1999. At the beginning of 2003, five of these cellblocks were operational: Lagan House was a committal and induction unit, Bush and Roe were used for remand prisoners (after they had been through the committal process), Erne accommodated long sentence prisoners (especially lifers) and Bann held other sentenced prisoners. Foyle House, which was closed for refurbishment at the time of the Inspectorate of Prisons visit in May 2002, had not re-opened because of staff shortages in the prison.²

3. As the previous paragraph indicates, Maghaberry fulfils many different functions. Until 1996, the male prison held a relatively static, mostly long-term, sentenced population. Upon the closure of HMP Belfast that year, non-paramilitary remand prisoners and short-term sentenced prisoners were transferred to Maghaberry, significantly extending the role of the prison. Then in September 2000, with the closure of HMP Maze, those paramilitaries who had been accommodated in the Maze and were not released early under the terms of the Northern Ireland (Sentences) Act 1998 were also transferred to Maghaberry.

4. The function of HMP Maghaberry is to hold all prisoners sent by the courts, securely and humanely. As we commented in an earlier report,³ HMP Maghaberry is a vastly complex organisation. Its population has been described as containing many sub-groups, all with different needs: males and females; ordinary remand prisoners; sex offenders; asylum seekers; members of different Loyalist organisations, both on remand and on sentence; members of different Republican organisations on remand and sentence; short-term sentenced ordinary prisoners, long-term sentenced ordinary prisoners, and so on. In 2002 Her Majesty's Chief Inspector of Prisons began her report on Maghaberry by saying that it is "the most complex and diverse prison establishment in the UK".⁴ In evidence, the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) told us that they did "not know of any other prison regime in either Great Britain or the Republic of Ireland or, if you like, in Europe, that has those sorts of pressures existing in one site."⁵ In the course of our inquiry our attention has been drawn to a number of these

1 www.niprisonservice.gov.uk

2 *HM Prison Maghaberry*, Northern Ireland Prison Service 2003; HM Chief Inspector of Prisons, Report of a full announced inspection of HM Prison Maghaberry, 13–17 May 2002.

3 Fourth Report 1997–98, *Prison Service in Northern Ireland*, HC 716

4 HM Chief Inspector of Prisons, Report of a full announced inspection of HM Prison Maghaberry, 13–17 May 2002. p3

5 Q280

pressures, and problems arising from them: some are directly related to the paramilitary protests which took place in 2003, while others are not. But they all contribute to the difficulty faced by the Governors and staff in holding the organisation together and fulfilling their duty of care.

5. Historically, HMP Maghaberry has been significant for its emphasis on integration. From its opening in 1986, the prison has been run as an ‘integrated’ establishment, meaning that inmates of all backgrounds and persuasions have been expected to live together rather than (as in the Maze) there being areas of the prison providing separate communities for groups with particular political sympathies. The Northern Ireland Prison Service (NIPS) believed that the integrated approach made prisons safer for prisoners—in particular, the majority who had no paramilitary connections, but might be subjected to intimidation and bullying by paramilitaries—and for officers. The policy also had an educational/rehabilitative aspect, as interaction was required between individuals from the two main communities which, outside the prison, were engaging in the peace process.

6. Before Maghaberry was opened there was a problem concerning those paramilitary prisoners in the Maze who wished, for whatever reason, not to be resident in accommodation controlled by their organisation. This problem was initially solved by having ‘conforming’ blocks in the Maze, but the proximity of these blocks to the paramilitary-led H-blocks was unsatisfactory. With the opening of Maghaberry, the policy changed and ‘conforming’ paramilitaries or ex-paramilitaries were accommodated in Maghaberry’s integrated regime. Other paramilitaries were encouraged by the Prison Service to join them, but few did.⁶ Thus, from 1987 to 2000, paramilitary prisoners effectively had a choice: they could be housed in the paramilitary-led H-blocks at the Maze, or in integrated and more modern conditions at Maghaberry.

7. After the closure of HMP Maze, the integrationist regime at Maghaberry was not universally welcomed. The Prison Service records that complaints about integration first arose in 2001, following two assaults by loyalists on high profile dissident republican prisoners. By the summer of 2003 these protests had escalated into a multi-faceted campaign which crossed the community divide, and received support from within both communities. The argument promoted by the campaign was that enforced integration was putting individuals’ safety at risk.⁷ We return to these issues in more detail later.

8. On 7 August 2003, the Secretary of State for Northern Ireland, the Rt. Hon. Paul Murphy MP, commissioned a review of arrangements at HMP Maghaberry. The review was carried out by John Steele, a former head of the Northern Ireland Prison Service, Father Kevin Donaghy, a former chaplain at the Maze, and Canon Barry Dodds, a former chaplain at Belfast Prison. Their report, which was published on 8 September 2003, recommended that paramilitary prisoners from the different communities should be separated (although not segregated) in the interests of safety.⁸ At the same time, the Government announced that this recommendation had been accepted by the Secretary of State. It is currently being implemented by the Prison Service.

6 K. McEvoy, *Paramilitary imprisonment in Northern Ireland*, 2001 pp282-3

7 Ev 114

8 Ev 107

9. The separate treatment of paramilitaries has previously been attempted both at HMP Belfast (for a short period) and at HMP Maze. At the Maze, in particular, the experience was associated with a significant loss of management control over the paramilitary areas, including the existence of prisoners acting as recognised ‘Officers Commanding’ their particular housing blocks, as in a prisoner-of-war camp. There were deaths of both prisoners and prison staff. Thus, whether it is described as separation or segregation, the treatment of prisoners who are paramilitaries as a group apart from other prisoners raises significant concerns for anyone who remembers HMP Maze in its last years. It was for this reason that we decided we should look into the Government’s decision on the situation at Maghaberry, and the practical consequences of separation for the management of the prison.

10. We took evidence on 8 occasions in the period October–December 2003. On 3 November 2003 we spent the best part of a day visiting the prison, and met staff at all levels and some prisoners. Most of our evidence has been taken in private, as the operations of the Prison Service include a degree of sensitive and confidential detail. We have reported as much of this evidence as we can while respecting the need for confidentiality, and we are grateful to all our witnesses for speaking to us so frankly, both formally and informally. We also wish to thank our Adviser, Professor Sir Anthony Bottoms of the Universities of Cambridge and Sheffield, for the considerable assistance he has provided in drawing out the details of this complex issue.

11. There have been further events since we finished taking formal evidence. We have in mind particularly the riot at Maghaberry on 14 January 2004, which was initiated by loyalist prisoners in temporary separation in Bann House; and the far more welcome announcement on 16 January 2004 that the Prison Officers’ Association was expected to agree to negotiations on the full implementation of the Steele Report, and the immediate restoration of goodwill.⁹ Our comments in this Report have to be read in the light of this ever-changing situation.

2 The Steele Review

Protests about integration

12. The policy of integration at HMP Maghaberry contributed substantially to the ‘normalising’ of Northern Ireland’s prisons after the Belfast Agreement. Peter Russell, the Director-General of the NIPS, judged that until recently the prison was running “fairly successfully”.¹⁰ The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) told us that the transition after the Agreement to a regime more in keeping with practice elsewhere in the UK had enabled staff to focus more closely on rehabilitation, which was “very positive”.¹¹ Protests about integration at HMP Maghaberry appear to have begun after the remaining paramilitaries from HMP Maze—those who had not been released early—were transferred to the prison in late 2000.

9 Joint statement by the Prison Officers’ Association and the Northern Ireland Office, 16 January 2004, at www.nio.gov.uk

10 Q122

11 Q255

13. Both NIPS and British Irish Rights Watch told us that concerns about the risks posed to individual safety by integration were first raised in 2001. It was, and remains, the case that there are considerably more loyalist than republican paramilitary prisoners in Maghaberry, and in that year there were at least two assaults by loyalist prisoners on republican prisoners. Other prisoners on both sides received threats to their safety.¹² British Irish Rights Watch believe that, at that time, the complaints and fears of prisoners on both sides were genuine and distinct from any desire for segregation on other grounds.

14. The concern about safety only came to the fore as a major issue in the summer of 2003 following a series of widely-publicised events at Maghaberry. A rooftop protest about overcrowding at the prison, at the end of June, became headline news in both Northern Ireland and mainland Britain. Days later, a ‘dirty’ protest began, in which a number of dissident republicans began to smear excrement on the walls of their cells. It was reported that these prisoners were demanding separation from loyalist prisoners on grounds of safety. The possibility that the protest might evolve into a hunger strike was also widely reported.¹³

15. A debate began to develop around the protest, as individuals and groups on both sides of the community divide began to express doubts about the policy of integration. For example, we were told:

“It is a fact that the majority of the population in Northern Ireland choose to live in areas that almost exclusively reflect their religious and political beliefs. Indeed, the Government erects “peace walls” to facilitate that division ... It should be the right of prisoners to have a similar choice.

We are not suggesting segregation on the grounds of allegiances to any paramilitary grouping or any form of political status, just simply that prisons reflect the reality of life in Northern Ireland”¹⁴

and

“...we accept that segregation was far from ideal ... as the murders of Billy Wright and David Keys graphically illustrated ... On the other hand, neither have we advocated enforced integration ... if Northern Ireland society is not yet ready for integration, then it is neither desirable nor possible to use prisons for the conduct of social experiments.”¹⁵

It was in this context of increasing public attention to, and sympathy for, the paramilitaries’ case that the Steele Review was commissioned.

12 Ev 112; 131

13 See, for example, *An old prison battle ... and fears*, Irish News August 18 2003; *Hunger strike fear as jail protests continue*, The Observer, 24 August 2003; *Segregation demand haunts prison service*, BBCi, 29 August 2003.

14 Ev 129

15 Ev 130

The Steele Review

16. Picking up on the public concerns about safety, the review commissioned from Mr John Steele and his fellow panel members was charged with providing recommendations for “improving conditions [at Maghaberry] particularly as they relate to safety, for all prisoners and staff.”¹⁶ The panel was given one month in which to consult the various interested parties and to report back.

17. It is very much to the credit of the panel that it succeeded in consulting an extensive list of individuals, including 110 prisoners,¹⁷ and producing a concise and thoughtful report within only 12 working days.¹⁸ The review’s primary recommendation, “reached ... after much soul-searching”, was that paramilitary prisoners should be separated from other prisoners, and from each other, “in the interest of safety”.¹⁹ (The significance of ‘separation’ as distinct from ‘segregation’ is discussed in detail in Chapter 3 of this Report). This was a reversal of current policy.

18. The review also reached a series of lesser, but nonetheless important, conclusions and recommendations on other issues which were raised during the consultation. These included that:

- Prisoners in separated accommodation should, wherever possible, continue to participate in integrated activities such as education;
- Problems over staffing levels and the management of staff attendance had caused the regime for prisoners to be disrupted, increasing tensions and frustrations in the prison;
- Among the groups of individuals housed at the high-security prison were fine defaulters and immigration detainees. The Review Panel recommended that alternative provision should be made for these groups, releasing resources for the prison’s primary responsibilities;
- Staff morale was low, and relations between the Prison Officers’ Association and prison management were poor;
- Cells in the prison were unsuitable for holding two prisoners in the majority of cases, and the practice of ‘doubling up’ should be substantially reduced;
- Improvements (including physical improvements) were needed in the management of prison security; and
- The service should take steps to improve public understanding of the realities of prison life, including the establishment of constructive relationships with groups representing the interests of prisoners.²⁰

16 Ev 107

17 Q3

18 Q69

19 Ev 107

20 Ev 107

These recommendations are discussed in greater detail in Chapters 4 and 5 of our Report.

Reasons for separation

19. Mr Steele told us that the difficult decision to recommend separation was made on the evidence of widespread concerns about prisoner safety. The panel were particularly concerned about the welfare of non-paramilitary prisoners under the integrated regime:

“some of them felt generally intimidated by the presence of hard-line paramilitaries and some of them would not go into the exercise yard because of the presence of those paramilitaries ... what the integrated system was doing was putting them into the hands of the hard-line paramilitaries for bullying and recruitment”²¹

20. These conclusions were significantly different from those of HM Chief Inspector of Prisons after the Inspectorate’s review of the prison fifteen months previously. The Chief Inspector then reported that “most areas of the prison were felt to be safe and orderly for prisoners”, and “prisoners and staff appeared to be safe from physical assaults”, although the feelings of safety were “less pronounced on the two remand wings” (Bush and Roe Houses).²² A separate and later survey carried out by the Howard League for Penal Reform in May 2003 produced results closer to the conclusions of the Steele Review: of the prisoners surveyed in Maghaberry, only 64% of prisoners felt safe during association; the proportion fell to 58% when no staff were in view.²³ However, the response rate for this survey was low (26%). Both the Inspectorate and the Howard League referred to the prison’s integrationst policies as regards sex offenders as producing some of the reported feelings of lack of safety; but only the Howard League said that some prisoners “blamed their feelings of vulnerability” on the fact that “their offence related to ‘the Troubles’”.

21. Given the nature of this evidence, no definitive conclusions are possible but the indications certainly seem to be that feelings of lack of safety relating to the presence in the prison of paramilitary prisoners did significantly increase between the spring of 2002 and the summer of 2003.

22. Concerns about present safety were not, however, the only factor considered by the Steele Review panel. There was also an expectation of trouble to come. Mr Steele told us:

“.. it was clear to me and clear to a lot of people that they [the paramilitaries] were about to mount a campaign inside and outside the prison ... I expected that if they were denied separation, those would steadily get worse and indeed that it would escalate to attacks on prison officers, bearing in mind that currently there are attacks on prison officers’ homes.”²⁴

21 QQ8,12

22 HM Chief Inspector of Prisons, Report of a full announced inspection of HM Prison Maghaberry, 13–17 May 2002., p13.

23 *Suicide and self-harm prevention: a strategy for Northern Ireland*, the Howard League for Penal Reform October 2003

24 Q12

At a secondary level, therefore, the panel’s recommendation was also designed to prevent future outbreaks of violence which they believed to be within the paramilitary prisoners’ capability.

