



BRIEFING PAPER

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The Prisons and Courts Bill - Prison aspects

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Summary

Overview of the whole Bill

The Prisons and Courts Bill was published on 23 February 2017. It is due to have its second reading on 20 March 2017.

- Part 1 of the Bill deals with prison reforms
- Parts 2 and 3 would introduce court reforms designed to integrate technology and enhance efficiency
- Part 4 concerns judicial terms and conditions, and the role of the Judicial Appointments Commission
- Part 5 deals with compensation claims for whiplash injuries

Library Briefing Paper CBP 7892: [Prison and Court Statistics, England and Wales](#) gives statistics on the Bill to accompany this Briefing Paper.

The Ministry of Justice has published [Explanatory Notes](#). The Gov.UK website has a “latest news” page, [Prisons and Courts Bill: what it means for you](#) and a collection of relevant documents including [factsheets](#) on the Bill, [impact assessments](#) and [equalities statements](#).

The Bill’s progress can be followed on the [Prisons and Courts Bill](#) page of the Parliamentary website, which also provides relevant [documents](#) such as proposed amendments and versions of the Bill.

This paper just covers the prison reform provisions. It forms part of a longer paper, [Commons Library Analysis: The Prisons and Courts Bill](#), which covers the whole of the Bill.

Most of the Bill extends to England and Wales only. However, some aspects of the prison reforms also extend to Scotland and Northern Ireland, because Her Majesty’s Inspectorate of Prisons and the Prisons and Probation Ombudsman have functions relating to immigration detention, and this is a reserved matter.

The Government’s reform proposals

Part 1 of the Bill concerns prison reform. The Government’s November 2016 white paper, [Prison Safety and Reform](#), set out a range of proposals to deal with increasing levels of violence and self-harm in prisons and the persistently high levels of reoffending. A central proposal was greater autonomy for prison governors, currently being piloted in six “reform prisons”.

Key proposals included:

- Greater autonomy for prison governors, together with “sharper” inspection and other scrutiny arrangements
- Additional funding with 2,500 more prison officers by 2018
- More extensive drug testing, including on entry and exit from prison to inform assessments of prison performance
- New prison league tables covering public protection, safety and order, time out of cells and prisoners’ progress in education, health and work

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- A stronger role for Her Majesty's Inspectorate of Prisons
- A new duty for the Secretary of State to intervene when prisons are failing
- All prisoners to be allocated a dedicated officer to oversee their progression through custody

Which of the reforms are in the Bill?

Many of these reforms do not need primary, or indeed any, legislation. As a result, there is actually very little in the Bill on prisons. **Clause 1** sets out a new statutory purpose for prisons promised by the white paper (similar declaratory provisions exist in legislation for probation and youth justice) and amends the Secretary of State's duties to include reporting on the extent to which prisons are achieving that purpose. **Clause 2** makes some changes to the law governing Her Majesty's Inspectorate of Prisons, and provides inspectors with some additional powers. **Clauses 4-20** would put the Prisons and Probation Ombudsman on a statutory footing. There were attempts to do this in 2004 and 2008, but these were abandoned.

The provisions on prison security in chapter 3 of Part 1 build on recent legislation to help deal with two major challenges to prison security: illicit mobile phones and psychoactive substances. A 2012 Act already allows prison governors to interfere with wireless telegraphy in prisons in order either to block mobile phones or detect their use. **Clause 21** would allow the Secretary of State to authorise telecoms and internet service providers to do this. Legislation in 2015 and 2016 was brought in to deal with New Psychoactive Substances (NPSs), including introducing a new offence of possession in a custodial setting. **Clause 22** would allow for prisoners to be tested for NPSs without each individual substance needing to be specified separately.

1.1 Overview

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1.2 Territorial extent

Most of the Bill extends to England and Wales only. However, immigration and employment are both reserved matters, and some aspects of the Bill touch on these.

In Part 1, Her Majesty’s Inspectorate of Prisons (HMIP) and the Prisons and Probation Ombudsman (PPO) both have functions relating to immigration detention. Consequently, parts of **clause 2** and **clause 3** which apply to immigration inspection functions extend to Scotland and Northern Ireland as well as England and Wales. With regard to the PPO, **clauses 4 to 17**, **clause 20** and **Schedule 1** extend to Scotland and Northern Ireland.

For full details see [clause 70](#) and [pages 28–31](#) of the Explanatory Notes.

Most of the Prison Reform provisions in the Bill extend to England and Wales only.

2. Background

The problem of how to make prisons “work”, in terms of rehabilitating prisoners, has been tackled by previous governments in various ways. Both the Labour and the coalition governments embraced the involvement of the private and voluntary sector in the search for innovation to deal with this intractable problem. The Government states that the cost of reoffending to the economy “is estimated to be up to £15 billion a year”.¹

Around 45% of adult offenders reoffend within a year.

2.1 Labour reforms

Under Labour, the 2003 Carter Report called for greater competition, a purchaser/provider split and a more joined up approach to offender management between prison and probation.² Labour formed the National Offender Management Service (NOMS) from 2004, bringing together headquarters staff from the prison and probation services and civil service. It had an explicit aim of reducing reoffending. The [Offender Management Act 2007](#) replaced Probation Boards with Probation Trusts, and gave responsibility for commissioning probation services to the Secretary of State.³ A great deal of work was done in prisons to find different “pathways” to reduce reoffending, through partnership work on health, education, employment, providing help with accommodation, finance and benefits and through “end-to-end offender management”.⁴

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2.2 Coalition reforms

The coalition government promised a “rehabilitation revolution” in the 2010 Green Paper, [Breaking the Cycle](#).⁵ Prison reforms were to include Payments by Results (PbR) pilots (whereby a mixed market of providers would receive funding linked to reductions in reoffending) and a new integrated offender management approach. A 2013 strategy document [Transforming Rehabilitation: A Strategy for Reform](#) proposed reforms to the rehabilitation system in both custody and the community. The most profound reforms were to probation services, where probation trusts were abolished and work with the majority of offenders (those deemed

The Labour and coalition governments both brought in major reforms to reduce reoffending.

¹ Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016, p5; This is based on an updated version of 2010 estimate by the National Audit Office.

