

LETTER FROM THE UK SUMMER 2017

The UK Government has plenty to worry about in its current fragile state after the election. The Brexit negotiations have finally begun and the issues they generate will have to be managed alongside the repercussions of the recent terrorist incidents and the fire at Grenfell House. The scale of these challenges create an obvious risk that the Government may lose focus on dealing with failing and dangerous prisons and weaknesses in community justice. It will be important that the new Justice Secretary David Lidington ensures that this does not happen. Any optimism that he will do so has to be tempered by the recognition that he is the fifth Justice Secretary in the last seven years.

To date each new Secretary of State for Justice has initiated a radical reset of the Department's approach to prison and probation policy. This has required the expenditure of much management time and effort both to restructure and to develop fresh policies. Since 2010 none of these major initiatives has lasted for long enough to deliver the hoped for benefits. All this nugatory work has taken place during the period of austerity in Government spending, which required real terms savings in the prisons and probation budget of 21% between the financial year 2009/10 and 2015/16. The prison population throughout this same period has remained broadly unchanged and the supervision of all short term prisoners on their release has added to the work of Probation.

That prisons are in crisis is undeniable. The Ministry of Justice publishes two regular statistical publications. The Safety in Prison statistics provide evidence of the unprecedented extent of the reduction of safety in prison and the National Offender Management Service workforce data indicates the equally unprecedented scale of reductions. There has been a loss of many experienced workers, a dramatic escalation in the resignation rate and a persistent failure to staff prisons to the level required to maintain safety and decency. All informed observers including HMCIP and the Justice Committee of the House of Commons have linked the reductions to the increased levels of suicide, murder and assault in prison. The Government belatedly recognised the link when at the end of 2016 it announced an extra £104 million for the recruitment of 2,500 additional prison staff. This partially reversed the 7000 reduction in prison staff that had been made between 2010 and 2016.

It is also becoming clear that there is a crisis in the delivery of community supervision and sentences. Recent reports from the Probation Inspectorate indicate that there are serious failures in the quality and reliability of these services and that this is having an adverse effect on public safety.

In 2015 the Government reorganised local Probation Services to create regional Community Rehabilitation Companies (CRCs) undertaking all the medium and low risk work with offenders, and a National Probation Service providing reports to court and undertaking all work with high risk offenders. This reorganisation appears to have precipitated the deterioration in the quality of work. It was accompanied by the introduction of statutory compulsory supervision for short term prisoners (prisoners sentenced to under twelve months). The additional workload was to be resourced through efficiencies achieved by the creation of a single National Probation Service and competitive tendering for the CRC contracts. The Thematic Inspection of Through the Gate Resettlement Service for Prisoners Serving 12 Months or Under conducted jointly by the Probation and Prison Inspectorates was published this June and sets out starkly how little is actually being achieved with this group of offenders. The Chief Inspectors' damning judgement is "if these services were removed tomorrow the impact on the resettlement of prisoners would be negligible".

The decision by the Ministry of Justice immediately before the election to provide substantial additional funding to the CRC Companies suggests that the Government believes that inadequate resourcing of this reorganisation may have been a major contributor to the weaknesses in performance identified by the Inspectorates.

The most recent data on Safety in Prisons (Safety in Custody Statistics Bulletin published in April 2017) provides detailed statistics covering the twelve month period up to December 2016. Analysis shows that the rate of self inflicted deaths has more than doubled since 2013, self harm has reached a record level of 40,161, up 7,848 on the previous twelve month period, and assaults in the same period had reached a record high of 26,022 (of which 6,844 were on staff), up 5,504 on the previous year. This is a 26% rise on the previous year with the risk of serious assault on staff having tripled since 2012. This said, there are a few more

encouraging straws in the wind that suggest the escalation in these figures has reached its peak. Data for the last quarter shows a slight decline in both staff assaults and prisoner assaults compared to the previous quarter.

The most recent statistics on prison staffing (National Offender Management Service Workforce Statistics bulletin 18th May 2017) cover the period up to the 31st of March. They show that in spite of a determined effort to recruit new prison officers, the overall number increased by just 75 over the previous twelve months. On average prisons were 4.8% short of front line prison officers. The shortfall is measured against benchmark levels that were designed to provide each prison with a level of staff sufficient to deliver safety, decency and security – although many Governors feel that these prison benchmarks were set too low. Even so, in nearly three quarters of prisons the benchmark level has not been met. Nearly a quarter of prisons are more than 10% short of staff. Prisons in London and the South East where the local economy is buoyant are finding it a particularly difficult to recruit and retain prison officers at current rates of pay, which have been substantially reduced in real terms since 2010 with pay growth being restrained by Government policy.