The implementation of separation

23. Following the Secretary of State’s acceptance of the Steele Review, steps were taken very rapidly—rather to the surprise of both the prison’s staff and its Board of Visitors—to begin the process of separation.²⁵ It was decided that the separated prisoners should be accommodated in the prison’s most modern wings, Bush House and Roe House (see paragraph 2 above). These wings were vacated in turn to allow the installation of internal security features such as new cameras and grille gates, as an aid to staff control in the separated accommodation. Additionally, the whole area around these two houses is being fenced with a dedicated fence, creating a ‘prison within a prison’. Within this separated compound, a multi-purpose non-residential building is also planned. The conversion process in Bush and Roe is expected to take about 8 weeks for each house.²⁶ In the mean time, a small number of loyalist and republican prisoners have been transferred into temporary separated accommodation in Bann House and Lagan House respectively, where they have been placed on a temporary special regime.²⁷

The question of safety

24. Although the implementation of these measures was generally welcomed by political representatives in the wider community, staff within the Prison Service expressed grave doubts about the wisdom of the move. Their reservations were such that we felt compelled to ask Mr Steele for more detail about the strength of the arguments he had heard advancing the recommendation he had made. His response was, perhaps unintentionally, telling:

*“Quite a lot of the evidence we heard was in favour of separation, and it was always on the grounds of safety...”*²⁸

John Steele acknowledged to us that “the stance of all the prison professionals that [the panel] met was against segregation/separation”; he believed that this opposition stemmed from recollections of the Maze although, he added, there was also a recognition that an attempt to hold out against the paramilitaries’ demands might lead to violence.²⁹

25. We asked Prison Service staff directly whether the separation of paramilitary prisoners in Maghaberry would make the prison safer, as the Steele Review panel hoped and intended. The local Prison Officers’ Association Committee at Maghaberry told us that “everybody ... was of one voice” in opposing separation because of concerns that conditions in the prison would deteriorate as they had in the Maze. The Prison Governors’ Association went so far as to describe the decision as “a retrograde step” and “a corrupting

25 QQ425, 631

26 Q193

27 Q345

28 Q42: italics represent our emphasis

29 QQ5, 16

influence, which jeopardises the safety of staff and prisoners alike”.³⁰ The Governing Governor of the prison affirmed in clear terms his belief that integration, rather than segregation, remained the safest prison regime for both prisoners and staff.³¹ Even the Director-General of NIPS struggled to defend the decision on grounds of safety, by reference to the Steele review panel’s secondary line of reasoning:

“..it is not more [safe] than the previous regime. The comparison is not with the past but with two alternative futures, had we continued the previous regime into the future in the face of threats of violence then the past would not have been the same experience as the future.”³²

26. Was the threat of future violence sufficient justification for such a radical change of policy? The view of the prison governors and staff at HMP Maghaberry—who have to deal with the practical consequences of any decision made—was that it was not. They did not believe change was either appropriate or necessary. The Governing Governor told us that the staff had been “managing the process” of dealing with the incidents which led to the review.³³ The local Prison Officers’ Association committee agreed that the protests were manageable, arguing that “only a very small contingency, possibly 40 prisoners [out of more than 600] ... were causing the problems and those prisoners should have been dealt with.”³⁴ The Minister confirmed that this was the advice she had been given by the parties concerned.³⁵

The decision to separate

27. If the evidence does not point clearly to safety improvements resulting from separation, the question inevitably occurs as to why the recommendation was made, and why it was accepted by the Government. In raising this we do not intend any slight to the Steele Review Panel which we, along with our witnesses, are satisfied carried out an unenviable task effectively and with full propriety. But we are obliged to weigh the evidence of the Steele Review itself in the balance with other information which has been made available to us.

The paramilitary campaign 2000–2003

28. Firstly, there is a considerable body of evidence to suggest that, safety apart, paramilitaries on both sides of the community divide (particularly dissident republicans) have always intended to press for a return to segregation and political status in prison. In the Maze, segregation provided paramilitary prisoners with the opportunity, gradually, to take control of certain areas of the prison which were then, in effect, run as private enclaves. The great majority of the prisoners housed in the Maze in 1999–2000 were released under the terms of the Northern Ireland (Sentences) Act 1998, following the

30 Q605; Ev 117

31 Q317

32 Q191

33 Q315

34 Q604

35 QQ735-737

Belfast Agreement. But that Act only allowed for the early release of ‘qualifying’ paramilitary prisoners, and prisoners belonging to paramilitary organisations not on ceasefire were not included within the ‘qualifying’ category. With the closure of the Maze, such prisoners were transferred to Maghaberry’s integrated regime; it is therefore in a sense not surprising (though for the purposes of this report, it is also very significant), that a study should have noted in May 2001 that “small numbers of the dissident Republican groupings the Real IRA and Continuity IRA, as well as the Loyalist Orange Volunteers, are ... pressing for segregated accommodation at Maghaberry”.³⁶

29. In the period 2001–2003 press releases were posted on the websites of groups such as the Irish Freedom Committee, seeking public support for a campaign in favour of separation and the restoration of ‘political status’ for paramilitary prisoners. Incidents of arson within the prison have been attributed, with hindsight, to this end, as has a one-day refusal to work by both loyalist and republican prisoners in August 2002.³⁷ Following discussions with prisoners, NIACRO sought to draw the Prison Service’s attention to the possibility of unrest “approximately one year previous to the Steele Review”; although “[the] discussion did not develop or reach any conclusion” at that time “as it was clear ... within NIPS that an integrationist strategy was being pursued”.³⁸

30. The escalation of the campaign in 2003 has been attributed primarily to a growth in numbers of the paramilitary community within the prison. Following the early release of prisoners under the Belfast Agreement, the number of paramilitaries within the prison system was for a time radically reduced, leaving the ‘ordinary’ prison population unusually in the majority.³⁹ Over time a number of the individuals who had been released under the Agreement, and their associates, were arrested, convicted of new offences and returned to prison. As a “critical mass” of both republican and loyalist prisoners built up, so their confidence increased in their ability to wage an effective campaign to achieve segregation.

Developments in 2003

31. Thus in 2003 a number of incidents occurred within HMP Maghaberry which have been attributed to the campaign for segregation. These included:

- Two occasions when live rounds of ammunition were exploded within toasters on prison wings;
- Prisoner-on-prisoner assaults;
- Hoax devices being placed in two prison blocks (Bush House and Roe House);
- Roof-top protests, ostensibly about prison overcrowding;
- Damage to cells;
- An attempt by Loyalist prisoners to intimidate staff and obtain their keys; and

36 K.McEvoy, *Paramilitary Imprisonment in Northern Ireland*, 2001 p279

37 Q552; Ev 112

38 Ev 127

39 Ev 126

- The ‘dirty protest’ which took place from July – September 2003.⁴⁰

32. Prisoners were assisted in this campaign by individuals outside. A separate list of events taking place outside the prison includes the sending of a parcel bomb to the prison, demonstrations at the prison gates, claims by visitors to the prison that they had been beaten by prison officers, attacks on prison officers’ homes and a highly controversial incident in which dissident republican sympathisers gained access to, and briefly occupied, an office belonging to the Prison Service.⁴¹

33. Viewed in the context of this list of incidents, the protests by paramilitaries about safety (as set apart from the concerns of other prisoners) can be seen to be less innocent acts of concern and/or desperation and rather more as calculated attempts to manipulate public sympathy for a political end.

34. Increased public awareness of the protests would appear to us to be a second factor which explains why the decision to separate the paramilitaries was taken, and its timing. Early in our inquiry, we were reminded of comments which had been made to the Committee during a previous investigation, which suggested that the Northern Ireland Prison Service has always been prepared for the possibility of separation. At a meeting in 1999 the then Director-General, Robin Halward, told the Committee that, even at that early stage, NIPS was mindful of the need to find “ways of separating out different groups”, and producing “some detailed work on the whole range of options if we reach the point at which we cannot maintain full integration” in Maghaberry or the wider prison estate.⁴² Meanwhile integration remained the Service’s official policy.

35. The current Director-General, Peter Russell, denied that such a plan had existed prior to the Steele Review. Nonetheless, he told us, “a study had ... been carried out into the tactics used by Maze prisoners and their supporters to achieve segregation”. He claimed that this study had been used “to benchmark the activities of paramilitary prisoners” and had “enabled Maghaberry to prevent demands for segregation being realised for around three years”, from 2000–2003. So, what had changed in 2003? “In the end”, he concluded, “it was external rather than internal pressures that led to the Steele Review.”⁴³

“External pressures”

36. Just as it is questionable that the paramilitaries’ protests were truly exclusively founded on safety concerns, so it is doubtful that the Government’s decision to separate was wholly and simply about safety. The Minister told us that she was advised repeatedly by members of the Prison Service that the existing regime was safe and that, in spite of heightened tensions, the protests could be contained.⁴⁴ The difficulty, as she saw it, was not the actual management of the situation but a developing public perception, in light of reports of the dirty protest and associated events, of “a regime that could not hold”. This led to attempts

40 Ev 112

41 Ev 112

42 *Prison Service in Northern Ireland*, Minutes of Evidence 27 October 1999, Session 1998–99 HC 866–I, QQ43–44

43 Ev 137

44 QQ735–737

by a number of interested parties and commentators, including political parties and religious leaders, to pressurise the Government into a change in policy.⁴⁵

37. It is important to remember that the protests at Maghaberry in the summer of 2003 took place in an atmosphere of political uncertainty. Following a breakdown of trust between the parties to the Belfast Agreement, the Northern Ireland Assembly had been suspended in October 2002 and elections which would lead to its restoration, originally scheduled for May 2003, had been deferred. Further acts of decommissioning by the paramilitaries had been demanded as a prerequisite for the renewal of power sharing by the political parties. Relations between the parties and, by extension, the future of the peace process, were very fragile.

38. In the circumstances it is not difficult to see both why the dissident paramilitaries should have identified this moment as the time to press their case, and why the Government might have felt themselves under pressure to take a step which would prevent a further deterioration of relations between the communities.

39. In this reading of the situation we would suggest that a further critical factor—beyond the incidents which actually took place in and around Maghaberry during the summer months—was the threat of a hunger strike at such a sensitive time. The dirty protest and the rooftop protests were, as we were told, being “managed” by the Prison Service. The threat of a hunger strike, however, continues to have a real and potentially destabilising political resonance through the deaths of Bobby Sands and other hunger strikers in the Maze in 1981, and the tradition of hunger strikes as a republican tactic in extreme situations at earlier dates.⁴⁶ Given the historical resonance of hunger striking within the nationalist and republican communities such a strike, although threatened by dissident republicans, would have been profoundly unwelcome to pro-Agreement parties on both sides of the community divide at this time. The nationalist pro-Agreement parties might, indeed, have felt bound to support a strike, despite their political differences with the groups in question.

40. While the Minister, Rt. Hon. Jane Kennedy MP, did not assent to the proposition that a potential hunger strike was a factor in the review process,⁴⁷ it seems to us to be the most plausible explanation for a decision which appears to be unsupported by the weight of the evidence presented to us. Some of the discussions we had, formally and informally, hinted at the political pressures of the time. For example the Steele Review panel related that:

“There was intelligence that there was going to be a hunger strike ... we believed that there were men there who would have gone on hunger strike and who would have carried it through ... when we saw Sinn Fein they were saying to us that there had been several protests on the streets and Sinn Fein’s natural supporters were on the streets on the question of separation ... Take the sympathy away now by giving them a degree of separation. That was the argument ... Hunger striking is such an emotive

45 Q737

46 K McEvoy *Paramilitary Imprisonment in Northern Ireland*, 2001 chapter 4

47 Q739

issue that I do not think it would only have been their own political supporters who would have been behind them. They would have gathered a lot of people...’’⁴⁸

The continuing political resonance of the Maze hunger strikes was further demonstrated when, following the elections to the Northern Ireland Assembly on 26 November 2003, party leader Gerry Adams dedicated Sinn Fein’s success in becoming the largest Nationalist party to the memory of Bobby Sands.⁴⁹

41. Our examination of the full reasons which may have led to separation was, to some extent, hindered by the current limitations on select committees’ ability to question staff of No. 10 Downing Street. Following evidence from the Minister that staff of No. 10, whom we are not able to question, had been in discussion with the Northern Ireland Office during the period of the protests,⁵⁰ our concerns were expressed about this gap in accountability to the Prime Minister at the meeting of the Liaison Committee on 3 February. This question was not raised with the Prime Minister in order to criticise the fact that No. 10 has taken a special and detailed interest in the Northern Ireland problem, but because it highlighted a gap in oversight in these unique circumstances. **We feel it is important to establish the full facts of such decisions and this can only be done by questioning the officials concerned in No. 10.**

42. The Prime Minister was unable to recollect the extent of No. 10’s involvement in discussions on the matter, but he acknowledged that ordinary policy considerations are from time to time over-ruled in the particular circumstances of Northern Ireland. He also indicated that he was aware of the arguments surrounding select committees’ access to officials within No. 10 and wished to look at how things might be done differently in future. **We welcome this sympathetic response from the Prime Minister, and his commitment to reassess the policy on the appearance of his staff, in exceptional circumstances, before committees such as ours.**

43. The possibility that the Government may (in deed if not in word) have made concessions because of a sophisticated dissident campaign which crossed the community divide is, in the context of the political environment in the summer of 2003, understandable. But it is also profoundly depressing. A threat which has succeeded once is likely to be used again and may be more difficult to withstand a second time. This expectation forms the background to many of the concerns we have heard about the practical consequences of the decision to separate, which we shall discuss in the remainder of this Report.

44. We believe that the separation of paramilitary prisoners at HMP Maghaberry was demanded by dissidents for political reasons and acceded to by the Government for (other) political reasons. We accept that the prevailing political conditions in Northern Ireland in the summer of 2003 placed the Government in an extremely difficult position. Nonetheless we have to record our belief that the decision—taken, as we see it, contrary to the balance of the facts and arguments presented to us—was a dangerous

48 QQ44, 47, 48

49 Gerry Adams – *We are determined to see the Agreement implemented*, 4 December 2003 at www.anphoblacht.com/news

50 QQ751-755

one, most especially for the public servants who will have to implement it and live with its consequences.

45. In our judgement, it seems very likely that the new policy of separation will have to remain in place for as long as there are any prisoners in Northern Ireland who can reasonably claim a paramilitary affiliation. This may be a very long time. The Government's decision is therefore also a very significant one, regardless of the political environment of the time, although it was made very quickly. Having made that decision—from which we accept there is now no turning back—the Government must accept full responsibility for the implementation of separation, and the additional demands it will place on the resources of the Northern Ireland Prison Service.

3 The implications of separation

A return to the Maze?

“It is with a great sense of pride and joy that I put pen to paper to write this letter. I would like to congratulate the republican PoWs in Maghaberry Gaol for their determined stance against British attempts to again criminalise the heroic struggle for Irish freedom ... These prisoners have ensured that the sacrifices of Bobby Sands and his nine brave comrades have not been in vain.”⁵¹

“Segregation is no more, no less than power and control. Power and control for them to actually determine who comes into their area, for them to manage their own affairs ... In the Maze, staff couldn't walk down wings without seeking permission of people in charge of that wing. Murders, beatings, bombs, people thrown out of windows, escapes, kangaroo courts. That's the reality of segregation.”⁵²

46. The fear that Maghaberry would see the type of problems that crippled the Maze was repeated constantly to us throughout our inquiry. While the Maze was not always as it is described in the quotation above, those conditions resulted ultimately from a progressive and successful campaign by paramilitaries on both sides—but especially republicans—to wrest control from the authorities.⁵³ All of our witnesses agreed that this should not be allowed to happen a second time; but while some of our witnesses believed that a limited concession on separation would close the door to subsequent paramilitary campaigning, others believed that any concession opened the door wide to further demands.

Separation and segregation

47. The Steele Review panel were clear that they were not advocating “Maze-style” concessions. They elected not to use the word ‘segregation’ in their report because of the association of the latter with the situation in the Maze, where “a prisoner could be tortured to death and the Prison Service would not know until the body was handed out. A tunnel

51 Letter by “True Republican”, Irish News 3 November 2003

52 “Senior prison source” quoted in Irish News, *An old prison battle ... and fears*, 18 August 2003

53 K McEvoy, *Paramilitary Imprisonment in Northern Ireland*, 2001

could be dug and a cell filled with soil and the Prison Service would not know.”⁵⁴ The panel instead envisaged a much more limited arrangement which they described as ‘separation’. Under their recommendation, prisoners with paramilitary affiliations would be housed apart from other prisoners and have limited opportunities for general association, but would still be expected to mingle with others during activities such as education. The panel believed that this was a line which was reasonable from the perspective of securing prisoner safety, and could be held by management against demands for further separation on political grounds.