² Patrick Carter, [Managing offenders, reducing crime: a new approach](#), December 2003

³ Further detail is in Library Research Paper 2006/62 [The Offender Management Bill](#)

⁴ See for example Home Office, [A Five Year Strategy for Protecting the Public and Reducing Reoffending](#), Cm 6717, February 2006

⁵ MoJ, [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#), December 2010

“low to medium risk”) was contracted out to the private and voluntary sector.⁶

2.3 Market testing and benchmarking

The Labour government had embraced the Private Finance Initiative as one way of providing prison places for the expanding prison population,⁷ although some private sector prisons were also returned to the public sector.⁸ The coalition government sought to achieve a greater diversity of suppliers by encouraging new market entrants, notably through the launch of a new market-testing programme in 2011. This involved competition for the contracts to operate nine prisons, eight of which were managed by the public sector at the time.⁹ At the end of the process one prison – HMP Northumberland – was transferred to the management of Sodexo Justice Services, and G4S lost the contract for HMP Wolds, which returned to the public sector.¹⁰

In November 2012, the coalition government announced a change in policy. The then Justice Secretary, Chris Grayling, noted that the competition process had “identified the means to accelerate cost reductions” and had “set a new benchmark for running prisons” which the Ministry would apply to all public sector prisons to “maximise savings”.¹¹ It was proposing an alternative model where core custodial functions would be retained by the public sector, with ancillary and rehabilitation services contracted through competition instead. The Ministry of Justice said that applying the new benchmark and contracting out ancillary and rehabilitation services would save an additional £450 million over the next six years.¹² Chris Grayling confirmed to the Justice Committee in December 2013 that these savings would not be reinvested but would form part of departmental savings.¹³

Benchmarking and its effect on prison regimes was discussed in some detail by the Justice Committee in their 2015 report, *Prisons: planning and policies*.¹⁴ The Committee agreed that benchmarking of prisons to

The coalition government launched a market testing programme in 2011 to increase competition and prison capacity.

In 2012, the policy changed. A new “benchmark” for running prisons would be applied to the public sector, saving £450 million over the next six years.

⁶ See Library Briefing Paper 6894, [Contracting out of probation services: 2013-2016](#)

⁷ See [page 4](#) Library Briefing Paper CBP 7892: [Prison and Court Statistics, England and Wales](#) for a chart the growth of the prison population over time

⁸ See Library Briefing Paper 6811, [Prisons: The role of the private sector](#) and Institute for Government, [Competition in Prisons](#), November 2012

⁹ MoJ Press release [Prisons competition and capacity announcement](#), 13 July 2011

¹⁰ [“G4S loses Wolds prison contract”](#), BBC News, 8 November 2012

¹¹ [HC Deb 8 November 2012 c44WS](#). See also MoJ press release [Next steps for prison competition](#), 8 November 2012.

¹² MoJ press release [Next steps for prison competition](#), 8 November 2012.

¹³ Justice Committee, *Crime Reduction Policies: A Coordinated Approach? Focusing On The Government’s Transforming Rehabilitation Reforms*: [Corrected transcript of oral evidence](#), 4 December 2013, HC94-iv 2013-14: Q189

¹⁴ Justice Committee, [Prisons policies and planning](#), 18 March 2016, HC 309, 2014-15; see in particular [Section 3 Benchmarking and prison staffing](#)

develop more efficient regimes was “in principle an effective way of reducing expenditure more rapidly than would be possible through prison-by-prison competition”.¹⁵ It noted that as staff represent the bulk of ongoing prison costs, a “key consequence of benchmarking is that public sector prisons will be operating with a smaller staff”.¹⁶ The report went on to point out that “all available indicators” were pointing to a “rapid deterioration in standards of safety and levels of performance”,¹⁷ and that NOMS ought to have foreseen that retention problems would result from “major reductions in staffing, less favourable pay and conditions of employment and significant changes to prison regimes”.¹⁸

In 2015, the Justice Committee considered the Government’s prison policies and expressed concern about the rapid deterioration of safety in prisons.

In its response, the Government said it was “pleased that the Committee had concluded the principles of benchmarking were sound”:

We share the Committee’s concerns over some recent statistics which point to areas which require immediate attention. We explain in detail in the response to recommendation 17 the work underway by us to address issues of safety in prisons.

We have also referred elsewhere to the impact of staff shortages in particular areas that we consider could not have been anticipated. In particular, staffing shortages have led to the implementation of restricted regimes in some prisons which, in the short term, will have impacted on prisoners’ access to a full regime.

As the Committee recognises, in the longer term the implementation of benchmarked staffing models is designed to support rehabilitation. Benchmarking is expected to deliver more efficient regimes with improved opportunities for engagement in a range of activities. Fully implemented benchmark staffing models are planned to be in place across the estate by March 2016. As we note above the implementation from 1 May 2015 of the new Through the Gate resettlement service to all prisoners nearing release is designed to further improve rehabilitation outcomes.¹⁹

2.4 Prison safety

In 2016, the Justice Committee returned to the problem of declining safety levels in their May 2016 report, [Prison Safety](#):

¹⁵ p28

¹⁶ ibid

¹⁷ p33

¹⁸ p40

¹⁹ [Government Response to the Justice Committee’s Ninth Report of Session 2014-15 Prisons: Planning and Policies](#), Cm 9114, July 2015

39. Notwithstanding the considerable efforts of the Ministry of Justice, National Offender Management Service and staff in prisons striving to keep prisoners and themselves secure and unharmed, overall levels of safety in prisons are not stabilising as the Ministry of Justice and the National Offender Management Service had hoped, let alone improving. This is a matter of great concern, and improvement is urgently needed.²⁰

Safety in prisons has declined significantly in recent years.

In the 12 months to September 2016:

- There were just over 25,000 prisoner assault incidents within prisons, a 31% increase on the figure to September 2015.
- There were 6,430 assaults on prison staff, 761 of which were serious. This was an 82% rise on the number of assaults on prison staff in 2006 and was a 40% increase from 2015.
- There were over 37,750 self-harm incidents. This was an increase of 61% compared to September 2006 and an increase of 23% compared to 2015.
- In the 12 months to December 2016 there were 354 deaths of prisoners in custody. Around 55% of the deaths were through natural causes, 34% were self-inflicted, 10% were classed as other (including those awaiting for further information on cause of death) and 1% were the result of homicide.
- The number of prisoner escapes has dramatically reduced since 1995/96 when 52 prisoners escaped. There were two KPI prisoner escapes in 2015/16 and none in 2014/15.