The leaving rate for prison officers, which in 2015/16 was already at an all time high, has risen further to 9.4%. Experienced people have been replaced by newly recruited staff on cheaper terms and conditions. This may have reduced costs but it means that an unprecedentedly high proportion of prison officers (24%) are inexperienced and in their first two years of service. There is also a 12% shortfall in support staff who are likewise proving difficult to recruit at existing pay rates. This matters because the shortage cannot be entirely addressed by overtime working and often has to be covered from the depleted numbers of prison officers. There is some good news in that much effort is now going into recruitment and the number of newly joined officers (1132) in the first quarter of 2017 was the highest ever.

Against this backdrop, the most hard pressed prisons are hitting a downward spiral. Insufficient staff, too high a proportion of inexperienced staff and a tripling in the serious assaults on staff mean that those on duty are increasingly reluctant to confront and deal with misbehavior by prisoners. When inmates are seen to get away with being aggressive and disruptive it makes life difficult not only for staff but also for those prisoners who want to keep safe and make positive use of their time inside. As a consequence good staff have increasingly looked for alternative employment opportunities elsewhere that are safer, and prisoners feel more distressed and frightened, increasing the risk of suicide and self harm.

It is not clear how Ministers and Senior Managers of HM Prison and Probation Service can reconcile their duties under the Health and Safety at Work Act 1974 with either the rise in assaults on staff and prisoners with all the consequent physical and emotional injuries, or the increased death toll from suicide, both of which are the result of prolonged failure to achieve safe staffing levels. Prosecution of individual managers must be a real possibility if the Health and Safety at Work Executive decide to investigate some of these cases.

The problems created by weaknesses in the performance of Probation and CRCs are real, though less immediately visible than those in prison. Offenders are not being supervised as originally envisaged, with most effort going into mechanistic achievement of bureaucratic targets rather than providing effective support and interventions that are more likely to reduce the risk of reoffending. There is a real risk that this overstretched system will fail to spot the signs that an offender presents such a big risk to public safety that urgent and effective action is required. Any high profile failure of this nature would rightly be a public scandal and probably explains why Ministers have decided to put additional money into the CRCs. It is too early to judge whether enough has been invested to mitigate the obvious risks that have resulted from the chaos unleashed by the reorganisation.

The latest data on the Criminal Justice system (Criminal Justice Statistics quarterly 18/5/17) highlights that crime and criminal prosecutions have been falling and are now at the lowest level ever (time period 1970-2016). However there has not been a consequent reduction in the prison population because the proportion of serious offenders receiving custodial sentences has increased by a quarter since 2010 and the average sentence length has also increased by a similar amount since 2007. These increases are a result of statutory changes to the sentencing framework and a tightening up of sentencing guidelines by the Sentencing Council. While reversing them may seem a logical response in order to reduce the size of the prison

population to a level the Government can afford, it would be politically very difficult to deliver. However continuing to run a dangerous prison system is equally politically unsustainable.

This is the toxic mix of problems the new Secretary of State David Lidington has inherited. He will have to manage these problems against a further planned reduction in the MOJ budget. It should be obvious that there is little if any scope for further savings in either prison or probation. If budget reductions are required they can only be achieved safely if the workload is reduced. Previous Secretaries of State have kicked the ball down the road behind a smokescreen of disruptive reorganizations: we can only hope that David Lidington is made of sterner stuff.

If it becomes clear that he is allowing experienced senior prison and probation managers to get on with the difficult job of managing this pressurised system without second guessing them this will provide grounds for optimism. It would mark a change to the approach taken by the last two Ministers of Justice who have appeared reluctant to accept the advice coming from this quarter, choosing instead either to think they already knew all the right answers or to rely heavily on advice from senior civil servants with no operational experience. David Lidington must ensure he sets an affordable and realistic strategy to undo the damage described above if he is to make prisons safe and decent, properly protect the public and reduce reoffending.

There will be no quick fixes. It will take persistent hard work to sort out the mess that reckless cost cutting and a proliferation of ill thought through political initiatives have created.

PHIL WHEATLEY

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