48. It rapidly became apparent to us that the type of separation which was actually being implemented at Maghaberry went significantly further towards isolating the paramilitaries than the Steele panel had recommended. The Director-General told us that, on grounds of risk management, it had been decided that the paramilitaries should also be provided with separate activities:

“..if the suggestion is that prisoners from all three groups⁵⁵ .. can all simply go to the one educational class, then I do not think that is simple at all ... that is highly problematic for the safe management of the prison and that is why I say that we will be starting by aiming to take activity provision mostly to the wings, to the prisoners, and not escorting them through the jail.”⁵⁶

49. Further details of the proposed regime for the separated prisoners subsequently emerged:

- A description of the regime to be experienced in the separated accommodation would be set down in a ‘prisoner compact’, to which the prisoners concerned would be expected to agree as a condition of entry;
- The regime available to these prisoners would be a ‘standard’ level regime, including access to television and a limited weekly income, but there would be no opportunity for the prisoners to work towards an ‘enhanced’ or ‘privileged’ regime with such features as access to video recorders, or an increased weekly income;⁵⁷
- Prisoners would receive less time out of the cell and fewer opportunities for association and activities than those accepting the integrated regime;
- Prisoners would not be required to work, and would not be allowed to attend the prison’s main workshops (which will be in the non-separated areas). Educational

54 Q15

55 i.e., republicans, loyalists and ordinary criminals

56 Q178. The main point of constructing the new multi-purpose building within the separated compound at Maghaberry (see paragraph 23 above) is to allow for the separated provision of facilities such as education classes and gym facilities, to be used by loyalists and republicans alternately on a ‘time-share’ basis.

57 The words in inverted commas are technical terms within the Prison Service’s Progressive Regimes and Earned Privileges Scheme (PREPS), introduced to Maghaberry in November 2000. Within this scheme there are 3 levels of regime, namely (in ascending order) ‘basic’, ‘standard’ and ‘enhanced’. Earnings and privileges become successively more generous as one ascends the levels. An official booklet explains that “Privileges and incentives are earned by prisoners through good behaviour and performance and removed if the prisoner fails to maintain acceptable levels of behaviour” (*HM Prison Maghaberry*, NI Prison Service, 2002). The Prison Service has decided that it is inappropriate to apply the PREPS scheme to the separated prisoners. It has therefore fixed their privilege level at that of the ‘standard’ regime, but with no opportunity to progress to an ‘enhanced’ level of privileges.

classes would however be available, as would jobs as orderlies on the wings (for which, as is normal, the prisoners would be paid).

- Prisoners would get “significantly less” parole than those accepting the integrated regime;
- Movement throughout the separated areas would be tightly controlled, with only three prisoners allowed out of their cells at a time in the main public areas of the wing.⁵⁸ However, this does not mean that all but three prisoners at a time would be locked in their cells, because others would be allowed into such areas as the laundry room and phone area. Also, for evening association, while prisoners would be escorted to the association room in threes, all the prisoners on a particular landing could if they wished be in that room together.

‘Holding the line’

50. These arrangements had been developed alongside the physical changes made to the two houses in order to assert “the primacy of staff control” (see paragraph 23 above): although a degree of separation had been conceded, Government and senior staff of the Prison Service were quite clear that there would be no return to conditions in the Maze.⁵⁹ Officers and Governors, however, publicly and privately expressed considerable scepticism as to whether this line could be held.

51. As has previously been noted, there is evidence of a strong and longstanding desire among paramilitaries for a return to recognised political status. In the Maze, this was associated with factors such as the sanctioning of prisoners as ‘Officers Commanding’ their wings, and strong pressure placed on staff by prisoners, so that, while they were supposed to carry out various security checks, they sometimes felt too intimidated to do so. Consequently, some areas of the prison became effectively ‘no-go’ areas for staff, under total inmate control. This is how an empty cell in a republican H-block in the Maze came to be used as the starting point for an escape tunnel, and was filled with soil, but was never reported to the senior authorities in the prison.⁶⁰ Staff of the Prison Service believe that, while the change to a separated regime has been accepted by the paramilitaries, they will not be content with what has been gained, and are simply biding their time before making a new push for further concessions.

52. Just as the campaign to achieve separation was conducted in a variety of ways both within and outside the prison (see paragraphs 31–32 above) so any future campaign would adopt a whole range of tactics from legal challenges against the conditions in the separated areas to attacks on prison officers, and further threats of hunger strikes:

“...prisons are run by the co-operation of prisoners and that goes for a prison anywhere ... we have a big body of prisoners who do not want to co-operate and

58 QQ339-349

59 Q162

60 See paragraph 46 above

who have their own agenda and it is very difficult ... what they do is they chip and chip and chip away at it, and they have 20, 30 years' experience of this.”⁶¹

Prison staff from HMP Maghaberry itself claimed that they were already seeing evidence of attempts by paramilitaries to “chip away” at the regime: those temporarily accommodated in separated landings in Bann House and Lagan House were reported to be refusing to communicate with staff on duty on the wings and insisting on direct contact with governors.⁶² They were resisting the policy of “controlled movement”, by which only three individuals were allowed out of their cells at a time.⁶³ The staff noted that further concessions had been sought by these prisoners, but thus far had been resisted by the prison Governor.⁶⁴

The prisoner compact

53. Staff were particularly sceptical about the value of the proposed ‘prisoner compact’ as an agreement of terms and conditions between the prison and prisoner. It was intended that this document would increase understanding, both within and outside the prison, of the nature of the separated regime and thus provide a “safe regime for both prisoners and staff ... [where] staff remain in control”.⁶⁵ However both prison officers and prison governors found this approach to prisoner control to be fundamentally naïve given the recognised agenda, and disdain for authority, of the prisoners concerned:

“..they will look at the compact and they will see if there is anything in it for them. If there is anything in it ... they will take it out and anything that is not they will totally disregard ... A certain senior person in the NIPS many years ago had a discussion between two heads of the PIRA and it was because they had orchestrated something they had promised not to do because he had delivered them certain things, and he said to them “but you promised” and one of them turned round to me ... and said “is he for real?” ... they will honour what they want to and not honour the rest.”⁶⁶

54. The draft compact was issued for public consultation on 11 December 2003. Certain features of the document can be highlighted :

- While the compact was designed as an agreement of conditions it is not enforceable in law, nor will a prisoner actually be required to sign it as a condition of entry into the separated areas;
- It provides a range of factors which may indicate eligibility for a separated regime (see “Eligibility for separation”, paras 66–73 below); and
- The wording of the compact is very loose (for example, “During the periods of unlock the following facilities *may* be available”): while this must be deliberate on the part of

61 Q485

62 Q638

63 Q457

64 Q646

65 *Compact for separated prisoners*, NIPS 11 December 2003

66 Q531

the Prison Service, staff claimed that details must be “set in stone” so that officers on the separated wings are less easily subject to challenge when trying to enforce the regime.⁶⁷

55. In certain respects, the draft would also appear to differ from the earlier proposals which had been described to us [see paragraph 48 above]. It seems that separated prisoners, while restricted in a number of ways, will have access to a slightly greater range of privileges than had been initially suggested: for example, they will be able to receive up to £30 per week from visitors on top of their basic earnings, and they will be able to purchase games consoles for use in their cells.⁶⁸ We appreciate that the Prison Service has to find a delicate balance between a controlled regime and one which is so unattractive to prisoners that they seek to achieve alternative forms of separation.

56. In spite of the apparent softening of the proposed compact, within a week of its publication there were indications that prisoners would, as predicted, “chip away” at it. Two newspaper reports identified resistance to the compact among loyalists. In the first, the Ulster Political Research Group claimed that the proposals in the compact “could provoke violent confrontation”: a spokesman was quoted as saying:

“The whole document degrades and dehumanises prisoners just to appease prison officers and sceptics who see separation as a step towards political status.”⁶⁹

In the second it was reported that Andre Shoukri, a prisoner in temporary separated accommodation at Maghaberry, was mounting a legal challenge to the decision by the Prison Service not to allow him Christmas parole. The article notes that Mr Shoukri’s lawyers “intend to argue that the decision is unlawful because the authorities have applied a blanket ‘no consideration’ policy to such [separated] prisoners as they are not regarded as being part of a progressive regime.”⁷⁰

57. This ‘cherry-picking’ approach by the paramilitaries—in which aspects of separation which suit them are accepted, and those which do not are challenged as part of a continuing campaign—was feared by staff as inevitably leading to “a gradual erosion of the arrangements that are in place ... in the direction of more and more compromise.”⁷¹ A particular source of concern and frustration to prison officers, based on past experience, was the expectation that their attempts to ‘hold the line’ within the prison would be undermined by decisions made at Prison Service Headquarters, or by Government—much as “external pressures” had led to the change of regime now being implemented:

“... the Governor and staff have done their best to create a situation where the ... separation can work, but it depends very much on the impact that any outside influences in the future might have ... In many ways, they are between a rock and a hard place ... The difficulty is that there are other factors in the equation; for example, the political factors, which might be brought to bear in the future.”⁷²

67 *Compact for separated prisoners* NIPS 11 December 2003, para 5.2 [our italics]; Q646

68 *Compact for separated prisoners* NIPS 11 December 2003, para 7.2

69 *Prisoners threaten revolt over segregation contract*, News Letter, 18 December 2003

70 *Shoukri bid for Christmas parole*, Irish News 18 December 2003

71 Q424

72 Q424

“... you seem to be asking, “can we hold the line?” The experience of prison officers and prison governors in the past was that they have always held the line. It is not the prison staff that you need to be concerning yourself with because we will do whatever government policy is. The point about it is that when it is a changing policy from day to day and people are talking outside and undermining what is going on in the prison, then we cannot hold that line because we do not know what the line is.”⁷³

“What we found in the Maze was that a line was drawn in the sand, a member of staff was murdered and that line moved. We held that line, another member of staff was murdered and that line was moved. We are afraid of the same happening again.”⁷⁴

58. We shall discuss the relationship and interaction between the prison staff and Prison Service Headquarters in greater detail at paragraphs 90–121 below. But **it is essential that the staff and governors at HMP Maghaberry should receive the full and unwavering support of both Government and Prison Service Headquarters, now and in the future, in implementing the level of separation which has been determined following the Steele Review. This means that current Government policy on separation must be asserted publicly, unambiguously and transparently, and the line must be upheld by all concerned regardless of the pressure which will be exerted by the paramilitaries for further concessions.**

Separation and factionalism

59. Staff perceived the current concession of separation as representing “stage 1” in a continuing paramilitary campaign for both segregation and political status. It was noted that during this phase paramilitaries from different factions, and even from the different communities, had colluded in pursuit of their common goal. The move into Bush and Roe Houses would represent “stage 2”. “Stage 3” would be when the different factions began to pursue their own interests including further degrees of separation, one faction from another.⁷⁵ The practical consequences of factionalism are discussed in paragraphs 156–161 below.

Control

60. As noted in the quotation at the head of this chapter, the arguments about separation are essentially arguments about control: while, in the Maze, the paramilitaries gained control the Prison Service is determined that they should not achieve it a second time.

61. It might be thought remarkable that prisoners in any prison could gain the kind of power they eventually held in the Maze—a situation that many staff now fear might recur in Maghaberry. In England or Scotland, such an eventuality would indeed be virtually unthinkable; even after a major prison riot, such as that in Manchester Prison in 1990, prison staff eventually regained full control of the prison, and of the day-to-day regime within it. So what is different about Northern Ireland?

73 Q483

74 Q484

75 Q607

62. There are two main factors. The first is the intimidation of prison staff that strong paramilitary organisations can orchestrate. If the safety of a staff member's home and family is directly threatened by paramilitaries, it might be difficult for even the most stout-hearted to continue to enforce the full official regime in a prison: one can easily understand how questions arise as to whether it really matters that a particular inmate should be thoroughly searched, or a particular area of the wing properly checked. These direct threats may also be backed up by subtler hints; in the past a common tactic among republican prisoners has been to undermine and indirectly threaten a prison officer by casually communicating to him details of his life outside prison which indicate that his home and family are under surveillance.⁷⁶ Such threats depend on sophisticated communication between paramilitaries inside and outside the prison, but experience at the Maze shows clearly that at least some paramilitary organisations are capable of effective communication of this kind.

63. The second key factor is that of the legitimacy of the prison regime in the wider political context. In England, for example, prisoners protesting about the details of a particular prison regime will usually receive, at most, some support from specialist organisations; their claims may give rise to a Parliamentary question. In Northern Ireland, as the threat of a hunger strike in the summer of 2003 demonstrated only too clearly, alleged injustices claimed by paramilitaries from either main community can very easily become major political issues, with strong support for the prisoners being expressed in many contexts, thus weakening the perceived legitimacy of the prison authorities.

64. It is known from experience that paramilitaries can use to great effect these dual weapons of, on the one hand, intimidation and coercion and, on the other, the attempted undermining of the authorities. No-one should be in any doubt that what is taking place is a political battle for power, not simply a technical debate about the details of a prison regime.

65. One of the ways in which the paramilitaries can seek to increase their power and confidence within the prison—over Prison Service staff and over other prisoners—is through force of numbers. A number of witnesses voiced their expectation that the paramilitaries would seek to increase their contingents within the separated areas.⁷⁷ Although ultimately the proportion of these organisations within the prison population was out of their control, we were told that in the past the paramilitaries had found ways to maximise their representation:

- Paramilitaries would recruit among the 'ordinary' prison population;
- Individuals—particularly the young and the vulnerable—would be subjected to pressure either within or outside the prison, to force them to claim affiliation;
- Individuals would be 'claimed' by paramilitary organisations whether or not they were truly affiliated; and

76 Fourth Report 1997–98, *Northern Ireland Prison Service*, HC716 paragraph 14

77 See for example Q283

- Individuals would identify themselves as affiliated to paramilitary organisations of their own volition.⁷⁸

66. To date, we have been told that 24 dissident Republicans and 34 Loyalists had already been moved into temporary separated accommodation.⁷⁹ The Prison Service has received 15 further applications from Loyalist prisoners and 1 further application from a Republican prisoner who are currently being considered for removal into temporary separation. Those involved include 5 prisoners who have transferred to the separated regime at Maghaberry from HMP Magilligan. Informally, we were told that the numbers of prisoners currently affiliated to a paramilitary organisation could be in the region of 75 on the Republican side and up to 120 on the Loyalist side.⁸⁰

Eligibility for separation

67. Given the recognised significance of a “critical mass” to the paramilitaries, it is essential that their task is not made easier by procedures which allow them to artificially inflate their numbers. The establishment of clear criteria which the Prison Service can use to determine who is a paramilitary, and therefore eligible for accommodation in a separated area, is therefore crucial: as the Board of Visitors commented, “This [question of eligibility] is the point where control is first handed over to the prisoners if they are allowed to choose their own ‘team’.”⁸¹

68. In order to stop the prison simply dividing on political and sectarian lines which “somehow transcend why [individuals] were sentenced”, NIACRO argued that the separated regime should only be offered to those convicted of a scheduled terrorist offence.⁸² Others, however, said that it would be too simplistic to separate prisoners solely on the basis of a terrorism-related offence: both John Steele and Peter Russell noted that even serious paramilitary figures may be sent to prison for comparatively trivial offences. Conviction on a motoring offence or charge of theft would not stop such individuals acting “under orders” and as part of their organisation during their time in prison.⁸³ The question therefore would need to be considered in respect of every prisoner.