The Government acknowledges that prison safety has declined since 2012, and cites a range of factors which have led to this:

172. Our analysis identifies a number of personal and situational factors that have driven this increase in violence, self-harm and self-inflicted deaths since 2012. We know that younger, male prisoners are more likely to be involved in violent incidents, as are those with a history of violent offending as well as current or previous drug use and gang membership. Anti-social attitudes and poor self-control also increase the risk of violence in custody. Longer term shifts in the nature of the prison population are likely to have played some part in the increased violence in the prison estate. In 1993, violence against the person, sexual offences and drug offences together accounted for around two in every five sentenced prisoners (including the recall population). By 2016, this had increased to three in five.

173. More recent developments have made these challenges much harder to manage. Since 2012, the use of psychoactive substances in prisons has risen dramatically, which presents our prison staff with real challenges. Their effects in prisons have made some already dangerous offenders even more volatile, and their reactions more difficult to manage. We know that local

²⁰ Justice Committee, [Prison Safety](#), 16 May 2016, HC625 2015-16, p3

prisons with higher rates of drug finds have higher rates of violence. But until this year, there have been no effective tests available to establish whether prisoners have taken these drugs.²¹

The white paper went on to acknowledge that in the light of these developments, the Government must “reconsider staffing levels”.

177. While it was right to seek to operate prisons more efficiently, the destabilising effect of changes in the operating environment, such as the introduction of new psychoactive substances – described as a ‘game-changer’ by the Prisons and Probation Ombudsman – means we must now reconsider staffing levels. Our analysis shows a statistical correlation between the numbers of staff and the level of violent incidents. We now need more frontline staff, and we need to change the way they work to better support offenders and respond to new threats as they arise.²²

These issues are discussed in more detail in Library Briefing Paper 7467 [Safety in prisons in England and Wales](#).

2.5 Progress on reducing reoffending?

Clearly helping offenders with a variety of complex needs to turn their lives around is a difficult business.²³ The headline figures show that progress on reducing reoffending since 2004 has been slow. Around 45% of adult reoffenders released from custody reoffend within a year. This rises to around 60% for prisoners sentenced to less than a year.²⁴

The latest proven reoffending statistics cover those released from custody between April 2014 and March 2015. There has been a decrease of around 1% compared with the previous 12 months and around 4% since 2004.²⁵

Adult reoffending has decreased by around 4% since 2004.

²¹ Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016, pp 40-41

²² Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016, p41

²³ These issues are discussed in Library Research Paper 12/71, [Reducing reoffending: the “what works” debate](#)

²⁴ Ministry of Justice, [Proven reoffending tables, April 2014 to March 2015](#), January 2017

²⁵ Ministry of Justice, [Proven Reoffending Statistics Quarterly Bulletin, April 2014 to March 2015](#), 26 January 2017

3. Conservative government policy

3.1 Manifesto commitment

Before the 2015 General Election the Conservative manifesto promised a number of reforms to prisons:

Despite making savings in the prison budget, there are around 3,000 more adult male prison places today than in 2010. We will make further savings by closing old, inefficient prisons, building larger, modern and fit-for-purpose ones and expanding payment-by-results. And we will introduce widespread random testing of drug use in jails, new body scanners, greater use of mobile phone blocking technology and a new strategy to tackle corruption in prisons.²⁶

The 2015 Conservative manifesto promised prison reforms.

In February 2016, the then Prime Minister, David Cameron, gave a speech in which he set out the principles of the reform he wanted to see, including:

- Much greater autonomy for professionals working in public services, bringing “the academies model that has revolutionised our schools to the prisons system.”
- Greater accountability and transparency with “meaningful metrics” measuring “the things that really count: reoffending levels compared to a predicted rate; employment outcomes for prisoners; whether or not the offender went into permanent accommodation; and what progress was made on basic literacy and key skills.” This data would be developed into “new Prison League Tables that allow us to easily compare different institutions.”²⁷

Greater autonomy for professionals, especially prison governors, is central to the reforms.

3.2 Reform proposals

In July 2015, Michael Gove (then Justice Secretary) gave a speech at the Prisoners Learning Alliance, focusing on giving Prison Governors greater autonomy. He argued that prisoners and prison staff did not have the right incentives:

Giving Governors more autonomy overall would enable us to establish, and capture, good practice in a variety of areas and spread it more easily.²⁸

Mr Gove outlined his plans for reform to Parliament in January 2016:

²⁶ Conservative Party, [The Conservative Party Manifesto 2015](#), p 59.

²⁷ Prime Minister’s speech to Policy Exchange, [Prison Reform](#), 8 February 2016

²⁸ Michael Gove, [The treasure in the heart of man - making prisons work](#), Speech given at Prisoners Learning Alliance, 17 July 2015

I want to see governors who are currently in the system — people who joined the National Offender Management Service because of their idealism — given more freedom within the state sector to do what they do best. Baldly, my model is one of academy principals or of the chief executives and clinical directors of NHS foundation trusts who have shown that, with increased autonomy within a structure of clear accountability, they can achieve significant improvements.²⁹

He expanded on his proposals for prison reform in an [evidence session before the Justice Committee](#) on 16 March 2016. He confirmed that a prison reform bill to improve the management and performance of prisons would be included in the Queen’s Speech.

3.3 The Queen’s Speech 2016

The [Queen’s Speech](#) on 18 May 2016 announced that a [Prison and Courts Reform Bill](#) would be introduced which would “give Prison Governors “unprecedented levels of control” over all aspects of prison management.³⁰ In the accompanying press release, the Ministry of Justice announced the names of six “reform prisons” which would pilot these new freedoms:

The announcement of the 6 trailblazer sites in London, the East Midlands and north-east, including one of Europe’s largest prisons – HMP Wandsworth – means that more than 5,000 offenders will be housed in reform prisons by the end of this year.

The other prisons are HMP Holme House, HMP Kirklevington Grange, HMP Coldingley, HMP High Down and HMP Ranby.

These prisons will give unprecedented freedoms to prison governors, including financial and legal freedoms, such as how the prison budget is spent and whether to opt-out of national contracts; and operational freedoms over education, the prison regime, family visits, and partnerships to provide prison work and rehabilitation services.

A new regime of transparency will hold governors to account, with comparable statistics to be published for each prison on reoffending, employment rates on release, and violence and self-harm.³¹

Greater governor autonomy is being piloted in six reform prisons.

