

# **TRANSFORMING REHABILITATION**

## **RESPONSE TO CONSULTATION**

### **HM Inspectorate of Prisons**

#### **Summary**

- HMI Prisons independently inspects prisons and other forms of custody and England and Wales. Our response to the consultation is based on that inspection evidence.
- Overall, we welcome proposals to improve rehabilitation and meet the needs of short term prisoners. However, we are concerned that the proposals do not give sufficient attention to the role prisons play in this process or the role rehabilitation plays in contributing to the safety and decency of prisons. Evidence from previous pilots and other good practice should inform the development of these proposals. The needs of remand prisoners should be addressed. The needs of prisoners that differ from the majority population should not be neglected. **[QC19]**
- Specifically:
  - the design of Contract Package Areas must address the issue of offenders who do not live in the same area as the prison from which they were released **[QC1/C5]**;
  - arrangements must be in place to manage the dynamic nature of risk assessments which may change rapidly and ensure the probation service receives the information necessary to carry out its remaining statutory functions for all prisoners. It will be important to clarify how offender management functions will be consistently carried out in prison in the new arrangements and how this will be co-ordinated with community provision **[QC4]**;
  - the work of the VCS should be supported; families are often a key source of support for prisoners after release and the VCS plays an important, but difficult to measure, role in maintaining positive family relationships **[QC9]**;
  - the work that prisons must continue to do to support rehabilitation should be supported and integrated with the services of the contract provider. The needs of medium risk prisoners serving sentences of longer than one year must be met **[QC13]**;
  - Some functions must only be provided by properly trained and accredited staff. Staff working for all providers should have a duty of candour and whistleblowers should be protected **[QC15]**;
  - The probation inspectorate will have an important role to play in quality assuring any new system and their role in prison inspections should be maintained. Arrangements for contract provider's work in prisons should specify the unfettered access of HMI Prisons **[QC16]**;
  - The new arrangements must meet the specific needs of women in line with Baroness Corston's proposals, foreign national prisoners and prisoners who have very complex needs as a result of their mental or physical health or age **[QC17]**.

## **HM Inspectorate of Prisons**

1. HM Inspectorate of Prisons for England and Wales (HMI Prisons) is an independent inspectorate whose duties are primarily set out in section 5A of the Prison Act 1952. HMI Prisons has a statutory duty to report on conditions for and treatment of those in prisons, young offender institutions and immigration detention facilities. HMI Prisons also inspects court custody; police custody and customs custody jointly with HM Inspectorate of Constabulary (HMIC); and secure training centres (jointly with Ofsted). HMI Prisons inspects some establishments by invitation, including the Military Corrective Training Centre in Colchester and prisons in other jurisdictions such as Northern Ireland, the Isle of Man and the Channel Islands. Prison inspections are led by HMI Prisons but include colleagues from HMI Probation, Ofsted and the CQC who inspect functions within their respective remits.
2. HMI Prisons is one of the organisations that deliver the UK government's obligations arising from its status as a party to the UN Optional Protocol to the Convention Against Torture. OPCAT requires state parties to implement a system of independent, preventative inspection of all place of detention.
3. All inspections are carried out against independent criteria known as Expectations. Against these Expectations, we make judgements based on the triangulation of multiple evidence sources including the prisoner survey, prisoner focus groups, discussions with staff, documentation and inspectors' own observations. At the conclusion of each inspection, an overall is made about how an establishment is performing against each of the four healthy prison tests: *Safety, Respect, Purposeful Activity and Resettlement*. Under resettlement we assess whether 'Prisoners are prepared for their release into the community and effectively helped to reduce the likelihood of reoffending'. HMI Prisons also carries out thematic inspections of cross-cutting issues both singly and jointly with other inspectorates.
4. This response is based on findings from individual establishment and thematic inspections and so focuses on work that is done to rehabilitate prisoners while they are in prison and how that links to work that is done in the community after their release. We do not address community, organisational or payment issues that are outside our remit.
5. The response begins by making some general comments and then addresses some specific consultation questions. We would welcome an opportunity to discuss the issues we set out in this response in more detail

## **Question C19 – Further comments**

6. The Chief Inspector welcomes the government's intention to transform the rehabilitation of offenders. In particular, the consultation paper acknowledges the difficult histories and characteristics of many prisoners which are born out by our own inspection findings. Our inspections have also consistently identified the lack of support for short-sentenced prisoners. The focus on outcomes mirrors our own inspection approach. We are pleased to see that the important contribution the VCS – particularly small organisations – can make is recognised in principle.
7. However, we are concerned that the proposals seriously underestimate the vital role that prisons themselves should play in the rehabilitation process. In Section 3 for example, the consultation paper seems to imply that the rehabilitation process is an entirely community-based function and that the custodial part of a sentence is solely to provide the punishment element of a sentence.