69. John Steele told us that questions of affiliation should be determined by the Prison Service on police advice. But paramilitaries should not be forced into separated accommodation if they wanted an “opportunity of getting away from paramilitary influence”; to that extent they should have a choice, as they had previously between Maghaberry and the Maze (see paragraph 6 above).⁸⁴ Peter Russell agreed that the Prison Service needed “to be satisfied that they are paramilitaries ... because there are some horror stories from the past.”⁸⁵

78 QQ479, 549

79 Q866; letter from Prison Service dated 23 January 2004

80 Ev 142

81 Ev 124

82 QQ282-284

83 QQ17, 179

84 QQ87; 83

85 Q179

70. The question of how the Prison Service would be so satisfied proved rather more difficult. Mr Russell told us:

“..we can hardly ask people to produce their membership cards for the organisations that they claim to belong to, so the thing will inevitably involve elements of judgement and assertion. The driving thing for us has to be that we are satisfied that the individual will be at least as safe or more safe if he is in separated conditions... We certainly cannot accept somebody’s uncorroborated word and push them willy-nilly into separated conditions but ... the standard of evidence that we can require for this is not what would be accepted in a court of law.”⁸⁶

71. The Governor of Maghaberry took a wider view of the possible criteria than John Steele, suggesting that alongside the desire of the individual to be separated the Service might also take into account “the prison history; the age of the candidate ... whether the person was under any particular threat; affiliation ... [and] community background as well.”⁸⁷ One of the reasons why these wider criteria should be used, he suggested, was that police advice on an individual’s affiliation “does not always come through as quickly as one would like”; on further inquiry we found that the process of seeking advice takes in general two to three weeks.⁸⁸ This inevitably presents a problem for the Prison Service in determining how a prisoner claiming eligibility for separation, or expressing concern for his safety in integrated conditions, should be accommodated until police advice comes through.

72. Nonetheless, we believe that determinations drawn from such a variety of factors—as opposed to decisions grounded on police advice—are not a safe and reliable means to handle the question of eligibility for separation. We were told that the prisoners who had already been moved into temporary separated accommodation had been identified as paramilitaries:

- partly as a result of the dirty protest;
- partly through intelligence from the police or (more worryingly) from within the prison; and
- partly because “they said they felt unsafe”.

Yet Mr Russell acknowledged that the prisoners concerned were very capable of manipulating evidence of threats to their safety in integrated conditions by colluding in attacks on each other.⁸⁹

73. We appreciate that, since some individuals have already been allowed into separated conditions, it is difficult to pull back from the apparently rather unstructured approach to determining eligibility which has already been exercised. But the current group is limited in number, and we think that some retrenchment will be necessary for the permanent separated regime, if ordinary prisoners are to be protected. There is ample evidence from

86 Q766-767

87 Q383

88 Q383; Ev 137

89 QQ768-771

the past that paramilitaries will use every means possible to manipulate the system: the more criteria which are presented as gateways to separation, the more opportunities the paramilitaries will have to recruit or intimidate others into joining them. If, on the other hand, police advice is the only criterion which will be accepted, it will be pointless for the paramilitaries to threaten vulnerable prisoners and claim affiliations which cannot be proved. The administrative difficulties in gaining police advice can, and must, be addressed as a high priority for both the Prison Service and PSNI.

74. It is imperative that the only evidence of an individual's paramilitary affiliation which is accepted for the purposes of separation should be evidence received from, or verified by, police or intelligence sources. On no account should any individual be able simply to claim affiliation for himself or for others. Once the new arrangements are fully operational, if an individual claims affiliation for himself he should be placed in temporary special accommodation in the main prison, rather than in a separated cellblock, until his claim is either verified or rejected.

The prisoner's choice

75. Another key factor in deterring individuals from opting for separated conditions will be the relative attractiveness of life in separated and integrated conditions. At present the full details of conditions in the separated areas (set out as proposals at paragraphs 48–54 above) are not decided, and there would appear to be a degree of caution amongst prisoners as to their actions. A member of the Board of Visitors told us that a prisoner on remand had “said he was not going to decide yet whether to apply [for separation] because when his case came up in court it might look bad”.⁹⁰

76. Nonetheless, there are two sides to this choice. It is not just a question of whether the separated conditions are *less* attractive, but also of whether the integrated conditions are decidedly *more* attractive. We received considerable evidence that, **since the start of the paramilitaries' campaign for separation, conditions for integrated prisoners in Maghaberry have progressively worsened, as staff resources have been diverted to deal with the protests and the new regime. This is creating a considerable amount of resentment which, we were warned, is prompting ordinary prisoners to seek “a bit of the pie” the paramilitaries are perceived to be getting.**⁹¹ Unless this is addressed urgently, the separated regime will appear by simple contrast to be much more attractive than in reality it is. We discuss the regime for integrated prisoners in greater detail at paragraphs 130–138 below.

Sanctions

77. As part of the development of separation, the Prison Service has been reviewing the sanctions which are available to prison governors to enforce the regime. Peter Russell suggested that there was scope for raising some of the maximum penalties available on existing sanctions to bring them into line with practice in the rest of the UK. There was also the possibility of creating new sanctions, or reviving sanctions which had been removed

90 Q435

91 Q480

from the rules, such as a prohibition on insignia or emblems showing membership of a paramilitary organisation.⁹² When we discussed these suggestions with prison governors we were told that the creation of effective sanctions is a particularly difficult problem when dealing with paramilitary prisoners:

“If you have people who will commit themselves to hunger strike and are prepared to die ... and you took one of them out and you said to him “I am going to stop your remission now” I do not think that plays any part in their thinking really. Certainly we would welcome any sort of punishment for people not obeying the rules ... [but] a lot of them are doing life sentences and they just laugh at you and there is not much that you will do to them that will hurt them ... it pales into insignificance”.⁹³

78. At a comparatively late stage in our inquiry, our attention was drawn to the possibility that one sanction of “last resort” would be to transfer a prisoner to a prison on the mainland. The Government had taken the first steps towards implementation of this sanction by inserting provisions into the Justice (Northern Ireland) Bill [*Lords*] which would enable both remand and sentenced prisoners from Northern Ireland to be transferred to England and Wales “in the interests of maintaining security or good order in any prison in Northern Ireland”.⁹⁴ We were told that a similar proposal was under consideration in Scotland.⁹⁵

79. While this idea was originally raised by the Steele Review panel,⁹⁶ we have strong reservations about it. We could easily imagine that dissident Republicans, in particular, would be able to manipulate the transfer of a prisoner away from home and family to create an image of Government oppression. The Minister justified the decision to us, saying that in England there are:

“120 or so prisons .. so that they can at least move a prisoner and in that way break the context of the links that that prisoner has within one particular institution ... The fact that in Northern Ireland there are only three prisons, and only one of them is for high security prisoners, means that they have to contain all of that within one institution and it is therefore much more difficult for the prison governors and prison officers to hold the line in what becomes a very difficult pressure cooker. ... we believe that, so long as we can demonstrate that ... Maghaberry Prison is a safe regime and that ... any campaign being mounted to demonstrate on safety ... is about control, there will be limited public support.”⁹⁷

We appreciate that the Minister and the Prison Service are in a very difficult position. Nonetheless we have to point out that throughout the summer of 2003 Government was unable to convince the public that the prison regime was safe and that the paramilitary

92 Q182; These changes were laid before Parliament on 9 January 2004 as the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2004 (Statutory Rules of Northern Ireland 2004 No. 4)

93 Q523

94 Justice (Northern Ireland) Bill [*Lords*] Clause 13 Transfer of prisoners

95 Q784

96 Ev 108

97 Q786

campaign was about control, although the Prison Service were convinced that this was the case: that is how we got to where we are.

80. We believe that the proposal to transfer prisoners to other jurisdictions as a sanction of last resort is very dangerous, and could easily be manipulated by the paramilitaries in their campaign to undermine the Northern Ireland Prison Service and, ultimately, the British Government. We caution against its use in the strongest possible terms.

4 Implementing change

Physical changes to the prison

81. The Prison Service has decided to accommodate the separated prisoners in the two most modern wings at HMP Maghaberry: Bush House and Roe House. A number of witnesses regretted this decision, pointing out that the two houses provided the most attractive accommodation in the prison and the ‘ordinary’ prisoners resented losing them to the paramilitaries.⁹⁸ The impact of this decision on the remainder of the prison is discussed in greater detail in paragraphs 148–155 below.

82. The Steele Review panel themselves did not recommend which parts of the prison should be used for separation, but nonetheless described Bush House and Roe House as “peculiarly suitable” for the purpose. While the corridors in the four original houses at the prison are square, like a cloister, the two newer houses were described as ‘K’-blocks, in which all activity can be surveyed from a central control point. This layout makes it much easier for staff to maintain control than in the other houses:

“One of the problems at Maghaberry is the actual physical layout of the prison building ... [Bush and Roe] have in fact gone back to a more traditional style ... a better arrangement as far as staff visibility and therefore staff mutual support and protection is in effect. The layout of the four original houses at Maghaberry lends itself to a lot of nooks and crannies and corners and so on and contributes in its own way to a sense of insecurity ...

“[Bush and Roe] have an old-fashioned layout so that a prison officer on a wing upstairs can see what is going on downstairs [unlike] ... the four older houses ... where a prison officer can very easily [be] isolated at the end of one wing.”⁹⁹

The Director General asserted that the decision to locate separated prisoners in Bush and Roe was a necessary one, describing the older blocks at Maghaberry as “not really fit for purpose”: “the sight lines are dreadful, the corridors are narrow and they are an awful environment in which to control prisoners”, he added.¹⁰⁰

83. Additional measures were being implemented to increase the physical security of these blocks, including new security grilles, search facilities and a number of security cameras. In

98 See for example Ev 124

99 QQ34, 65

100 Q158

view of the recent rooftop protests on these two houses a wire ‘cage’ has been erected over the exercise yard to prevent prisoners gaining access to the roof in the same way a third time.¹⁰¹ The changes to Bush House were carried out first, and completed in early December 2003; the Service planned that the changes to Roe House would be completed, and the permanent regime implemented, during February 2004.¹⁰²

84. The cost of the changes was £7 million, which we were assured had been provided to the Prison Service in addition to its ordinary budget.¹⁰³ We were pleased that the Prison Governors’ Association supported the changes to the infrastructure, describing them as “as good security as anything we have seen”.¹⁰⁴ **While it is regrettable that the separated prisoners should be given what is currently the best accommodation in the prison, we recognise that this accommodation is best suited to the maintenance of control and of safety for both prisoners and staff. We welcome the enhanced security features which are being installed. If, once the separated houses open, it becomes apparent that further physical changes are required, the cost of these must also be met from outside the Prison Service annual budget.**

Resources and targets

85. In addition to the capital costs of separation, we were told that the changes to the regime would add approximately £7 million to the Service’s annual operating costs. As Peter Russell commented, this is “not a trivial sum”.¹⁰⁵ Much of the money will be spent on additional staff, and on staff training and support. Issues relating to staff are discussed in the next section (see paragraphs 90–129 below).

86. Historically, the “cost per prisoner place” in Northern Ireland has been higher than in Great Britain, in large part because the Service needed a proportionately greater staffing complement to deal with its paramilitary and other high-security prisoners. In recent years, the Northern Ireland Prison Service has been under considerable pressure to reduce this expenditure: under the NIO’s Public Service Agreement it faces a target to reduce the difference in cost per prisoner place between Northern Ireland and England and Wales by 17% by March 2004. Prior to the paramilitary protests of 2003 the Service was on course to achieve an interim target of 11.3%.¹⁰⁶

87. The drive to reduce costs was not without its critics. We were told by Prison Service staff that establishments were being run below target staffing levels, which resulted in additional pressures on staff who were required to provide cover.¹⁰⁷ NIACRO, an independent organisation, considered the target to reduce spending to be inappropriate for a service which was still “in transition” to a model which would be recognised on the mainland. Their point—that in spite of the peace process the “reality on the ground” was

101 Q325

102 *New £7 million refurbishment to keep prisoners segregated*, Irish News 12 December 2003; *New era for Maghaberry*, News Letter, 12 December 2003

103 Q229, 231

104 Q486

105 Q211

106 Northern Ireland Office 2003 Departmental Report p20

107 QQ517-518

that the prisons still had to deal with the particular pressures exerted by paramilitaries—has been dramatically proved by recent events.¹⁰⁸ Clearly, the premise that Northern Ireland’s prisons are no different to prisons in England and Wales is inappropriate now.

88. As with the capital expenditure, we were assured that the new operating costs arising from separation would be met outside the Prison Service’s ordinary budget. Nonetheless it appeared to us that there remained anxieties, beyond the proper degree of care in handling public money, about the need to implement separation as cheaply as possible. Thus, for example, we were told by Peter Russell that a considerable number of new posts created as a consequence of separation would be opened to civilian support staff in order to avoid the “training penalty” which was exacted in recruiting a full prison officer: he told us, “if it were not a money saver [this] would not be worth doing, frankly”.¹⁰⁹ Others told us that this particular step could have implications for the effective running of the prison a few years down the line: these are discussed in paragraphs 125–129 below.

89. We are, of course, aware that the Northern Ireland Prison Service operates inefficiently in some respects, and that improvements (for example a reduction in sickness absence) would bring significant benefits to staff as well as reducing costs. But, as NIACRO and others have indicated, the extent to which this inefficiency has been caused by the particular and continuing difficulties of the situation in Northern Ireland has also to be borne in mind. **The target to reduce the cost per prisoner place in Northern Ireland, and associated objectives, are inappropriate following the decision to implement separation and should be abandoned for the foreseeable future. Any attempt to impose further efficiency savings on the Prison Service while it is dealing with separation are likely to prove counter-productive and to undermine the already fragile relationships between the Government and Prison Service staff. Once separation is firmly established the requirements of the new regime, and the costs associated with it, will be clearer: a review should then be carried out to determine whether costs can be reduced without detriment to the safety of staff and the wellbeing of prisoners.**

90. In connection with this recommendation **we further believe that the direct capital and operational costs of running the separated regime should continue to be calculated, met and publicly recorded as items distinct from the Prison Service’s main budget. This is, and will continue to be, vital if the regime for other prisoners is to be protected as the Steele Review recommended.**

Staff management issues

91. Prison service staff are needed to observe, manage and control prisoners; they are also essential to the fulfilment of the Service’s duty of care. Physical recreation, workshops and education, which are important to the prisoner’s wellbeing and rehabilitation, cannot be provided without staff and consequently in their absence prisoners must remain locked in their cells throughout the day. Additionally, there is evidence that prisoners feel safer in the presence of staff.¹¹⁰

108 Ev 128

109 Q150-153

110 See paragraph 20 above – *Suicide and self-harm prevention: a strategy for Northern Ireland*, the Howard League for Penal Reform October 2003

92. The relationship between staff and Prison Service Headquarters is at present a deeply uneasy one. It would appear that there is little communication between the different interests: the Minister complained that when she tried to communicate with the Prison Officers' Association (POA) she found them "elusive", while the local committee of the POA at Maghaberry equally complained that every formal meeting they had set up with the prison Governor between August and November 2003 had been cancelled at short notice.¹¹¹ The Board of Visitors described the two sides as being "at daggers drawn".¹¹² In November 2003 prison officers in Northern Ireland withdrew their goodwill; the police were called in to run all three prisons during an apparent wildcat strike on Friday 21 November.¹¹³ A week later, the Government was granted an injunction to prevent prison officers taking further such action.¹¹⁴ As we have noted in the introduction to our report, an improvement in the situation was achieved on 16 January, when the NIO and the executive officers of the Prison Officers' Association jointly recorded a recommendation to the Association that goodwill be restored in return for an end to the Government's legal action. Such developments are of course very welcome.

