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Letter from the UK (#4) by Phil Wheatley

It is timely to review the assessment I made in my letter last year (#3 Feb'14), to take stock of the situation ahead of May's UK General Election and to make some predictions for the future.

I forecast that the big issues for English and Welsh prisons in 2014 would be the impact of a higher than expected prison population on a very constrained budget. This has proved remarkably accurate. The prison population at the end of February 2015 was over 85,540 and 1,400 higher than the central variant of the Ministry of Justice's predictions published in November 2013. Those projections of prison population are particularly important because the central trajectory was used as the planning assumption to inform the internal split of financial cuts within the Ministry of Justice. These cuts were the consequence of the 2013 Spending Review, which set the allocation of Government funding until the election.

Updated projections issued in November 2014 confirm that this much higher prison population is now expected to be a sustained increase. This means that the policy option of closing yet more small and inefficient prisons in order to live within the available funding has been limited by the need to house additional prisoners. The additional numbers above the 2013 central projection to be accommodated are equivalent to the population of a large prison the size of Pentonville (which has an operational capacity of 1,310 prisoners).

The budget reduction for prisons of nearly 25% in inflation-adjusted terms between 2010/11 and 2014/15 has been achieved by shedding older and better paid staff through a voluntary redundancy scheme, restricting pay rises for existing staff, recruiting new staff on lower pay than previously and also through a radical reduction in management cost by flattening the management structure, reducing the number of managers and reducing pay levels for managers. New and more efficient ways of carrying out prison routines have been centrally imposed on all public sector prisons. As new prison places have been provided in large prisons some of the smaller and older establishments have been closed. These small prisons like Shrewsbury and Gloucester were relatively expensive, though some were high performing.

The firmer central control has also been demonstrated in a revision of the Incentives and Earned Privileges system for prisoners (IEP) which, after being carefully scrutinised and approved by Ministers, has been implemented across the Prison Service thus removing much local discretion. The temporary release powers of Governors (ROTLs) have also been constrained as Ministers responded to a small number of high profile failures of prisoners on temporary release. At the same time responsibility for reducing reoffending for most prisoners approaching release has been moved from prison governors to Community Rehabilitation Companies (CRCs), working in the community and in newly designated resettlement prisons

The strain on staff and their managers of making all these changes within a relatively brief period has been recognised by the parliamentary House of Commons Justice Committee in their report on 'Prisons: planning and policies' issued on the 18th of March. The Committee recognised that the loss of experienced staff at all levels, and their replacement by a smaller number of inexperienced recruits, has proved destabilising at least in the short term. Failure to accurately predict the rate at which staff would leave the Prison Service has resulted in some prisons, particularly in London and the South East, being dangerously short and dependent on a transient group of staff from other prisons working on detached duty to maintain even a basic regime. These problems have also been reported on by the independent inspectorate, Her Majesty's Inspectorate of Prisons, and by pressure groups and informed commentators. It seems that the only people who have consistently rejected this evidence may be the Minister of Justice and his Minister for Prisons. Not only have they rejected the evidence but they have chosen to make access to prisons by the media and pressure groups much more difficult to obtain than before.

The published performance data however demonstrate that the process of achieving budget reductions and introducing other major changes has been accompanied by an increase in serious incidents of disorder, increased violence towards staff and between prisoners as well as a rise in self harm and suicides. It is to the credit of prison managers and prison staff that the rise in violence and suicide has been constrained and that so far there have been no major riots.

There have been major changes in other key services working with offenders. Since I last wrote local Probation Services have been abolished and a new centrally directed National Probation Service has taken over responsibility for advising courts and dealing with breaches of orders and licences, as well as working directly with all high risk offenders.