²⁹ [HC Deb 27 January 2016 cc344-5](#)

³⁰ Ministry of Justice Press Release, [Review puts education at heart of prison service](#), 18 May 2016

³¹ Ministry of Justice Press Release, [Biggest shake-up of prison system announced as part of Queen’s Speech](#), 18 May 2016

3.4 The white paper

There was some press speculation, in the weeks after Elizabeth Truss became Justice Secretary in July 2016, that the prison reform agenda had been put on hold.³² However, the Government published a white paper, [Prison Safety and Reform](#), in November 2016 with the same key theme of greater autonomy for prison governors.³³ The paper integrated these reform plans with proposals to address the decline in prison safety. It said that prison reform was “a key part of the (new) Prime Minister’s social reform programme”.³⁴

The white paper set out many of the challenges facing prisons, including:

- The significant increases in recent years of violence and self-harm, fuelled in part by “the recent flood of dangerous psychoactive drugs into our prisons”³⁵
- Blurred accountability between bodies commissioning, running or holding prisons to account, resulting from the “piecemeal” development of oversight arrangements

Key proposals included:

- Greater autonomy for prison governors, together with “sharper” inspection and other scrutiny arrangements
- Additional funding with 2,500 more prison officers by 2018
- More extensive drug testing, including on entry and exit from prison to inform assessments of prison performance
- New prison league tables covering public protection, safety and order, time out of cells and prisoners’ progress in education, health and work
- A stronger role for Her Majesty’s Inspectorate of Prisons
- A new duty for the Secretary of State to intervene when prisons are failing
- All prisoners to be allocated a dedicated officer to oversee their progression through custody

Many of the changes proposed in the white paper do not need primary, or in many cases any, legislation. However, the Government sees some of the changes which do need primary legislation as being central to the reforms. In particular, the paper argues that there is a lack of clarity in the main piece of primary legislation governing prisons, the Prisons Act 1952, over what the “system as a whole should be

The November 2016 white paper has a wide range of proposals designed to improve the situation in prisons.

Many of these reforms do not need primary legislation.

³² See for example “[Liz Truss shelves Michael Gove’s flagship prison reform bill](#)”, Telegraph, 7 September 2016

³³ Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016

³⁴ p8

³⁵ p7

delivering".³⁶ It proposes a statutory purpose for prisons (see **clause 1** below) which, the paper insists, is "not just a symbolic change"³⁷ and new reporting duties for the Secretary of State linked to that purpose.

Empowering governors

The white paper proposed that prison governors would be given greater authority and flexibility to run prisons. At present there is a large volume of central guidance, most of it set out in [Prison Service Instructions](#). The white paper described this as "an extraordinary amount of prescription" which means that governors do not currently have sufficient "authority to make decisions about the things they think matter".³⁸ It proposed to review the "562 policies" which prisons must comply with in stages:

We will look at each policy, and either replace it with the minimum mandatory requirements to ensure a safe, decent and lawful system, with consistency across the estate where this is deemed critical or get rid of it altogether. We will do this in phases, with the first tranche of policies revised or deleted by 1 April 2017.³⁹

This is to be coupled with greater accountability:

Setting out in legislation what we want the prison system to achieve, through a statutory purpose, is a necessary step but is not enough on its own to drive the improvements we want to see. Governors should be held to account for the results they achieve in delivering the purposes of the prison system. To do this, we will set performance measures for each purpose and publish a subset of these in a new prisons league table. This will provide the public with an easy to understand illustration of how well each prison is performing.⁴⁰

The Government gave more detail on how these changes are to be delivered in a Written Ministerial Statement on 23 February 2017:⁴¹

- From April 2017 to April 2019, performance agreements signed by each prison governor and the Secretary of State will be phased in, covering public protection, reforming offenders, preparing prisoners for life on release and improving safety
- Data on key measures will be collected from April 2017, and official statistics will be published regularly from October 2017

From 1 April 2017, governors would have the freedom to:

- design their regime to match local needs

The Government is reviewing the large body of Prison Service Instructions to see whether they are necessary.

The Government is asking prison governors to sign performance agreements, to be phased in from April 2017.

³⁶ p14

³⁷ Ibid

³⁸ p27

³⁹ p38

⁴⁰ p22

⁴¹ Elizabeth Truss, [Prison governor empowerment and accountability: Written statement - HCWS493](#), 23 February 2017

- decide their workforce strategy
- control how they spend their resource budget
- Plan and take decisions about health services jointly with local health commissioners, through a co-commissioning framework

Key freedoms for governors are also being phased in from April 2017

Later on in 2017 and 2018, governors will be given control of education and training budgets. From autumn 2017 they will control budgets for family support. They will also have more say on the goods and services in their prison as national contracts end. The Government proposes to learn from the work of the six reform prisons and evaluate wider reforms:

This process of devolution and deregulation is being supported by learning from the work of the six reform prisons. These prisons will continue to explore and identify options for devolution across the estate as wider reforms are implemented. We have commissioned a formal evaluation to support this with regular feedback being provided to inform policy development ahead of the final report in early 2018.⁴²

3.5 The “Future Prison” project

An important contribution to the debate has been through the RSA's⁴³ [Future Prison](#) project, which has produced a series of papers on the development of rehabilitative prisons. A scoping paper, by the RSA and Transitions Spaces,⁴⁴ with a foreword by the then Justice Secretary Michael Gove, was published in May 2016.⁴⁵ The project aimed to “set out a blueprint for a future prison” that places the “challenge of rehabilitation at centre stage”.⁴⁶ The final report, published in October 2016,⁴⁷ makes [ten key recommendations](#):

- a legal rehabilitation duty for prisons and probation
- returning frontline staffing to 2010 levels
- training and development for a “rehabilitative workforce”
- an arms-length, more independent NOMS
- an enhanced and more integrated Prison and Probation Inspectorate
- NOMS to hand over prison funding to local prison boards, although with a national prison service setting key obligations

⁴² Ibid

⁴³ Royal Society for the encouragement of Arts, Manufactures and Commerce

⁴⁴ A community interest company that works on rehabilitation

⁴⁵ Rachel O'Brien and Jack Robson, RSA, [The Future Prison Scoping Paper](#), May 2016

⁴⁶ Ibid, p5

⁴⁷ Rachel O'Brien and Jack Robson, RSA, [A Matter of Conviction: A Blueprint for Community-Based Rehabilitative Prisons](#), October 2016

- New devolved powers for governors and a staged process of devolution with a focus on expanding the remit of Police and Crime commissioners.
- Integration of health services
- “Designing in Rehabilitation”, with the Government’s prison building programme informed by evidence on what supports rehabilitation.