93. Staff are opposed to separation because of their concerns that conditions will be allowed to deteriorate until the paramilitaries gain control. They also have a number of other, more long-seated, concerns about practices and their safety in their own homes. We discuss these below. We should place on the record that **while we understand and have sympathy for the prison officers' concerns, we cannot condone industrial action which jeopardises the safety and wellbeing of prisoners and other prison staff.**

The threat to staff

94. Staff were particularly concerned about the threat posed to their safety by the paramilitaries. These concerns are not unreasonable: twenty-nine prison staff in Northern Ireland have been murdered over the years, both within and outside the prison estate.¹¹⁵ Even more have been attacked, and some have also suffered injuries as an indirect consequence of paramilitary activity. Looking only at the very recent past, in the period 1–22 October 2003 14 attacks on current or former prison officers in Northern Ireland were reported: one of these, which took place within the prison, was said to be an act of frustration by 'ordinary' prisoners who resented what they perceived as the level of attention and resources being granted to the paramilitaries at their expense.¹¹⁶

95. Just as the paramilitaries had carried forward their campaign for separation on a variety of fronts, they were expected to adopt a variety of approaches to the intimidation of prison officers (see paragraph 61 above). We were told that "most" of the recent physical attacks on prison officers' homes had been attributed to Loyalist organisations.¹¹⁷ Although

111 Q832; Ev 136

112 Q429

113 *Police called in to staff prisons*, BBCi, 21 November 2003. The three prisons are HMP Maghaberry, HMP Magilligan and HMP Hydebank Wood Young Offenders Centre

114 *High court ruling on prison dispute* BBCi, 27 November 2003

115 QQ12; 565. *HM Prison Maghaberry*, NI Prison Service 2003

116 See Ev 113; *Prison officers' homes attacked; Inmate attacks prison officers; Prison officers attacked*, BBCi, 21-22 October 2003

117 Q320, Q568

the Steele Review panel believed these attacks were “down to mere criminality” we find it hard to believe that this is entirely the case.¹¹⁸

“They will get us outside”¹¹⁹

96. On the whole officers at Maghaberry took a robust view of the threat posed to them, repeatedly telling us that so long as adequate physical and psychological support was provided to them they would succeed in maintaining control within both the integrated and separated areas of the prison. Nonetheless the officers understandably felt a burden of responsibility for the safety of their families. It was this concern which appeared to be most directly related to the recent breakdown in relations between staff and management of the Prison Service.

97. Matters have been made much worse by two incidents outside the prison. The first was the discovery in late 2002 that personal information relating to over 1400 prison officers had found its way into the hands of paramilitary organisations.¹²⁰ Concerns over this incident had been compounded by the second incident (referred to in paragraph 32 above), in which dissident republican sympathisers raided a Prison Service office in Dundonald House in Belfast and allegedly sought to remove further files containing officers’ personal details. In the event, they only succeeded in removing one file, marked “dirty protest”, which was subsequently shown on local television.¹²¹

98. Individuals within the public service whose details are known to be in paramilitary hands are able to access certain Government-funded schemes which will enable them either to move house, or install security measures in their homes. These schemes include the Key Persons Protection Scheme (KPPS) run by the Government, and the Prison Service Protection Scheme (PSPS) run by the NIPS. Nearly all of the officers involved have applied to one or other of the schemes available.

Disputes over home security

99. The installation of home security measures under these schemes has been a source of considerable complaint. Initially, the charges made to us focused on the perception of inferior treatment, based on cost: it was alleged by the POA Northern Ireland that the Government had restricted the amount to be spent on any individual prison officer to £17,222 (after VAT) when “other members of the security services in a similar situation ... had £50,000” spent on them.¹²² They made the serious claim that:

“management has put in a tremendous effort in ensuring that prisoners are separated as quickly as possible, but no effort has been made by management or the Secretary of State to address the genuine concerns of prison officers and the families about the lack of security at their homes.”

118 Q51

119 Q605

120 Ev 117; Q568

121 Ev 118

122 Ev 117

100. The Minister told us that the prison officers were mistaken in their claims about security expenditure.¹²³ In any case, we believe that this argument is a distraction from the main point. When we spoke directly to prison officers we were able to gain a more useful and detailed picture of their concerns. These were:

- that individual officers were being provided with a universally prescribed security installation, rather than one customised to their particular needs and concerns;
- that these measures only provided partial protection, thereby restricting officers in the performance of their domestic routines; and
- that because the universal package which had been adopted was inflexible, it had failed to take account of changes in the methods of assault employed by attackers.

101. Both Peter Russell and the Minister strongly defended the Government's handling of the situation. The primary obstacle to providing officers swiftly with the protection they sought was simply the scale of demand: "the manufacture of bullet-proof glass is not geared up for such a sudden upsurge in the number of eligible people."¹²⁴ Faced with such exceptionally high demand, they had taken what steps they could to ensure everyone was provided with a measure of protection at the earliest possible stage. To facilitate this, the unusual step had been taken of seeking a generic group assessment of the threat to staff from the PSNI (ordinarily, a case by case assessment would be carried out). The prescribed set of measures provided to each officer had been determined on the basis of this group assessment and work to install security measures at individual homes had been phased, so that (for example) all officers received security lights before any received strengthened doors and windows.¹²⁵

102. Both Mr Russell and the Minister believed that this was the most equitable way of dealing with the situation; Mr Russell also asserted that this approach had been explained to the Prison Officers' Association Northern Ireland at the outset, in late 2002.¹²⁶ We were told that all officers should have received the full set of security measures determined by the group assessment, by spring 2004.¹²⁷

103. We find ourselves strongly in sympathy with the prison officers over their fundamental personal concerns for home security. The current situation is a profoundly difficult one: the original disclosure of officers' details—which we have not investigated in the course of this brief inquiry—should clearly never have happened. Equally clearly, the Government has accepted, and taken measures to fulfil, its responsibility to deal with the consequences. But the scale of the crisis has made it impossible for the Government to provide all the officers concerned with the timely, practical degree of reassurance they were wholly entitled to look for. The officers' frustration at the unavoidably slow rolling-out of the security installation programme can be readily understood.

123 Q802

124 Q218

125 QQ801, 803

126 Q802; Q218

127 Q810

104. It is not to be expected that any individual officer will perceive the threat to himself or his family to be less because he is one of 1400, rather than one of ten, or twenty. For this reason, **while we understand entirely the reasons why the Government should have adopted blanket measures to tackle the immediate threat to prison officers' homes, we do not believe that any individual should ultimately receive a less careful assessment of his personal situation than he would have received in other circumstances.**

105. **Priority must be given to the completion of the current programme of security installations for all staff affected: in the light of the Minister's comments, we expect to receive confirmation that this work has been completed, as indicated, by spring 2004. But once this has been done, any officer who so wishes should be entitled to apply additionally for a personal threat assessment which would indicate whether or not security at his home should be upgraded further. Clearly, if many officers avail themselves of this option there will be further delays in meeting the demand. A degree of patience on the part of prison officers and their families will therefore be required.**

Staff management

106. Within Maghaberry itself, the Steele Review panel noted problems relating to an inefficient shift system and high levels of staff sickness absence. Peter Russell confirmed that the panel's comments about the shift system were "undoubtedly true".¹²⁸ This inefficiency was responsible for much of the difficulty the prison was facing with overcrowding in the summer of 2003, as management could not find sufficient staff to enable the use of the then unoccupied cells in Foyle House (see paragraph 2 above).¹²⁹ The problem had been recognised, and "constructive" work had begun with the Prison Officers' Association to develop a more efficient working pattern. By June 2003 all governors had been trained to a basic level in the design of shift systems, and some governors had received more advanced training. Unfortunately, the paramilitary protests had intervened: Mr Russell told us that he was, understandably, reluctant to press on with change to the prison's basic routines when it was already coping with the introduction of separation.¹³⁰

107. The level of staff absence is a concern beyond the inefficiencies of the shift system. It prompted comment from NIACRO, who took the view that inadequate staffing compromised both their and the Prison Service's ability to provide educational and resettlement services.¹³¹ The Governor of the Prison agreed that the current rate of absenteeism was, at "just over 11% ... by any stretch of the imagination unacceptable". However, he pointed out that the pressures of working in the prison environment were considerable and nearly half of all sickness absence was stress-related. The Prison Service had initiated a two-fold approach to the problem of sickness absence, combining a more tightly controlled system of monitoring and discipline with a greater focus by line management on communication with individuals, to encourage a return to work as soon as possible.¹³²

128 Q143

129 Q195

130 QQ143-44; 148

131 Q289

132 Q400

108. We welcome the steps which have been taken by the Prison Service to address the problems of the inefficient shift system and high sickness absence at HMP Maghaberry. We believe that finding a solution to these problems would ultimately be beneficial for management, staff and prisoners alike and we are particularly pleased that the Prison Officers' Association have been willing to work on these problems with management. Nonetheless we accept that it will be difficult to make substantial progress in addressing the shift system in the short term, when other changes are already placing a significant new burden on the staff. While these changes may be put on hold, they have been a long time coming and we hope that all concerned will seek to make further progress at the earliest opportunity.

TOIL

109. Prison officers' contracts impose fairly strict conditions over the taking of leave, and working overtime. While leave entitlements are fairly generous staff are not allowed to take leave if their absence would compromise the Service in its statutory duty of care for prisoners. Staff may also volunteer, or be asked, to work overtime. The overtime system is sometimes referred to as TOIL (time off in lieu) as hours worked are repaid by leave, rather than additional payments.

110. The use of a TOIL system was introduced to the Prison Service in England and Wales in the late 1980s, under the "Fresh Start" contract. TOIL replaced the earlier practice of payment for overtime worked which had, in some prisons, been abused by staff seeking to maximise their income. Similar reforms were not extended to Northern Ireland until 1995, but the Framework Agreement of that year "provided for the phasing out of overtime as an endemic part of prison management", although it also "consolidated the NIPS payment into basic pay, thereby increasing pensionable pay significantly".¹³³ It was a fundamental assumption of this reform that overtime should be exceptional and the substitute leave owed to staff, therefore, should not accumulate.

111. We were told by the local POA committee at Maghaberry that arrangements for TOIL had gone badly awry. The pressures on staff to provide sickness and emergency cover had resulted in the accumulation of very large amounts of TOIL which officers had little expectation of being able to claim back. The representatives who appeared before us each claimed to be owed more than sixty days leave, with only three months of the leave year remaining.¹³⁴

112. The Governor of Maghaberry confirmed that there was a problem with TOIL. He told us that staff had been granted special leave—up to three additional weeks—to facilitate the installation of home security or make other arrangements following the disclosure of officers' details in 2002. The need to provide cover for these leave periods had worsened an already complicated situation.¹³⁵

113. In the circumstances we were rather surprised that the Service's senior management did not seem to perceive much difficulty: Peter Russell told us that the deterioration in the

133 NIPS, Review of the Northern Ireland Prison Service 1997, p39

134 Q658

135 Q403

number of hours owed to staff was “not earth-shattering” and that “most staff like to keep two or three shifts in their back pockets ... because they never know when things might crop up” for which they might want to take a day’s leave.¹³⁶ When we drew his attention to the claims of earlier witnesses to be personally owed more than 60 days each, he suggested that these claims were a statistical anomaly, and not representative of the average.¹³⁷ The Minister told us simply that she was “staggered” by the evidence relating to TOIL, which had not previously been brought to her attention.¹³⁸

114. When the claims of opposing parties are so very different in magnitude it can be difficult to pinpoint the facts. We therefore asked the Minister to make further inquiry into the facts of the matter. In January, she told us that the time owed to staff at Maghaberry was 36,091.25 hours, spread over 827 staff. The average debt was 43.6 hours per staff member: in other words, if the leave were distributed equally between all 827 members of staff each would receive a little over five days on top of their annual leave entitlement.¹³⁹ While this evidence supports the Director-General’s suggestion that the very high claims put to us had been exceptions to the rule, the total sum owed is nonetheless substantial and the average is significantly more than the “two or three shifts” to which Mr Russell referred. We have also to bear in mind the Governor’s testimony that undischarged TOIL is indeed a problem.

115. We asked Mr Russell how he intended to deal with the issue of TOIL. He rejected the idea that these officers might be paid for the days’ leave they have accrued, telling us:

“..once you start paying for it you will never get it down because they will always believe you will pay the next time, so it is self-defeating”.¹⁴⁰

On the other hand, the Service’s persistent failure to pay debts incurred—because, given operational requirements, it cannot do so through leave, and will not do so through money—has put a strain, to say the least, on its employees’ goodwill.

116. This situation simply cannot be allowed to continue. It must be remembered that it has arisen in part because of the exposure of prison officers to paramilitary threat and the special leave that that entailed; in part because of longstanding operational inefficiencies; and in part because of an economy drive which has seen Northern Ireland’s prisons attempting to operate with reduced staffing levels. Requiring staff to build up high levels of TOIL will only increase the already high levels of stress-related sickness absence: this in turn will hinder the important management reforms which the Service is trying to introduce.

117. Even more of a concern is the development of a dispute where there seems to be so little understanding, on both sides, of the other party’s concerns and in which the claims of the parties are so considerably at variance with each other. Communication has been very poor, and there is a great deal of resentment and suspicion of senior management, who are

136 Q823

137 Q825

138 Q832

139 Ev 139

140 Q828

perceived by prison staff to be remote and ignorant of operational realities. Responsibility for these communication problems must be accepted equally by both sides—but senior management in particular must recognise the damage ill-informed perceptions can do to the work of the Service, and take steps to change them.

118. Having investigated the claims put to us about problems with the provision of Time Off In Lieu (TOIL) at HMP Maghaberry, we have concluded that the amounts of TOIL currently owed to staff by the Prison Service, while not “earth shattering” (to use Mr Russell’s words) are nonetheless unacceptably high. Urgent efforts must therefore be made to verify the amount of additional leave which is owed to each member of staff, and to facilitate early repayment of at least a significant part of the debt. Attention should also be focused on how to ensure that this issue, which has damaged relations between management and staff, does not recur.

Interventions by Prison Service Headquarters

119. In this context we should record that we received several reports of alleged interventions by Prison Service Headquarters that were perceived to undermine the authority of governors and staff at Maghaberry. We were pleased that certain of these reports were refuted directly by the Minister.¹⁴¹ Having made inquiries about the remaining allegations (concerning a series of complications with a visit to the prison on a particular day) we do not believe it would be constructive to comment on them in detail. Clearly, communication between many of those involved was poor. If those within and outside the prison who were making decisions had made greater efforts to ensure they were fully informed about the situation, their judgement as to how to handle it might have been rather different.