8. Our inspection findings identify great variation in how prisons address rehabilitation and resettlement. Nevertheless, in our experience, prison governors will try to respond at a local level to what they understand national priorities to be. We believe the improved resettlement outcomes in 2011/12 that we describe in our Annual Report for that year, are in part a reflection of that. However, governors have competing priorities and if it is implied that a prison's role in rehabilitation has reduced in importance, governors may reorder their priorities accordingly.
9. In the most successful prisons, rehabilitation or resettlement is part of a whole prison approach. It may be led by specialist functions but is reinforced by residential and other discipline staff and underpinned by work, education or training activities. Effective resettlement work is in turn an important incentive for prisoners to behave appropriately and contributes to the safety and decency in prison. A safe and decent prison in turn again makes it easier for resettlement work to take place. Reducing a prison's role in resettlement and rehabilitation work would therefore not only make it more likely that prisoners would reoffend but would also detract from the safety and dignity in which they are held.
10. The best example of this approach we have seen during our recent inspections was at HMP Leeds in January this year. The report is not yet published but we assessed outcomes as being good in resettlement and respect and reasonably good in safety and purposeful activity – exceptionally positive assessments for an inner city, Victorian local prison. We are therefore very disappointed that the PBR pilots at HMP Leeds and HMP Highdown have been halted and urge that further consideration is given to how the pilots can continue and or at least how the experience of these prisons can inform the development of the national system. Our inspection of HMP Forest Bank in October 2012 (to be published 6 March 2012) found that the integration of offender management across the prison and community was impressive and recommended that it was evaluated. The experience of Forest Bank should inform the development of new arrangements.
11. The proposals do not address the needs of remand prisoners who comprise 15% of the prison population and if released, are by definition, short term. Our thematic report in 2012 recognised that many remand prisoners had similar characteristics to sentenced prisoners but received much less support. We found that half of all remand prisoners had been in prison on two or more previous occasions. In 2010, 42% of remand prisoners were released from prison immediately following a period of remand, either as a consequence of not being proceeded against, being acquitted or receiving a non-custodial sentence. Remand prisoners received less effective practical support than sentenced prisoners, partly as a result of the unpredictable length of their stay in prisons. For those who had offended before and were at risk of offending again, this lack of support increased that risk. Resettlement services should be available to remand prisoners on the basis of need, on an equitable basis with sentenced prisoners.
12. We address below some specific issues about how what happens in prisons should be 'joined up' to what happens in the community.
13. A repeated finding from our prison inspections is how the needs of minority groups of prisoners whose needs differ from the majority population are frequently missed. We have set out below some specific issues relating to remand prisoners, women prisoners, foreign national prisoners and prisoners with complex needs or protected characteristics.

### **Question C1 and C5 – Contract Package Area boundaries/through the gate provision for prisoners from dispersed areas**

14. The proposals recognise that prisoners will often be held at prisons that are outside the immediate area to which they will be released. This is a significant problem. It is particularly true of prisoners whose homes are in London but also applies to many other locations. During our inspection of HMP Liverpool in December 2011 for example, we found a significant number of prisoners who had been transferred to Liverpool from HMP Birmingham, often at short notice. HMP Liverpool struggled to meet their needs. We understand that future plans involve attempting to structure the prison estate on a more clearly defined regional basis than at present. This depends on maintaining sufficient 'headroom' in prisons to move and locate prisoners to the most appropriate local prison. We are aware this has been attempted in the past with limited success and this strategy is dependent on population pressures. Even if there is improvement, there will continue to be a significant number of prisoners who are released from prisons outside their home areas. Other prisoners will legitimately want to move to a new area after release to make a fresh start. Some prisoners will need to move after release for family, employment or accommodation reasons.
15. It is therefore essential that contract providers are required to provide rehabilitation and resettlement services to all prisoners in a prison in their area and that they take responsibility for released prisoners moving to their area from another location.

### **Question C4 – Specification of public sector oversight arrangements**

16. Others will have commented on the dynamic nature of any risk assessment. HMI Probation carried out research which showed that 80% of serious further offences were committed by those assessed as low and medium risk. Prison inspections also find that a prisoner's risk of harm may change rapidly.
17. It will be important that adequate controls are in place to ensure that contract providers notify the probation service of any issue that might change an offender's risk assessment and that the probation service has the information it needs from contract providers to fulfil its remaining statutory functions, such as court reports, for all offenders.
18. It is not clear what role the probation services will have in the offender management function in prisons. Typically, probation officers act as offender supervisors for high risk cases and on public protection issues, liaising with an offender manager in the community. Prison staff act as offender supervisors for other cases and take on other roles. The second report on offender management in prisons that we published jointly with HMI Probation in July 2012 found inconsistent performance in relation to the completion of risk assessment, sentence planning, access to programmes and access to resettlement pathways. It is not clear whether the proposals envisage these functions still being carried out by probation and prison staff in prison or whether they will be carried out by contract providers. It will be important to ensure these functions are consistently carried out, quality assured and co-ordinated effectively.