3.6 Structural reforms at the centre

There have been several changes to the structure of NOMS since it began in 2004. Initially there was a regional structure, with ten regional offender managers covering the nine English regions and Wales. From 2006, NOMS HQ was reduced in size, to focus on commissioning, with casework and operational decisions being devolved to the front line.⁴⁸ Further reforms followed under the Coalition Government. In particular, the regional structure was abolished to save money.⁴⁹

In February 2017, Elizabeth Truss announced in a written statement that, from 1 April 2017, the Government would be replacing NOMS with a new executive agency, Her Majesty’s Prison and Probation Service.⁵⁰

HM Prison and Probation Service will have full responsibility for all operations across prison and probation. The Ministry of Justice will take charge of commissioning services, future policy development and be accountable for setting standards and scrutinising prison and probation performance.

A later Written Statement announced that a new Youth Custody Service would be “a distinct arm” of HM Prison and Probation Service.⁵¹

The National Offender Management Service is being replaced by a new agency, HM Prison and Probation Service, from April 2017

⁴⁸ Home Office, *From improvement to transformation An Action Plan to reform the Home Office so it meets public expectations and delivers its core purpose of protecting the public*, July 2006, p9

⁴⁹ National Audit Office, [Restructuring of the National Offender Management Service](#), HC 593 2012-13, 16 September 2012

⁵⁰ [HCWS 468 \[on Prisons and Probation\]](#) 8 February 2017

⁵¹ [HCWS 502 \[on Youth Justice\]](#), 24 February 2017

4. The Bill

4.1 The purpose of prison

Debate about what prison is for goes back at least to the 19th century.⁵² The purpose of prison (and punishment more generally) is often described as retribution, incapacitation, deterrence and rehabilitation. Until fairly recently, HM Prison Service had this Statement of Purpose:⁵³

Her Majesty's Prison Service serves the public by keeping in custody those committed by the courts. Our duty is to look after them with humanity and help them lead law-abiding and useful lives in custody and after release.

This has now been slimmed down on HM Prison Service's [What we do](#) page:

We keep those sentenced to prison in custody, helping them lead law-abiding and useful lives, both while they are in prison and after they are released.

The 2016 white paper explains why the Government thinks a statutory purpose is necessary:

The existing legislation, the origins of which date back to the Victorian period, requires the Secretary of State simply to 'make the contracts and do the other acts necessary for the maintenance of prisons and the maintenance of prisoners' and focuses on the administrative running of the system. What is missing is clarity over what that system as a whole should be delivering.

61. This is not just a symbolic change. To meet the challenges the prison system faces and transform the service, change needs to be properly embedded across the system. Reform that focuses on fixing specific parts of the system, however well-chosen, is doomed to fail because it does not bring that system together to deliver the changes it seeks. We need to go back to the beginning and make sure that it is crystal clear what the prison system exists to deliver, both to everyone who works in and with it and to society beyond.⁵⁴

Clause 1 sets out that prisons must aim to:

- protect the public,
- reform and rehabilitate offenders,
- prepare prisoners for life outside prison, and
- maintain an environment that is safe and secure.

⁵² See for example Report from the Departmental Committee On Prisons (Gladstone Committee Report C 77092, 1895

⁵³ Justice Committee, [Role of the Prison Officer](#) 13 October 2009, HC 361 2008-09,

⁵⁴ Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016, p14

There are various other declaratory provisions of this nature in criminal justice legislation. For example, [section 142](#) of the Criminal Justice Act 2003 sets out the purposes of sentencing which courts must have regard to.⁵⁵ [Sections 1 and 2](#) of the Offender Management Act 2007 set out the “purposes” of probation services, and the aims of probation which the Justice Secretary must have regard to when commissioning services. [Section 37](#) sets out the principle aim of the Youth Justice system as being “to prevent offending by children and young persons.”

This statutory purpose does not include punishing offenders. In the 1920s, Prison Commissioner Alexander Paterson famously argued that offenders ‘come to prison as punishment not for punishment’,⁵⁶ a view with Michael Gove agreed in a speech in July 2015.⁵⁷

Clause 1 also sets out the Secretary of State’s existing powers⁵⁸ to do things which are necessary for the maintenance of prisons, including her entering into contracts and appointing prison officers and other staff. This is done more clearly and concisely than the current legislation. It also includes the new general statement that “the Secretary of State has overall responsibility for prisons”. Annual reporting duties would be linked to the statutory duty of prisons.

4.2 Her Majesty’s Inspectorate of Prisons

Currently, the Prison Act 1952 provides for the appointment of Her Majesty’s Chief Inspector of Prisons (HMCIPI), and sets out his statutory responsibilities to inspect prisons.⁵⁹ The organisation which carries out inspections under the Chief Inspector, HM Inspectorate of Prisons (HMIP), is not provided for in legislation.

Importantly, it is not clear in the current legislation what should happen as a result of an adverse report from HMIP, although there are protocols on what the prisons and other inspected institutions should do. Prison governors do not have to accept HMIP’s recommendations:

In line with agreed protocols, inspected bodies should produce an initial action plan in response to Inspectorate recommendations two months after publication of the report. The action plan should set out whether the establishment has accepted, partially accepted/accepted in principle or rejected the recommendations, and the consequent action taken or planned are set out.⁶⁰

Clause 2 amends the Prison Act 1952 to:

⁵⁵ The punishment of offenders, the reduction of crime (including its reduction by deterrence); the reform and rehabilitation of offenders; the protection of the public, and the making of reparation by offenders to persons affected by their offences.

⁵⁶ Paterson on prisons: the collected papers of Sir Alexander Paterson, ed. SK Ruck, 1951

⁵⁷ Michael Gove, [The treasure in the heart of man - making prisons work](#), Speech given at Prisoners Learning Alliance, 17 July 2015

⁵⁸ Sections 1 and 4 of the Prisons Act 1952

⁵⁹ Section 5A and schedule A1 of the Prisons Act 1952

⁶⁰ HMIP, [Inspection Framework](#), February 2017

- Provide for HM Inspectorate of Prisons (as well as HM Chief Inspector of Prisons)
- Give the inspectorate powers of entry and powers to require information, and allow the High Court to treat obstruction as contempt of court

When preparing inspection reports, HMIP would have to have regard to the new statutory purpose of prisons and also consider the effectiveness of leadership in the prison.

Where a prison is giving rise to “significant concerns”, the Chief Inspector would have to give an “urgent notification” to the Secretary of State, which, except in limited circumstances, would have to be published. The Secretary of State would have to publish a response to this within 28 days, and the response must set out the actions the Secretary of State has taken or proposes to take.