120. It appears to us that the matter has been construed by staff in a way which was perhaps understandable, but mistaken. It is our judgement that in the case cited there was no deliberate attempt by Prison Service Headquarters to undermine prison staff, and we regret that staff alleged that there was. Nonetheless we should record our concern over one specific aspect of the events we have examined, which is that the first incident in the chain directly involved a member of senior management.

121. It has been confirmed to us that a member of the Ulster Political Research Group who was seeking to make a visit to a loyalist prisoner in Maghaberry chose, rather than telephoning the prison as he should have done, to telephone the Service’s Director of Operations instead. He succeeded in contacting this senior manager, on a direct line, at the weekend, and the Director was thus inappropriately placed in a position whereby his involvement could—knowingly or otherwise—prove an obstacle to the upholding of prison rules. If the individual concerned had not been able to achieve such contact the events which followed might never have happened. **It is particularly poor management practice when individuals have direct and privileged access to Prison Service Headquarters and can thus bypass the management systems within the prison. The Minister has told us that the policy on telephone access is being reviewed. It must be changed.**

141 QQ843, 851

122. These allegations also serve as a further indication of the mistrust and misunderstanding among frontline prison staff concerning the actions of Government and senior management. **Disputes and a lack of confidence between Prison Service staff and management play directly into the paramilitaries' hands. Urgent steps must be taken to resolve the breakdown in communication as quickly as possible.**

Staff support

123. Looking to the future, staff working in the separated areas of HMP Maghaberry will need customised training and continuing psychological support to deal with the pressures of their work: there was considerable determination to avoid a repeat of the situation in the Maze, which had prompted a number of officers over the years to commit suicide.¹⁴²

124. We were pleased that the importance of staff support was taken seriously by all the parties, although there was a degree of difference about the ways in which it should be provided. We were assured that all staff assigned to the separated wings would receive a special training course, would be fully briefed, and would be provided with regular opportunities to share their experience with others.¹⁴³ Staff would also alternate between the two houses on a shift-by-shift basis, which would reduce the risk of being subjected to continuous pressure by a particular group.

125. In spite of the difficulties of releasing staff to attend training,¹⁴⁴ **Peter Leonard, the Director of Operations, gave us a clear undertaking that all staff would receive the initial package of training before working in the separated areas. It is essential that this undertaking is fulfilled. On the question of continuing psychological support, we welcome the provision of regular group 'debriefing' sessions for staff in the separated wings, but we believe that officers must be able to have individual meetings with psychologists as and when they need them. We look to the Government for assurances that this will be the case.**

Rotation

126. In addition to the provision for staff to alternate between the two houses, we were told that the Service planned to change the entire staff complement in the separated areas approximately every eighteen months. This would ensure equitable treatment for all staff, and limit the exposure of the staff concerned to the difficult and stressful operating conditions within the separated wings, where the focus will be on management of a restricted routine rather than, as in the integrated wings, on welfare within a disciplined regime.¹⁴⁵ The former approach requires a 'hands-off' approach by staff to avoid the subtle conditioning tactics which paramilitaries have adopted in the past; the latter approach is completely different, requiring structured but friendly engagement with prisoners.¹⁴⁶

142 Q498

143 QQ411-415

144 Q99

145 Q819

146 Sir John Woodcock, Report of the enquiry into the escape of six prisoners from the Special Security Unit at Whitemoor Prison, Cambridgeshire, on Friday 9 September 1994. Cm 2741, 1994.

127. The proposal to rotate staff was welcomed by both prison governors and officers, although some concern was expressed as to how this would be accomplished. We were told that, because the three prison establishments in Northern Ireland are some distance apart, staff generally do not like to be transferred between sites. Therefore it was believed that staff coming out of the separated conditions would probably still work somewhere within the Maghaberry estate—where, at least in some locations, it would be difficult to guarantee they would not have contact with the separated prisoners.¹⁴⁷

Recruitment of support staff

128. In addition to the physical changes being made at HMP Maghaberry, the Service is planning to recruit more than 100 staff to provide extra support for the new regime.¹⁴⁸ As we have noted in paragraph 87 above, Peter Russell indicated that these staff would be recruited as support staff and placed in clerical and other jobs where they would have no direct contact with prisoners. The lack of contact with prisoners meant that these staff did not have to receive the full training required for a prison officer. This enabled the Service to save money.¹⁴⁹

129. The Prison Officers' Association expressed concern about this proposal, and its implications for the rotation of staff out of the separated areas. At present, prison officers who are in need of a period of formal rehabilitation may be given 'non-contact' jobs such as operating the prison gates or monitoring CCTV footage in the control centre. If such posts are in future restricted to non-officer grades it will remove this particular opportunity for respite for staff coming out of the separated areas. The officers also noted that staff in these non-contact jobs can currently, if necessary, be called on to provide support in cases of emergency within the prison. If those filling the non-contact posts in future are not trained officers, they will be unable to provide this essential backup. For both reasons, the officers believed that the recruitment of support staff was a retrograde step.

130. Peter Leonard assured us that the recruitment of additional support staff would not lead to a reduction in the number of prison officers available within HMP Maghaberry: the intention was to release officers for front-line duties, including the strengthening of the search team, which will provide the first response to requests for emergency support on the wings.¹⁵⁰ **Given the staffing problems at Maghaberry, any increase in resources must be welcome. We accept of course that there must be a proper restraint in the spending of public monies. But we remain concerned that the employment of support staff rather than fully trained prison officers—which is freely acknowledged to be a measure of economy—may be a false economy which will create difficulties for the effective rotation of prison officers and the provision of respite, where necessary, to those coming out of the separated areas. The Government must keep this under review over the first two to three years of separation and, if necessary, provide the resources to enable appropriate support staff to be retrained as prison officers, and remove the barrier to rotation.**

147 Q498

148 Q149

149 Q150

150 Q822

5 Wider issues

The consequences of separation for other prisoners

131. The paramilitary campaign for separation, and the subsequent implementation of a separated regime, have inevitably had consequences for others within the prison (generally referred to as ‘ordinary’ or ‘ordinary decent’ prisoners). Primarily, the problem has been the distribution of resources. Staff have had to be withdrawn from routine duties to deal with protests, and to provide more intensive support to those working with the separated prisoners. Because of these changes in staffing patterns, levels of constructive activity and access to facilities for ordinary prisoners have been cut back. The loss of Bush and Roe Houses to the separated regime has increased pressure on accommodation in the remainder of the prison, requiring more ordinary prisoners to ‘double up’, or share cells, even although Foyle House has now been opened.

132. The plight of the ordinary prisoners was a major concern for the majority of our witnesses, including the members of the Steele Review panel. The Steele Review took place during August 2003, a period when temperatures across the UK were exceptionally high. Father Kevin Donaghy told us that during the interviews they met an ordinary prisoner who had not been out of his cell into the open air for three weeks, until the previous day. He described conditions for the prisoners as “very unpleasant” and said that such experiences had led the panel, at an early stage, to view protection of the ordinary prisoners’ regime as a priority in their work.¹⁵¹

133. NIACRO and the prison’s Board of Visitors also expressed concern about the effects of a restricted regime on the prisoners’ wellbeing and also for their rehabilitation. During periods of extended lockdown family visits were cancelled and earned privileges were effectively suspended. This was damaging to inmates’ morale and potentially a disincentive to improved behaviour. The protests and subsequent changes had also served to disrupt educational provision, and the construction of resettlement plans for each prisoner—an area in which the Service had previously been making improvements.¹⁵²

134. The Service’s senior management recognised that provision of a regular regime for the ordinary prisoners was important. Peter Russell told us:

“Part of the challenge is to make sure a prisoner’s experience is not dominated by conditions in his cell and it should not be if we are succeeding. His experience should be dominated by what he does between getting up in the morning and going to bed at night. The more we fail the more time is spent in the cell and therefore the more the judgement about ‘what am I getting from this?’ will be based on the experience in the cell.”¹⁵³

However he admitted that the Service would this year be unable to provide as many hours of constructive activity per prisoner as in the past; Maghaberry in particular was struggling

151 Q25

152 Ev 127; 124; QQ285, 288

153 Q205

to meet the target.¹⁵⁴ Staff shortages, and the increased demand placed on staff by separation, were largely responsible for these difficulties. We were told that it would be the end of February 2004—following a recruitment drive—before the Service was able to deploy sufficient staff to run a regime comparable to that in operation before the protests began.¹⁵⁵

135. In spite of the Prison Service’s assurances that it intended to improve conditions for ordinary prisoners—as an incentive to potential applicants for separated conditions to remain within the integrated regime—it is clear that at present ordinary prisoners are not reliably receiving even a standard routine. This is, understandably, creating significant tensions for both prisoners and staff. A member of the Board of Visitors said:

“There is a wait-and-see attitude amongst the prisoners. There is a feeling that they, the paramilitaries ... are getting everything, that apart from anything they are getting staff. The officers on the landing ... are telling us that they have 8 staff for 120 prisoners, whereas around the corner they have 8 staff for 23 prisoners. This just dramatically affects everything in the prison. There can be all the idealistic programmes and plans and futures but if they cannot address the staff issue ... there is absolutely nothing that can be delivered but the lock turned in the keyhole of the door and prisoners on a 23-hour lock-up. This is just breeding tremendous insecurity ... We have even had people say to us, “We will wreck up the house. We have almost been advised to wreck up the house, as it is the only way you get anything in this place”. It is just horrifying and it is worrying ... They sit in their cells and try to work out how they can make their own lot better all the time.”¹⁵⁶

136. There is evidence of these warnings being realised. Both the Prison Governors’ Association and local members of the Prison Officers’ Association referred to significant incidents of cell damage caused by ordinary prisoners venting their frustrations at the restrictions imposed on them as a consequence of separation.¹⁵⁷ The Governor of the prison warned that if the situation deteriorated further, he and his staff believed safety could not be guaranteed.¹⁵⁸

Strategic direction

137. Similar problems have arisen in the past. In part, these were attributed to a lack of senior strategic direction for the mainstream prison regime, as Headquarters staff focused on control of the paramilitaries within HMP Maze. We therefore asked the Minister what resources were currently dedicated by senior management to the improvement of the integrated regime. She told us that an assistant governor at HMP Maghaberry was working “almost full-time” on regime improvement.¹⁵⁹

154 QQ236-238

155 Q874

156 Q427

157 QQ480, 708

158 Q423

159 Q877

138. We welcome the Minister’s indication that strategic oversight for the integrated regime has not been forgotten. Nonetheless, we had hoped for a more specific assurance that governors have the full and active support of dedicated staff within Prison Service Headquarters in taking forward what is still the mainstream work of the service. We expect the Minister to provide further detail of the work being carried out by Prison Service Headquarters in support of integration in the Response to this Report. It is vital that the vision of Prison Service Headquarters does not become over-focused on the paramilitaries, as seems often to have happened before 1998.

139. We agree with the Steele Review panel that the restoration and maintenance of a full regime for ordinary prisoners is vital for the safe and effective management of HMP Maghaberry. Without it, the Prison Service is failing in its duty towards those in its care. The absence of a constructive regime is also liable to prompt a return of the unrest which has troubled the prison in recent months, albeit for different reasons. The Government must therefore provide any additional support and resources necessary in order to restore this regime as an immediate priority.

Pressures on accommodation at HMP Maghaberry

140. Staff and Governors also expressed concern about the pressures on accommodation within the prison. We have referred previously to the difficulties which can be caused by ‘doubling up’, or cell sharing, and the role that this played in the protests of 2003.

141. A key factor in the pressures on accommodation at Maghaberry is the number and variety of regimes staff are expected to manage within a single site. In addition to long-term and high security prisoners (of different paramilitary affiliations and none) it also houses: remand prisoners; female prisoners; fine defaulters (low security prisoners on very short sentences) and immigration detainees. Appropriate provision must be made for each different category. We were told that the prisoners themselves are unsettled by the variety of regimes in operation. Long-term prisoners find it uncomfortable to be in proximity to remand prisoners “because they are here one day and gone the next”.¹⁶⁰ All categories are aware of differences in the regimes being provided to different groups, and may come to resent them.¹⁶¹

142. The Steele Review panel clearly believed that it would be desirable to reduce the number of regimes being provided within HMP Maghaberry. They suggested various ways in which this might be achieved. One was the full integration of remand and sentenced prisoners. We are unable to support this recommendation because of the different legal status of these groups and the danger that, while it would lead to greater management efficiency, it would significantly increase the risk of “contamination” between the two groups.¹⁶² Therefore we welcome the Prison Service’s decision to maintain separate provision for remand prisoners.

160 Q582

161 Q482

162 Q292

143. Steele also recommended that both fine defaulters and immigration detainees should be dealt with outside the prison system.¹⁶³ While the Government appears to have accepted the arguments for streamlining operations at Maghaberry, it has thus far taken a different approach. No action has apparently been taken to alter provision for fine defaulters; however, it is proposed that the small population of female prisoners should be transferred to the Young Offenders' Centre at HMP Hydebank Wood.

Immigration detainees

144. The Government has also issued a consultation paper on the accommodation for male immigration detainees. This small group (at the time of the consultation, four individuals from a variety of backgrounds) are currently co-located with the female prisoners in Mourne House. The suggestion is that if the female prisoners are moved they should also be moved, to provide urgently needed reserve accommodation within Maghaberry for other groups.

145. The consultation paper states that Steele's recommendation—that detainees should be dealt with outside the prison system—is “not currently an option”. It therefore suggests three alternatives for their accommodation within the prison system:

- Removal of the detainees to another small but discrete accommodation unit within HMP Maghaberry (the committal unit);
- Full integration of the detainees within the (ordinary) prisoner population at HMP Maghaberry; or
- Transfer of the detainees to HMP Magilligan, currently housing medium and low risk convicted prisoners facing only a short time in prison.

146. These detainees are not serving sentences as punishment for crimes committed, and in other parts of the UK would not be treated as such. Ultimately, the handling of these individuals comes down to the availability of resources: it is clear that their number is so small that the Government considers special provision in Northern Ireland to be uneconomic. Yet each detainee has rights as an individual, such as the right under the European Convention on Human Rights to freedom of association. If the numbers of detainees were to dwindle further to one or two, the Government would effectively be holding them in solitary confinement. It is very difficult for the Government to meet all of the competing requirements of human rights law while keeping these individuals within a prison environment.

147. **We endorse the recommendation of the Steele Review, and other witnesses to our inquiry, that immigration detainees should be dealt with outside the prison system.** We are disappointed that the Government for the moment appears to have rejected this important recommendation. All of the options presented by the Government as alternatives raise concerns for the wellbeing of the individuals concerned. Accommodation in the committal unit would be isolated, and with limited facilities. But both of the other options would immerse these individuals within a population of convicted criminals. If

that is considered to be ill-advised for those on remand, it surely must be equally so in this case.¹⁶⁴

148. We cannot endorse any of the Government’s proposals for the continued retention of immigration detainees within Northern Ireland’s prisons. It would be wholly wrong to integrate them into the prisoner population at HMP Maghaberry; the other options each have drawbacks. We urge the Government to reconsider whether further options may be available.

The prison estate

149. Both the size, and the nature, of Northern Ireland’s prisons contribute to the management problems faced by the Prison Service. The estate consists of HMP Maghaberry; HMP Magilligan, which caters for lower-risk categories of prisoner; and the Young Offenders’ Centre, HMP Hydebank Wood.