All other probation work has been moved to the new Community Rehabilitation Companies (CRCs), which are predominately consortia led by the private sector and incentivised on a 'payment by results' basis to reduce reoffending. These new Companies have been given an additional and new area of work, i.e. the task of supervising, for a year after release, all short-term adult offenders serving sentences of less than twelve months. This increase in workload is to be delivered without additional resources, other than the savings made through the competitive process by which the new providers were selected and through the creation of the National Probation Service. The impact of these reductions in budget is now becoming clearer. At least one of the major companies, Sodexo, has already begun consulting on proposals to make redundant a substantial number of the ex-probation staff transferred to them.

The new CRCs will go fully live on the 1st May 2015. Only those sentenced to short-term imprisonment for offences committed after the 1st February are eligible for compulsory supervision so it will be some time even then before the system will reach its full capacity. Towards the end of the year will it become clear whether the new arrangements work in an effective way. It will be even longer before it will be possible to judge if the reformed structure achieves its aim of an increased reduction in reoffending.

The potential for problems as a result of this major reorganisation is substantial. Offenders will be handed over from prisons to CRCs, from the National Probation Service to CRCs (and back again if there is a sufficient rise in their level of risk) and between CRCs when offenders relocate to another area. Each handover provides an opportunity for miscommunication about complicated and potentially risky cases. The fact that many of these organisations are in competition with each other, and some of their staff are currently disenchanted by the process of change and the threat of redundancy, will increase the likelihood of mistakes and miscommunication.

The risk will also be increased by the weaknesses of existing IT systems for probation casework. These systems pre-date the reorganised system and were not designed for the new structure, and even before the reorganisation many Probation Officers reported they were cumbersome to use.

The scale of demand is difficult to predict because sentencers may well regard short-term imprisonment as a more attractive sentence now it is followed by a period of supervision in the community. This may encourage the courts to make more use of custodial sentences. With tight resourcing a feature of the new contracts, any unplanned surge in caseload could easily overwhelm the system and any further increase in prison population would be very difficult to accommodate.

Payment to contractors includes a substantial element of reward for reducing reoffending, which creates an unintended consequence. Charitable funders who have previously resourced innovative work on reducing reoffending are already proving unwilling to fund work which will give an increased profit to the private sector CRCs. Any reduction in charitable funding for work with offenders will therefore reduce resourcing for the most innovative work and is likely to prove damaging in the long term.

A legacy of potential problems thus awaits a new Government after the General Election. While the election may be too close to call it is most unlikely that the same Ministerial team will return to the

Ministry of Justice. Whoever emerges as the new Minister of Justice will probably wish their new job did not come with so many problems and so few resources.

A return to the status quo as it was before all these changes were made, however, will be ruled out by the further tightening of budgets planned by all the major political parties. The Community Rehabilitation Companies have signed contracts and therefore would be entitled to compensation for loss of income over the lifetime of those contracts if they were abolished, which would be prohibitively expensive. Similarly with even less resources it will not be possible to increase prison staffing levels, to reduce prison overcrowding or to reverse the trend to larger multi-purpose prisons.

The only other way of freeing up more resources in order to improve the quality of prison delivery is to make a substantial reduction in the prison population. Effective policies to reduce the population must reduce the length of time that serious and prolific offenders spend in prison. The increase in sentence lengths for this group of offenders has been the main driver of the growing prison population and unless the trend is reversed the prison population will remain at the current high levels. It seems that none of the political parties is prepared to adopt such a controversial approach. Their political judgement has been that a significant reduction in prison population is undeliverable because the electorate are frightened of crime, increasingly keen on tough punishment and unprepared to accept the reality that crime is actually reducing. Instead both Conservative and Labour party politicians have over the last twenty years supported demands for tougher sentencing in the bid to secure votes

My conclusion is depressing. I expect the usual political unwillingness to address the emerging problems until events force action to be taken. When the risks mature, and should a disaster happen, I would be surprised to find the responsible Minister accepting that responsibility and admitting that he or she had been deliberately taking risks. The Chief Executive of the National Offender Management Service would be well advised to keep a solid audit trail of the advice and warnings given to Ministers in order not to be the fall guy should this happen.

Phil Wheatley