4.3 The Prisons and Probation Ombudsman

The [Prisons and Probation Ombudsman](#) (PPO) carries out independent investigations into deaths and complaints in custody. **Clauses 4 to 20** and **schedule 1** would put the PPO onto a statutory footing. There have been calls for this for many years.

A brief history

The (then) Prisons Ombudsman was established in 1994 following the Woolf Report into the riots at Strangeways and other prisons in 1990.⁶¹ Lord Woolf had criticised the lack of an independent element in the Prison Service’s internal grievance procedure.

Following the dispute over the Ombudsman’s remit in the mid-1990s, a House of Commons Select Committee investigated his role and powers. The Committee concluded, amongst other things, that the non-statutory framework was not adequate.⁶² The Conservative Government said in response that it did not see any need for the post to be placed on a statutory footing, but that the matter would be kept under review.⁶³

In December 2004, the Joint Committee on Human Rights (JCHR) called for the PPO to be put on a statutory footing with similar powers to the Independent Police Complaints Commissioner. This should be done “as a matter of priority”, the Committee argued, as until it was, the PPO’s

⁶¹ Prison Disturbances April 1990, Report of an Inquiry by the Rt Hon Lord Justice Woolf (Parts I and II) and His Honour Judge Stephen Tumim (Part III), Cm 1456, February 1991

⁶² House of Commons Select Committee on the Parliamentary Commissioner for Administration, Report of the Parliamentary Ombudsman for 1995, Cmnd 38, 16 October 1996

⁶³ Prison Ombudsman Annual Report 1996, Cm 3687, July 1997, paragraph 1.18

investigations were “unlikely to meet the obligation to investigate under Article 2 ECHR.”⁶⁴⁶⁵

The Labour government attempted to do this in 2005 in their [Management of Offenders and Sentencing Bill](#), although the PPO was due to be renamed “Her Majesty’s Commissioner for Offender Management and Prisons”. However, the Bill did not make progress and was dropped at the 2005 General Election.

There was an attempt to reintroduce the same provisions in the [Criminal Justice and Immigration Bill 2006-07](#).⁶⁶ However, the JCHR made clear in their scrutiny of the Bill that they were concerned that the new statutory Commissioner would not be sufficiently independent because it would have to investigate any matter requested by the Secretary of State, and because the Secretary of State would set its budget, provide its staff, and would be able to “give directions as to the scope of, and the procedure to be applied” to the new Commissioner’s investigations.⁶⁷

The Government decided to remove the relevant clauses during the Lords Committee Stage.⁶⁸ The then Justice Minister, Lord Hunt of King’s Heath, said this was in response to concerns about whether the governance and accountability arrangements set out in the Bill provided sufficient independence from government.⁶⁹

The November 2016 white paper, [Prison Safety and Reform](#), announced that the Government would look at putting the PPO on a statutory footing:

There have been longstanding calls for the PPO to be put on a statutory footing to enhance the organisation’s independence and credibility. While we think the PPO performs effectively and is widely respected in its current form, we recognise a statutory basis could bolster the status of the role and will explore ways of achieving this.⁷⁰

The Bill

As set out in the introduction, most of the Bill’s provisions on the PPO extend to Scotland and Northern Ireland as well as England and Wales, but only in their application to the Ombudsman’s functions in relation to immigration detention facilities and immigration escort arrangements.⁷¹ This is because immigration is a reserved matter.

⁶⁴ JCHR [Inquiries into deaths in custody](#), 14 December 2004, HL15-I/HC137-I 2004-05.

⁶⁵ Article 2 of the [European Convention on Human Rights](#) protects the right to life.

⁶⁶ See Library Research Paper 07/65, [The Criminal Justice and Immigration Bill \(Bill 130 of 2006-07\)](#) pp 40-44

⁶⁷ JCHR, [Legislative Scrutiny: Criminal Justice and Immigration Bill](#), 3 January 2008, HL37/ HC198 2007-08, para 1.37

⁶⁸ [HL Deb 5 February 2008 c960](#)

⁶⁹ [Ibid, c953](#)

⁷⁰ p19

⁷¹ Clause 70(8)

Clause 4 would establish the PPO in statute, with the same functions of investigating deaths in custody and complaints as currently. The Secretary of State would be able to confer additional functions by regulation, but must consult the PPO first. Under **clause 11**, the Secretary of State could request other investigations and reports, but it is up to the Ombudsman whether he or she produces or publishes a report.

Clause 12 gives the Ombudsman the power to enter any criminal justice institution in England and Wales, any secure children's home in England, and immigration detention facility and vehicles used to transport detained people. Under **clause 13**, the PPO could require information. **Clause 14** would allow the PPO to report obstruction of its powers of entry and to require information to the High Court, or the Court of Session in Scotland. The court could then deal with it as a contempt of court.

In a press release responding to the 2016 white paper, the current Prisons and Probation Ombudsman, Nigel Newcomen, welcomed the Government's commitment:

"There is much in this White Paper that will be of interest to everyone involved with prisons, but there is also a particularly significant commitment to explore something which I (and my predecessors) have been calling for for some years: putting the PPO on a statutory footing. This would reinforce our independence, give our work the force of law and provide some practical support for our investigations, for example a right of access and publication.

There would still be a lot of work involved to make this happen, but this is a clear ministerial endorsement of the importance and effectiveness of the office and an acknowledgement of the hard work of my staff."⁷²

Prison security – mobile phones

Prisoners are not generally allowed access to mobile phones. Prisons operate a controlled system using a PIN number and access to the internet is strictly controlled.⁷³ Mobile phones can be used for many undesirable purposes, for example to organise crime outside the prison, to arrange for drugs to be delivered or to harass victims. However, prisoners may also want them as a cheaper, convenient way of keeping in touch with family and friends.

It is a disciplinary offence under the Prison Rules 1999 for prisoners to possess an unauthorised item, including an unauthorised mobile phone.⁷⁴ Bringing a mobile phone into a prison was made an explicit

⁷² PPO Press Release, [Prison Safety and Reform White Paper promises greater scrutiny of prison performance](#), 3 November 2016

⁷³ Personal Identification Number

⁷⁴ Rule 51, Prison Rules 1999 SI 1999/728 as amended

criminal offence by the Offender Management Act 2007.⁷⁵ The Crime and Security Act 2010 created an imprisonable offence of possessing a mobile phone inside a prison without authorisation.