150. Throughout the estate there are grave problems with the nature of the accommodation provided. Although the estate is relatively modern, compared to provision on the mainland, we were reminded that the buildings within HMP Magilligan include both Maze-style ‘H’ blocks and Nissen huts.¹⁶⁵ Peter Russell told us that the older blocks at Maghaberry, which are now being used for the ordinary prisoners, were “not really fit for purpose” and were “an awful environment in which to control prisoners”.¹⁶⁶ In 2002 Her Majesty’s Chief Inspector similarly described the old houses at Maghaberry as “difficult to supervise, easy to barricade and therefore potentially unsafe environments”.¹⁶⁷ In each case, the “nooks and crannies and corners” inherent in the physical layout created a requirement for more intensive staffing, as poor sight lines rendered isolated officers vulnerable.¹⁶⁸ Maintenance was a concern: we were shocked to hear from the Steele Review panel that many of the existing security cameras within HMP Maghaberry were not working.¹⁶⁹

Doubling up

151. The number of individuals within the prison population must also be considered when assessing the appropriateness of the accommodation provided. A cell which is tolerable, if not pleasant, for one occupant may become distinctly uncomfortable or even unsafe when shared. In the majority of cases, such discomfort is likely to be mainly physical, as individuals are kept in close confinement for extended periods (perhaps with limited natural light or ventilation). However we were also reminded that if individuals are arbitrarily forced into each others’ company in such conditions violence may ensue.¹⁷⁰

164 See paragraph 141 above

165 Q513

166 Q158

167 Report, paragraph 2.02

168 Q34; Q513

169 Q70

170 Ev 133. In March 2000 Zahid Mubarek was killed in a racist attack by Robert Stewart after they were required to share a cell at Feltham Young Offenders’ Institution.

152. HMP Maghaberry currently has a population of 646 inmates, against a theoretical capacity of 718 in single cells (including Mourne House).¹⁷¹ While, on the face of it, there is therefore no need to share we were also told that:

- Lack of staff has meant the closure of certain cells, which cannot be supervised;¹⁷²
- A significant number of cells (possibly as many as 90) have been damaged in the prisoner protests; and
- The nature of the separated regime requires that the whole of Bush and Roe Houses (96 cells each, 192 in total) be withdrawn from mainstream service, although in the short term less than half of each house will be occupied.

The actual capacity of the prison, therefore, is somewhat less than has been claimed.

153. Separation has resulted, directly and indirectly, in considerable pressure upon the accommodation for ordinary prisoners in Maghaberry. A significant number are required to share, and they are being housed in conditions which Her Majesty's Inspector and the Prison Service agree are undesirable. We have already noted that the loss of the most modern accommodation to the separated regime, while understandable from a management point of view, has caused resentment among the prisoners themselves. Doubling up compounds that dissatisfaction.

154. The Steele Review recommended clearly that the cells in Maghaberry were unsuitable for holding two prisoners "except perhaps those serving very short sentences", and called for a substantial reduction in the practice.¹⁷³ Peter Russell told us that if he could replace the old houses at Maghaberry "with something more like the two more modern houses [Bush and Roe] ... I would be very well pleased." We were pleased to hear that two additional blocks, similar in design to Bush House and Roe House, are to be built on the Maghaberry estate to relieve the pressures on existing accommodation.¹⁷⁴

155. We welcome the proposal to build additional new accommodation at HMP Maghaberry. We acknowledge the conclusions of both Her Majesty's Inspector and the Steele Review panel concerning the problems with accommodation in the prison: we therefore recommend that, in filling this new accommodation, priority should be given to reducing the level of doubling up among prisoners serving longer term sentences within the integrated regime.

156. Although the new build will help considerably, it cannot entirely solve the problems with the existing accommodation. The Minister told us that:

"..it is simply not feasible to replace [the older houses] in the short term. Moreover they are less than 20 years old".¹⁷⁵

171 As at 8 January 2004

172 Q195

173 Ev 109

174 Ev 140

175 Ev 140

While they may be comparatively modern, they are also clearly unfit for purpose as it is difficult for staff to maintain a safe regime within them: their age is no justification for inaction. Indeed, we note that in 2002 HM Chief Inspector stated explicitly that “the older units in Maghaberry are unsafe and unsatisfactory, and should be replaced as soon as possible.”¹⁷⁶ **The Government should review its timetable for redevelopment of HMP Maghaberry. Redevelopment of those parts of the estate Her Majesty’s Inspector found to be potentially unsafe should be accelerated. In addition, it is unacceptable that significant security systems within the prison should be out of order. The Minister should discuss maintenance schedules with the prison’s Governors and NIPS senior management, and resolve any problems with this routine requirement.**

Spare accommodation

157. Prison Governors also pointed out that the estate was severely lacking in ‘decant’ accommodation which could be called into operation if the number of prisoners should rise or further cells should have to be taken out of commission for repair.¹⁷⁷ We were told in November 2003 that the prison population had already risen by about 120 compared to the previous year.¹⁷⁸

158. The problem of decanting prisoners is exacerbated by the very small size of the prison estate. There is only one high-security prison: thus, while cells may be available in the other two institutions, not all individuals can safely be transferred into them.¹⁷⁹ To a degree, the problem is now being tackled through the proposal to relocate small numbers of lower-risk category detainees from Maghaberry to Magilligan, where a limited amount of decant accommodation is available, or to the Young Offenders’ Centre at Hydebank Wood. Yet these numbers are very small, and the amount of accommodation freed by this action will remain limited. Peter Russell told us that in recent years the possibility of reducing the estate even further, to one all-category prison and the Young Offenders’ Centre, has been seriously considered.¹⁸⁰ We must be thankful that common sense prevailed.

159. There remains also a risk that factionalism within the separated prison regime will increase the pressures on accommodation at Maghaberry further in the short to medium term. As we have noted above (see paragraph 58), some staff anticipated that ‘stage 3’ in the perceived paramilitary campaign for separation would see the various paramilitary factions ceasing to co-operate, and insisting (possibly through violence) upon private accommodation, group by group.

160. At present it is planned that paramilitaries who are broadly designated either Republican or Loyalist will be accommodated in either Bush or Roe House. Since each contains 96 cells, this accommodation ought to be sufficient (with some doubling up if necessary) for the numbers expected to be entering the separated regime. If, however, at some future date pressure were to be exacted for PIRA affiliates to be housed on separate

176 HM Chief Inspector of Prisons, Report of a full announced inspection of HM Prison Maghaberry, 13–17 May 2002, p24.

177 QQ514-5

178 Q515

179 Q786

180 Q812

landings from RIRA affiliates, or for the UDA and UVF to be kept apart it is likely to become increasingly difficult to avoid a physical expansion of the separated quarters.

161. It appears to us that the combination of a small prison estate, and the multiplicity of regimes the NIPS is required to provide within that small estate, have much to do with the difficulties the Service is facing. The major argument in favour of current practice is one of economy. In a situation where costs are already higher than on the mainland, it is reasonable to be concerned about expenditure: but Northern Ireland remains in transition and some of the decisions which have been taken in the interests of reducing costs would seem to be false economies. For much of the time, it appears that the Northern Ireland Prison Service is operating at the very edge of its actual (as opposed to theoretical) capacity. The need to run a multiplicity of regimes from a single site at Maghaberry, and the high staffing complement required to maintain safety in unsuitable accommodation at both Maghaberry and Magilligan is a significant drain on resources.

162. While the prison estate in Northern Ireland has been reviewed only recently, we believe that the change in policy to separation must be freshly taken into account. Recent events suggest that the requirement for Maghaberry to fulfil so many functions, while also constituting the only high security prison in Northern Ireland and, now, having to cope with a permanent and separated paramilitary presence, is simply creating too much of a burden both for staff and for the system. We therefore recommend that a new review of the prison estate should be carried out, to determine whether it would now be prudent either to open a third adult institution in Northern Ireland or to upgrade HMP Magilligan to a higher security level.

Discussions with external organisations

163. The Steele Review recommended that, as part of a programme of improved public communications, the Prison Service should “build constructive relationships” with “political and other groups representing the interests of prisoners”.¹⁸¹ Peter Russell accordingly told us that a programme of meetings had been set up between political groups such as the Ulster Political Research Group and the Irish Republican Prisoners’ Welfare Association, and the Service’s Director of Operations, Peter Leonard. The meetings took place about once a month.¹⁸²

164. Other witnesses from within the Prison Service expressed profound concerns about these meetings. The Prison Governors’ Association told us that, while they accepted the recommendation had arisen from the Steele Review and was not, in that sense, initiated by the Service, it was nonetheless “a mistake”.¹⁸³ Peter Russell acknowledged that the issue was controversial, but expressed the view that the Steele Report had to be taken at face value when it said such meetings should take place.¹⁸⁴ He took pains to stress that these meetings were “a channel of communication not ... a negotiating forum” for the external interests concerned.

181 Ev 110

182 Q247

183 Q462

184 Q247

165. Nonetheless, we can fully understand why governors and officers within the Prison Service are concerned about these meetings. The meetings take place in private, and their minutes are not published. Time and again we were told that the paramilitaries in the Maze had asserted control and status by refusing to deal with officers on the ground, and insisting on the personal attention of senior management. We were told that staff currently find it very difficult to gain access to senior management. Yet through these private meetings, the paramilitaries' external supporters are being given a direct line of communication to the very top of the service. It is resented, and the potential for staff authority to be undermined by these secret discussions is feared.¹⁸⁵

166. If the panel's recommendation should indeed be taken at face value, then the Prison Service was probably right to set up these meetings. But **the precise format of the meetings with prisoner support groups clearly has to change. There is an urgent need for senior management to consider how the reasonable fears of staff about these meetings can be allayed.**

167. As a first step, **future meetings should not be conducted by the Director of Operations of the Prison Service, but by one or more junior members of staff removed from any operational role who will report back to the Director of Operations and the Director-General of the Prison Service.** We recognise that this may not be to the taste of the external groups concerned, but their desires must be balanced against the interests and needs of those in the Service itself. This step is essential if trust between senior management and prison officers is to be rebuilt. There is no reason why such an official should not be able to conduct and report on these meetings reliably and effectively—if they are indeed a channel for communication, rather than negotiation.

168. **The Service should also consider what further steps might be taken to improve the transparency of the process. Ideally, the minutes of the meetings should be published; we recognise that in the current climate in Northern Ireland this may prove difficult to agree. However, there are alternatives: for example, as in other comparable situations an independent observer agreeable to both the Service and the political groups might be invited to monitor the discussion. Given the obvious problems in communication within the service, the NIO and Prison Service Headquarters should also consider running a parallel chain of briefings with representatives of the officers and governors: this would ensure that the content communicated to the political groups was understood within the Service itself.**

The creation of an Ombudsman

169. The Steele Review panel noted that Northern Ireland was the only part of the United Kingdom which did not have a Prisons Ombudsman. It believed that the establishment of such an office would “make a valuable contribution to defusing the tensions which are bound to arise in prisons” there.¹⁸⁶

¹⁸⁵ See for example Q638

¹⁸⁶ Ev 107

170. We agree, the same recommendation having been made by this Committee more than five years ago.¹⁸⁷ In its response to that recommendation, in 1999, the Government undertook that proposals for an Ombudsman would be “taken forward as part of a broader review of the legislation underpinning the Prison Service”.¹⁸⁸ It is therefore a severe disappointment to us that the question should still be outstanding now.

171. It appears that the creation of an Ombudsman has been subject to extended delays because it simply has not been a priority for either the Government or the Prison Service. Peter Russell told us that the Prison Service had been “a bit purist” in thinking that an Ombudsman’s office could only be created through primary legislation, although he believed some other means might be found; he added that the development of such an office still needed “a bit of detailed work”.¹⁸⁹ **The creation of a Prisons Ombudsman for Northern Ireland was agreed to in principle by the Government in 1999, and must now be made a priority. We expect to see an Ombudsman appointed by the end of the Parliamentary session 2004–05.**

187 Fourth Report 1997–98, *Prison Service in Northern Ireland*, HC 716 paragraph 70

188 First Special Report 1998–99 HC 299

189 Q245

Conclusions and recommendations

1. We feel it is important to establish the full facts of such decisions and this can only be done by questioning the officials concerned in No. 10. (Paragraph 41)
2. We welcome this sympathetic response from the Prime Minister, and his commitment to reassess the policy on the appearance of his staff, in exceptional circumstances, before committees such as ours. (Paragraph 42)
3. We believe that the separation of paramilitary prisoners at HMP Maghaberry was demanded by dissidents for political reasons and acceded to by the Government for (other) political reasons. We accept that the prevailing political conditions in Northern Ireland in the summer of 2003 placed the Government in an extremely difficult position. Nonetheless we have to record our belief that the decision—taken, as we see it, contrary to the balance of the facts and arguments presented to us—was a dangerous one, most especially for the public servants who will have to implement it and live with its consequences. (Paragraph 44)
4. In our judgement, it seems very likely that the new policy of separation will have to remain in place for as long as there are any prisoners in Northern Ireland who can reasonably claim a paramilitary affiliation. This may be a very long time. The Government's decision is therefore also a very significant one, regardless of the political environment of the time, although it was made very quickly. Having made that decision—from which we accept there is now no turning back—the Government must accept full responsibility for the implementation of separation, and the additional demands it will place on the resources of the Northern Ireland Prison Service. (Paragraph 45)
5. It is essential that the staff and governors at HMP Maghaberry should receive the full and unwavering support of both Government and Prison Service Headquarters, now and in the future, in implementing the level of separation which has been determined following the Steele Review. This means that current Government policy on separation must be asserted publicly, unambiguously and transparently, and the line must be upheld by all concerned regardless of the pressure which will be exerted by the paramilitaries for further concessions. (Paragraph 58)
6. It is imperative that the only evidence of an individual's paramilitary affiliation which is accepted for the purposes of separation should be evidence received from, or verified by, police or intelligence sources. On no account should any individual be able simply to claim affiliation for himself or for others. Once the new arrangements are fully operational, if an individual claims affiliation for himself he should be placed in temporary special accommodation in the main prison, rather than in a separated cellblock, until his claim is either verified or rejected. (Paragraph 74)
7. Since the start of the paramilitaries' campaign for separation, conditions for integrated prisoners in Maghaberry have progressively worsened, as staff resources have been diverted to deal with the protests and the new regime. This is creating a considerable amount of resentment which, we were warned, is prompting ordinary

prisoners to seek “a bit of the pie” the paramilitaries are perceived to be getting. Unless this is addressed urgently, the separated regime will appear by simple contrast to be much more attractive than in reality it is. (Paragraph 76)