### **Question C9 – Voluntary and Community Sector**

19. We welcome the recognition the proposals give to the valuable role the voluntary and community sector can play in the rehabilitation process. Inspections frequently acknowledge the value of the work done by small, local organisation and funding arrangements should support this. Others will be better placed to comment in detail on what they should be.

20. We think it is particularly important that the role the VCS plays in supporting families is recognised. Families may be the victim of the offender and may also be disadvantaged by any penalty imposed on the offender. However, families can also play a crucial role in rehabilitation – providing accommodation, employment and support. Work to support the maintenance of positive family relationships might be seen as a ‘soft’ rehabilitation activity whose effects are difficult to measure but in our view it has long term benefit and should be supported.

### **Question C13 – Integrating into existing structures and provision**

21. We address here how these new arrangements will integrate into the existing arrangements within prisons.
22. Prisons cannot avoid their own responsibilities for rehabilitation. Much work in prisons – personal officers, purposeful activity, visits – contributes to rehabilitation outcomes and in some prisons, such as HMP Leeds, the inputs are more extensive. However, if a community provider is paid for the outcomes of that work it is not clear whether that will reduce the funding that is available for the prison’s work. There is also a risk that the emphasis on community provision is understood to de-prioritise rehabilitation work in prison. In the most successful prisons rehabilitation is seen as a whole prison activity. It will be important that any new arrangements do not reduce rehabilitation activity in prisons and provide incentives for governors to see – and manage it – as a whole prison priority.
23. HMP Peterborough was the site of one of the first PBR pilots. When we inspected in by 2011 we noted that although very good work was being done, it appeared to be ‘hosted’ by the prison rather than an integral part of the prison’s activities. There was little planning to meet the needs of men not included in the pilot. There is a danger in the proposals set out that medium, risk prisoners serving sentences of over 12 months will become a lower priority for rehabilitation activities.

### **Question C15 – Professional standards**

24. We support the view that some functions must continue to be provided by properly trained and accredited staff – whether from a contracted provider or the Probation Service.
25. It is important that there is no suggestion that data is manipulated or that offenders who pose a high risk are not being appropriately managed. We think it is important that all working in this field should have a professional duty of candour and that there should be adequate protection for whistleblowers.

### **Question C16 – Role of probation inspectorate**

26. With a range of providers, independent scrutiny will be very important. The probation inspectorate will play a crucial role in ensuring that providers do not ‘cream’ clients, work is quality assured and outcome data is reliable.
27. The distinct but complementary role that the probation inspectorate plays in prison inspections should be maintained.
28. Arrangements should specify the unfettered access of HMI Prisons to prisoners, records and staff as part of the prison inspection process.

**Question 17 – Outcomes for female offenders and others with complex needs or protected characteristics**

29. Our inspection findings support the analysis of Baroness Corston's review of women with particular vulnerabilities in the criminal justice system. We think many of her recommendations are relevant to the proposals set out in the consultation paper.
30. The needs of women prisoners are different to men but because they only make up 5% of the population, their specific needs are sometimes overlooked.
31. There is a particular danger with these proposals that because there are fewer women's prisons, women may be held further away from home than men and so may be disadvantaged by a system based on area delivery.
32. We think the new arrangements create an opportunity to encourage providers to propose the sort of small, local women's centres that Baroness Corston recommends that would provide an alternative to custody and reduce the likelihood of re-offending by meeting women offenders' specific needs.
33. It is important that any new arrangement meets the needs of foreign national prisoners. Inspections find that resettlement services for foreign national prisoners are often poor – this appears to be based on the assumption they will be returned home after their sentence. However, this often does not happen and foreign national prisoners are released back into the community without the interventions and support necessary to reduce the likelihood they will reoffend.
34. As the consultation paper recognises, a significant proportion of prisoners have mental health problems. The proportion of older prisoners and those with disabilities is growing. In our view, those with very complex needs of this type, who are likely to require specialist services and to whom there is a duty of care over and above their offending needs, should be managed by the probation service along with high risk offenders.

**Nick Hardwick**  
**HM Chief Inspector of Prisons**

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