In 2011, the Coalition Government backed a Private Member's Bill which became the [Prisons \(Interference with Wireless Telegraphy\) Act 2012](#).⁷⁶ This allows the Justice Secretary in England and Wales and Scottish Ministers to authorise prison governors to interfere with wireless telegraphy in order to prevent or detect the use of mobile phones and other electronic communications devices in prison. If such interference were not so authorised, it would be an offence under the Wireless Telegraphy Act 2006.

The Serious Crime Act 2015 provided for prison staff or the police to apply to the courts for a Telecommunications Restrictions Order, to require mobile phone networks to stop the use of a phone remotely.⁷⁷ Regulations under the Act came into force on 3 August 2016,⁷⁸ and since then more than 150 mobile phones have been cut off using these powers.⁷⁹

Nevertheless, it is widely acknowledged that many illicit mobile phones find their way into prisons.

In 2015, nearly 17,000 mobile phones and SIM cards were found in prisons in England and Wales.⁸⁰ This was an increase from around 10,000 in 2014 and from around 7,500 in 2013.⁸¹

Since October 2015, data has been collected differently so that direct comparisons are not possible. In 2016, there was a total of 8,813 reported incidents of mobile phone finds and 4,067 reported incidents of SIM card finds.⁸²

The white paper, [Prison Safety and Reform](#) acknowledged the seriousness of the problem:

206. Illicit mobile phones in prisons are one of the biggest threats facing our prisons. Although we appreciated that they are often used to maintain family ties, prisoners' use of illicit phones has also been linked to the supply of drugs and other contraband, as well as serious and organised crime, both in prison and in the community. Illicit phone use can also evade our public protection monitoring, bringing further harm to the victims of crime. (...)

⁷⁵ Section 22

⁷⁶ Background is in Library Briefing Paper 6414, [The Prisons \(Interference with Wireless Telegraphy\) Bill](#), 13 September 2012

⁷⁷ Section 80

⁷⁸ Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2016/830; see also MoJ Press Release, [Illegal mobile phones in prisons to be cut off](#), 3 August 2016

⁷⁹ [PQ 65116 \[on Prisons: Mobile Phones\]](#), 2 March 2017

⁸⁰ [PQ 64325 \[on Prisons Mobile Phones\]](#), 27 February 2017

⁸¹ [PQ 20343 \[on Prisons: Mobile Phones\]](#), 16 December 2015

⁸² [PQ 64325 \[on Prisons Mobile Phones\]](#), 27 February 2017

Attempts to smuggle phones into prison are increasingly brazen and sophisticated, taking advantage of the fact that phones are becoming thinner and smaller. In some cases, the supply chain is so well established that phones are replaced easily soon after they are seized.⁸³

Measures the Government is taking include buying better detection equipment and working with partners to implement new technology to stop mobile phones working in prison.⁸⁴

Clause 21 would amend the [Prisons \(Interference with Wireless Telegraphy\) Act 2012](#). Section 1 of that Act already allows the Secretary of State to authorise governors to interfere with wireless telegraphy to disrupt unlawful mobile phone use. Clause 21 would also allow the Secretary of State to authorise “public communications providers” (for example telecoms and internet service providers) to interfere with wireless telegraphy in prisons.

Psychoactive substances⁸⁵

Clause 22 would amend Section 16A of the [Prison Act 1952](#) to allow for testing for any drug in a custodial institution that falls under the definition of a ‘psychoactive substance.’ This is a simplification of the current legislation and was proposed in the November 2016 white paper, [Prison Safety and Reform](#).⁸⁶ It will mean that specific substances will no longer need to be added to a list for testing purposes; instead they could be tested for if they fall under the definition of psychoactive substance.

Section 16A of the Prison Act 1952 states that a prison officer can require a prisoner to provide a urine sample for testing for the presence of a drug. Currently, testing can be used to look for any drug controlled under the [Misuse of Drugs Act 1971](#) (MDA), and any other ‘specified drug.’ Drugs can be added to the list of ‘specified drugs’ through secondary legislation. This regulation-making power was introduced through the [Criminal Justice and Courts Act 2015](#) in response to the increased use of psychoactive substances that were not controlled under the MDA.

The [Psychoactive Substances Act](#) introduced a blanket ban on the production, supply, possession with the intent to supply, and import and export, of psychoactive substances. Simple possession is not an offence under the Bill, except in custodial institutions. The specific offence included in the 2016 Act reflected increasing concerns about the use and harms of these substances in prisons and young offender institutions.

⁸³ Cm 9350, November 2016, p47

⁸⁴ Ibid, p48

⁸⁵ This section is provided by Sarah Barber

⁸⁶ Ministry of Justice, [Prison Safety and Reform](#), Cm 9350, November 2016

Clause 22 uses the same definition for psychoactive substances as that provided within the 2016 Act.⁸⁷ It also makes consequential amendments to a number of other pieces of legislation, to replace the current list of substances with the generic term ‘psychoactive substance’.

In response to a Parliamentary Question in November 2016, the Parliamentary Under-Secretary of State for Justice echoed the Prisons and Probation Ombudsman’s view that “the emergence of psychoactive substances in prisons has been a game-changer”, and outlined the ongoing actions to tackle these:

The emergence of psychoactive substances in our prisons has been a game changer. We take a zero tolerance approach drugs in prisons. In response to the growing use of dangerous psychoactive substances, we have developed innovative new drug testing, trained over 300 drug detection dogs to specifically detect psychoactive substances and introduced new legislation, which makes it a criminal offence to possess any psychoactive substance in a custodial institution.

An important tool in assessing the use of drugs in prisons is via Random Mandatory Drug Testing (MDT). We introduced innovative testing for psychoactive substances as part of MDT in September this year. Data on use of psychoactive substances will be published alongside data for other drugs as part of official statistics next year.⁸⁸

More information on psychoactive substance use in prisons is provided in the November 2016 Commons library briefing paper, [Commons Library analysis: Safety in prisons in England and Wales](#).

⁸⁷ In this Act “psychoactive substance” means any substance which—
(a) is capable of producing a psychoactive effect in a person who consumes it, and
(b) is not an exempted substance (see section 3).
(2) For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state; and references to a substance’s psychoactive effects are to be read accordingly.
(3) For the purposes of this Act a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person’s body in any way.