8. We believe that the proposal to transfer prisoners to other jurisdictions as a sanction of last resort is very dangerous, and could easily be manipulated by the paramilitaries in their campaign to undermine the Northern Ireland Prison Service and, ultimately, the British Government. We caution against its use in the strongest possible terms. (Paragraph 80)
9. While it is regrettable that the separated prisoners should be given what is currently the best accommodation in the prison, we recognise that this accommodation is best suited to the maintenance of control and of safety for both prisoners and staff. We welcome the enhanced security features which are being installed. If, once the separated houses open, it becomes apparent that further physical changes are required, the cost of these must also be met from outside the Prison Service annual budget. (Paragraph 84)
10. The target to reduce the cost per prisoner place in Northern Ireland, and associated objectives, are inappropriate following the decision to implement separation and should be abandoned for the foreseeable future. Any attempt to impose further efficiency savings on the Prison Service while it is dealing with separation are likely to prove counter-productive and to undermine the already fragile relationships between the Government and Prison Service staff. Once separation is firmly established the requirements of the new regime, and the costs associated with it, will be clearer: a review should then be carried out to determine whether costs can be reduced without detriment to the safety of staff and the wellbeing of prisoners. (Paragraph 89)
11. We further believe that the direct capital and operational costs of running the separated regime should continue to be calculated, met and publicly recorded as items distinct from the Prison Service’s main budget. This is, and will continue to be, vital if the regime for other prisoners is to be protected as the Steele Review recommended. (Paragraph 90)
12. While we understand and have sympathy for the prison officers’ concerns, we cannot condone industrial action which jeopardises the safety and wellbeing of prisoners and other prison staff. (Paragraph 93)
13. While we understand entirely the reasons why the Government should have adopted blanket measures to tackle the immediate threat to prison officers’ homes, we do not believe that any individual should ultimately receive a less careful assessment of his personal situation than he would have received in other circumstances. Priority must be given to the completion of the current programme of security installations for all staff affected: in the light of the Minister’s comments, we expect to receive confirmation that this work has been completed, as indicated, by spring 2004. But once this has been done, any officer who so wishes should be entitled to apply additionally for a personal threat assessment which would indicate whether or not security at his home should be upgraded further. Clearly, if many officers avail

themselves of this option there will be further delays in meeting the demand. A degree of patience on the part of prison officers and their families will therefore be required. (Paragraphs 104 and 105)

14. We welcome the steps which have been taken by the Prison Service to address the problems of the inefficient shift system and high sickness absence at HMP Maghaberry. We believe that finding a solution to these problems would ultimately be beneficial for management, staff and prisoners alike and we are particularly pleased that the Prison Officers' Association have been willing to work on these problems with management. Nonetheless we accept that it will be difficult to make substantial progress in addressing the shift system in the short term, when other changes are already placing a significant new burden on the staff. While these changes may be put on hold, they have been a long time coming and we hope that all concerned will seek to make further progress at the earliest opportunity. (Paragraph 108)
15. Having investigated the claims put to us about problems with the provision of Time Off In Lieu (TOIL) at HMP Maghaberry, we have concluded that the amounts of TOIL currently owed to staff by the Prison Service, while not "earth shattering" (to use Mr Russell's words) are nonetheless unacceptably high. Urgent efforts must therefore be made to verify the amount of additional leave which is owed to each member of staff, and to facilitate early repayment of at least a significant part of the debt. Attention should also be focused on how to ensure that this issue, which has damaged relations between management and staff, does not recur. (Paragraph 118)
16. It is particularly poor management practice when individuals have direct and privileged access to Prison Service Headquarters and can thus bypass the management systems within the prison. The Minister has told us that the policy on telephone access is being reviewed. It must be changed. (Paragraph 121)
17. Disputes and a lack of confidence between Prison Service staff and management play directly into the paramilitaries' hands. Urgent steps must be taken to resolve the breakdown in communication as quickly as possible. (Paragraph 122)
18. Peter Leonard, the Director of Operations, gave us a clear undertaking that all staff would receive the initial package of training before working in the separated areas. It is essential that this undertaking is fulfilled. On the question of continuing psychological support, we welcome the provision of regular group 'debriefing' sessions for staff in the separated wings, but we believe that officers must be able to have individual meetings with psychologists as and when they need them. We look to the Government for assurances that this will be the case. (Paragraph 125)
19. Given the staffing problems at Maghaberry, any increase in resources must be welcome. We accept of course that there must be a proper restraint in the spending of public monies. But we remain concerned that the employment of support staff rather than fully trained prison officers—which is freely acknowledged to be a measure of economy—may be a false economy which will create difficulties for the effective rotation of prison officers and the provision of respite, where necessary, to those coming out of the separated areas. The Government must keep this under

review over the first two to three years of separation and, if necessary, provide the resources to enable appropriate support staff to be retrained as prison officers, and remove the barrier to rotation. (Paragraph 130)

20. We welcome the Minister's indication that strategic oversight for the integrated regime has not been forgotten. Nonetheless, we had hoped for a more specific assurance that governors have the full and active support of dedicated staff within Prison Service Headquarters in taking forward what is still the mainstream work of the service. We expect the Minister to provide further detail of the work being carried out by Prison Service Headquarters in support of integration in the Response to this Report. It is vital that the vision of Prison Service Headquarters does not become over-focused on the paramilitaries, as seems often to have happened before 1998. (Paragraph 138)
21. We agree with the Steele Review panel that the restoration and maintenance of a full regime for ordinary prisoners is vital for the safe and effective management of HMP Maghaberry. Without it, the Prison Service is failing in its duty towards those in its care. The absence of a constructive regime is also liable to prompt a return of the unrest which has troubled the prison in recent months, albeit for different reasons. The Government must therefore provide any additional support and resources necessary in order to restore this regime as an immediate priority. (Paragraph 139)
22. We welcome the Prison Service's decision to maintain separate provision for remand prisoners. (Paragraph 142)
23. We endorse the recommendation of the Steele Review, and other witnesses to our inquiry, that immigration detainees should be dealt with outside the prison system. (Paragraph 147)
24. We cannot endorse any of the Government's proposals for the continued retention of immigration detainees within Northern Ireland's prisons. It would be wholly wrong to integrate them into the prisoner population at HMP Maghaberry; the other options each have drawbacks. We urge the Government to reconsider whether further options may be available. (Paragraph 148)
25. We welcome the proposal to build additional new accommodation at HMP Maghaberry. We acknowledge the conclusions of both Her Majesty's Inspector and the Steele Review panel concerning the problems with accommodation in the prison: we therefore recommend that, in filling this new accommodation, priority should be given to reducing the level of doubling up among prisoners serving longer term sentences within the integrated regime. The Government should review its timetable for redevelopment of HMP Maghaberry. Redevelopment of those parts of the estate Her Majesty's Inspector found to be potentially unsafe should be accelerated. In addition, it is unacceptable that significant security systems within the prison should be out of order. The Minister should discuss maintenance schedules with the prison's Governors and NIPS senior management, and resolve any problems with this routine requirement. (Paragraph 155)
26. It appears to us that the combination of a small prison estate, and the multiplicity of regimes the NIPS is required to provide within that small estate, have much to do

with the difficulties the Service is facing. The major argument in favour of current practice is one of economy. In a situation where costs are already higher than on the mainland, it is reasonable to be concerned about expenditure: but Northern Ireland remains in transition and some of the decisions which have been taken in the interests of reducing costs would seem to be false economies. While the prison estate in Northern Ireland has been reviewed only recently, we believe that the change in policy to separation must be freshly taken into account. Recent events suggest that the requirement for Maghaberry to fulfil so many functions, while also constituting the only high security prison in Northern Ireland and, now, having to cope with a permanent and separated paramilitary presence, is simply creating too much of a burden both for staff and for the system. We therefore recommend that a new review of the prison estate should be carried out, to determine whether it would now be prudent either to open a third adult institution in Northern Ireland or to upgrade HMP Magilligan to a higher security level. (Paragraphs 161 and 162)

27. The precise format of the meetings with prisoner support groups clearly has to change. There is an urgent need for senior management to consider how the reasonable fears of staff about these meetings can be allayed. Future meetings should not be conducted by the Director of Operations of the Prison Service, but by one or more junior members of staff removed from any operational role who will report back to the Director of Operations and the Director-General of the Prison Service. (Paragraphs 166 and 167)
28. The Service should also consider what further steps might be taken to improve the transparency of the process. Ideally, the minutes of the meetings should be published; we recognise that in the current climate in Northern Ireland this may prove difficult to agree. However, there are alternatives: for example, as in other comparable situations an independent observer agreeable to both the Service and the political groups might be invited to monitor the discussion. Given the obvious problems in communication within the service, the NIO and Prison Service Headquarters should also consider running a parallel chain of briefings with representatives of the officers and governors: this would ensure that the content communicated to the political groups was understood within the Service itself. (Paragraph 168)
29. The creation of a Prisons Ombudsman for Northern Ireland was agreed to in principle by the Government in 1999, and must now be made a priority. We expect to see an Ombudsman appointed by the end of the Parliamentary session 2004–05. (Paragraph 171)

Formal minutes

Tuesday 3 February 2004

Members present:

Mr Michael Mates, in the Chair

Mr Harry Barnes

Mr Roy Beggs

Mr Iain Luke

Mr Steve Pound

Mr Hugo Swire

Mr Mark Tami

Mr Bill Tynan

The Committee deliberated.

Draft Report (The separation of paramilitary prisoners at HMP Maghaberry), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 171 read and agreed to.

Annex agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report—(*The Chairman.*)

[Adjourned till Tuesday 10 February at 9.45 am

Witnesses

Wednesday 22 October 2003

Page

Mr John Steele, Father Kevin Donaghy and Cannon Barry Dodds, **Steele Review Panel**

Ev 1

Wednesday 29 October 2003

Mr Peter Russell and the Assistant Director of Services, **Northern Ireland Prison Service**

Ev 13

Monday 3 November 2003

Mrs Olwen Lyner and Mr Pat Conway, **Northern Ireland Association for the Care and Resettlement of Offenders**

Ev 28

Tuesday 4 November 2003

Mr Pat Maguire, the Governing Governor of Inmate Services and Activities and the Residential Governor, **HMP Maghaberry Management Team**

Ev 37

Mr Graham Martin, Ms Sophie Bryson and Ms Ruth Hewitt, **HMP Maghaberry Board of Visitors**

Ev 49

Wednesday 12 November 2003

Mr Gerry McAleer, Mr Bob Cromie and Mr Mike Newman, **The Prison Governors' Association**

Ev 55

Wednesday 19 November 2003

Mr Finlay Spratt and Mrs June Robinson, **Prison Officers' Association, Northern Ireland**

Ev 68

Thursday 20 November 2003

Mr Mark Lewis and Mr James Duffy, **HMP Maghaberry Prison Officers' Association**

Ev 76

Wednesday 10 December 2003

Rt Hon Jane Kennedy MP, **Northern Ireland Office** and Mr Peter Russell and Mr Peter Leonard, **Northern Ireland Prison Service**

Ev 89

List of written evidence

1	The Steele Report submitted to the Secretary of State for Northern Ireland	Ev 107
2	Northern Ireland Prison Service	Ev 112
3	Prison Governors' Association	Ev 117
4	Prison Officers' Association, Northern Ireland	Ev 117
5	HMP Maghaberry Prison Officers' Association	Ev 119
6	HMP Maghaberry Board of Visitors	Ev 123
7	HMP Maghaberry Board of Visitors, Supplementary memorandum	Ev 124
8	Northern Ireland Association for the Care and Resettlement of Offenders	Ev 126
9	EPIC submission to the Steele Review	Ev 129
10	Ex-Prisoners Assistance Committee (Expac)	Ev 129
11	British Irish Rights Watch	Ev 130
12	Alliance Party of Northern Ireland	Ev 132
13	Law Centre, Northern Ireland	Ev 133
14	Northern Ireland Human Rights Commission	Ev 133
15	HMP Maghaberry Prison Officers' Association, Supplementary memorandum	Ev 136
16	Northern Ireland Prison Service, Supplementary memorandum	Ev 136
17	Police Service Northern Ireland	Ev 139
18	Rt Hon Jane Kennedy MP, Minister of State, Northern Ireland Office	Ev 139
19	Northern Ireland Prison Service, Supplementary memorandum	Ev 142

List of unprinted written evidence

An additional paper has been received and has been reported to the House but to save printing costs it has not been printed and a copy has been placed in the House of Commons library where it may be inspected by members. Another copy is in the Record Office, House of Lords and is available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) Hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Maghaberry Prison Officers' Association

Reports from the Northern Ireland Affairs Committee since 2002

The following reports have been produced by the Committee since the start of the 2002 Parliament.

Session 2003–04

First Report	The Committee's work in 2003	HC 146
Second Report	The separation of paramilitary prisoners at HMP Maghaberry	HC 302
First Special Report	Government Response to the Committee's Eighth Report on The Illegal Drugs Trade and Drug Culture in Northern Ireland, Session 2002–2003	HC 180

Session 2002–03

First Report	The Impact in Northern Ireland of Cross–Border Road Fuel Price Differentials: Three years on	HC 105–I
Second Report	Annual Report 2002	HC 271
Third Report	The Police (Northern Ireland) Bill	HC 233
Fourth Report	The Control of Firearms in Northern Ireland and the draft Firearms (Northern Ireland) Order 2002	HC 67–I
Fifth Report	Forensic Science Northern Ireland	HC 204
Sixth Report	The Illegal Drugs Trade and Drug Culture in Northern Ireland: Interim Report on Cannabis	HC 353–I
Seventh Report	Peace II	HC 653–I
Eighth Report	The Illegal Drugs Trade and Drug Culture in Northern Ireland	HC 1217–I
First Special Report	Government Response to the Committee's First Report: The Impact in Northern Ireland of Cross–Border Road Fuel Price Differentials: Three Years On	HC 412
Second Special Report	Government Response to the Committee's Third Report: The Police (Northern Ireland) Bill	HC 555
Third Special Report	Government Response to the Committee's Second Report: Annual Report 2002	HC 583
Fourth Special Report	Government Response to the Committee's Fourth Report on the Control of Firearms in Northern Ireland and the Proposed Draft Firearms (Northern Ireland) Order 2002, HC 67–I, Session 2002–03	HC 677
Fifth Special Report	Government Response to the Committee's Fifth Report on Forensic Science Northern Ireland	HC 722
Sixth Special Report	Government Response to the Committee's Sixth Report on the Illegal Drugs Trade and Drug Culture in Northern Ireland: Interim Report on Cannabis	HC 935
Seventh Special Report	Government Response to the Committee's Seventh Report on Peace II	HC 1077

Session 2001–02

First Report	Introduction of the Aggregates Levy in Northern Ireland	HC 333
Second Report	The Financing of Terrorism in Northern Ireland: Interim Report on the Proceeds of Crime Bill	HC 628
Third Report	Introduction of the Aggregates Levy in Northern Ireland: The Government's Response	HC 713
Fourth Report	The Financing of Terrorism in Northern Ireland. Volume II of this Report (HC 987–II) includes the Government Response to the Second Report, Session 2001–02, The Financing of Terrorism in Northern Ireland: Interim Report on the Proceeds of Crime Bill, HC 628	HC 978–I
First Special Report	Government Response to the Committee's Fifth Report, Miscellaneous Financial Matters, Session 2000–01, and the Government Response to the Committee's Third Report, The Northern Ireland Office 2000 Departmental Report, Session 1999–2000	HC 332
Second Special Report	Government Response to the Committee's Fourth Report, Legal Aid In Northern Ireland, Session 2000–01	HC 400
Third Special Report	Government Response to the Committee's Second Report, The Parades Commission, Session 2000–01	HC 401
Fourth Special Report	Government Response to the Committee's Third Report, Relocation Following Paramilitary Intimidation, Session 2000–01	HC 461
Fifth Special Report	Government Response to the Committee's Third Report, Introduction of the Aggregates Levy in Northern Ireland, Session 2001–02	HC 1118