⁸⁸ [HC Written Question 54880, Prisons: Drugs, 29 November 2016](#)

5. Commentary

The Prison Reform Trust (PRT) has produced a detailed briefing on the Bill, which said there were “important and welcome provisions” but also areas where it fell short:

The published Bill falls well short of the comprehensive penal code that many comparable democracies would consider both necessary and uncontroversial. It is also silent on the most pressing issue facing our prisons – that of sentence inflation and the resulting pressures of overcrowding which cripple the ability of the system to provide safe, decent and constructive regimes focussed on rehabilitation. Without provision on sentencing, the Bill is also unable to address the injustice faced by thousands of people in prison serving indeterminate sentences of public protection (IPPs), some held years beyond the expiry of their original tariff date. Despite these flaws, the Bill does contain important and welcome provisions which open the way to a more secure legislative base for the way of life our prisons deliver, and a stronger oversight of that delivery by parliament. In our view there are several areas in which the Bill must be strengthened to be effective in the long term.⁸⁹

The PRT welcomes a statutory purpose, but says it should include the “provision of an environment which is both decent and fair” as the Woolf report into the Strangeways riots had recommended. It calls for the Prison Rules 1999 to be overhauled to ensure they fulfil international instruments to which the UK is signed up. The independence of HMIP and the PPO should be bolstered by having the Chief Inspector and the Ombudsman appointed by the Justice Committee. The Justice Committee has more than once recommended that the Chief Inspector of Prisons should report directly to Parliament.⁹⁰

The Prison Governors Association “welcomes the investment the Justice Secretary is making in prisons” but has serious concerns:

The volume and rate of the changes being introduced are a cause of serious concern to prison governors. Governors are being asked to sign up to agreements, which will become effective in just five weeks, with insufficient detail on what they will be held to account for. The risk is that the prison reform bill will become the prison blame bill – a mechanism by which Governors are criticised or removed from post for matters beyond their control. Assurances have been provided by the Justice Secretary that this will not happen but these assurances lack satisfactory detail. Prisons have had 500 prison governors and 7,000 officers stripped out in the last five years whilst the population has remained stubbornly high. A commitment to recruit 2,500 officers is welcomed but they are not in place now, and this is still

⁸⁹ [Prison Reform Trust briefing on the Prisons and Courts Bill](#), March 2017

⁹⁰ See for example Justice Committee, [Prison Planning and Policies](#), 4 March 2015, HC 309 2014-15, para 162

significantly less than the number already lost. Also, there are no plans to replace the governors which have been lost during the same period. Consequently, the previous advice the PGA gave to our members not to sign the agreements until further discussions can take place still stands.

The government's inflexibility with regards to introducing league tables is also a concern. Despite warnings that they will not achieve anything other than to risk demoralising staff and of unfairly judging the senior management team the government is still going ahead.⁹¹

The authors of the RSA's Future Prisons report say the Bill signifies "a historical shift in thinking"; they also argue for HMCIP to be appointed independently:⁹²

The [RSA has long argued](#) that putting a commitment to rehabilitation at the core of our prison system – on top of tackling over population and under resourcing – is the best way to tackle risk, reduce reoffending and protect community safety. By including a statutory duty in the Bill, the Lord Chancellor and Secretary of State for Justice, Liz Truss, has accepted the need for a fundamental shift in thinking about what prisons are for. While the precise impact of this will not be known for some time, as we have argued, such a focus should drive progress from how governors run their establishments, to how staff are trained and – ultimately – whether prisons become places where people can progress.

However stark things are, the new duty, alongside greater freedoms for governors and a stronger role for the prisons [inspectorate and ombudsman](#) should be welcomed. The latter raises an interesting question; if the Secretary of State now has a statutory duty to support rehabilitation, with the prisons inspectorate charged with assessing this, then surely there is a logical and ethical argument for Her Majesty's Chief Inspector of Prisons to be appointed independently?

NACRO, a "national social justice charity" which works with offenders commented just before the Bill's publication:⁹³

Nacro believes this Bill presents a real opportunity for government to undertake a fundamental review of the criminal records regime, which is outdated, complex and can cause unnecessary barriers for people trying to secure jobs. Time and time again, Nacro staff have seen offenders living in our supported housing accommodation, or those we have helped to secure jobs, turn their back on a life of crime after being given a real chance to do better. We look forward to increased partnership working between government and the voluntary

⁹¹ PGA, [Press Release - Prisons Bill](#), 23 February 2017

⁹² Rachel O'Brien and Jack Robson, [The Prisons and Courts Bill creates a duty for prisons to reform](#), RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce), 23 February 2017

⁹³ NACRO, [Nacro comments on Prison and Courts Reform Bill](#), 23 February 2017

sector going to forward to tackle high reoffending rates across the country and give offenders a fresh start.”

A social care and health charity, *Change, Grow, Live*, welcomed the Secretary of State’s duty to report to Parliament on progress on rehabilitation but had concerns:

We have concerns that this reform announcement will not be backed up by sufficient investment, to ensure the correct number of prison staff to create a safe environment that prisoners can participate in a range of high quality and effective rehabilitative programmes around substance misuse, education, training and employment.

Prisons and imprisonment should be used in those circumstances to protect the public, and/or where no other community sentence is justified, but we fundamentally believe that the prison population is too high and that any review of the system needs to be seen alongside a review of community sentences and sentencing guidelines.

We recognise that the use of mobile phones within the prison estate can have negative security implications, but we do believe this could be better managed by ensuring there is wider access to telephones within prisons, to enable prisoners to maintain contact with friends and families.⁹⁴

Labour’s Shadow Justice Minister Yasmin Qureshi in a press release on 11 March 2017 said there was nothing in the Bill to deal with suicide or self-harm in prison:

“Prison suicides in 2016 were at the highest level ever recorded. Incidents of self-harm are also on the increase. This is hardly surprising given that the psychiatrists who work in prisons feel unable to do their job. Poor mental health, combined with a lack of prison staff, is endangering inmates, officers, and healthcare professionals. Friday’s fire at Guys Marsh attests to the acute nature of the crisis.

“The Justice Secretary must recognise that there is nothing in the Prisons and Courts Bill to deal with this worsening situation. We need concrete measures now to improve mental health and restore safety in our prisons.”⁹⁵

The Justice Committee is conducting an inquiry into prison reform, and is collecting relevant written and oral evidence on its [inquiry page](#).

⁹⁴ Change, Grow, Live, [CGL’s response to the Prisons and Courts Bill](#), 23 February 2017

⁹⁵ Labour press release, [We need concrete measures now to improve mental health and restore safety in our prisons - Yasmin Qureshi](#), 11 March 2017

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