Quality employment and quality public services

Quality of employment in prisons

Country report: Britain

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Summary

I. The prison estate, smaller now than in 2010 but with large prisons being planned is still dominated by public sector-run institutions, with the private sector playing a supporting role (2.2). The population has risen by 20% to 85,000, the highest imprisonment level in western Europe (2.3).

II. Work demands and staffing needs depend on the risks involved (2.4) and other prisoner characteristics: prisoners are getting older and sentences longer with violence, drugs and sex playing a big role (2.5). Women make up only a small proportion of the population (2.6).

III. Many prisons are overcrowded, the population is close to capacity and expected to grow (2.7) but the prison workforce has shrunk by over a quarter since 2010, many seasoned officers are leaving the job and while 2,500 posts are being created, 7,000 were cut (2.8).

IV. To increase staffing levels, as the government now intends, the Prison Service needs attractive terms and conditions as well as energetic and effective recruitment processes (2.9). Recruitment is picking up but as it does so the staffing profile is becoming younger and slightly more female (2.10). Private contracted prisons have not been immune to these staffing problems (2.11).

V. Big staffing cuts after 2012 took place under a money-saving “Benchmarking” process which unions agreed as an alternative to privatisation (2.12) but the resulting drop has hit the prisoner-staff ratio, damaging the prison “regime” (2.13).

VI. British prisons use a mix of specialist and generalist roles including staff employed by external contractors (2.15) and directly-employed and non-directly employed workers (NDEs) work side by side (2.16). Healthcare staff (2.17), prison educators (2.18) and facilities management staff (2.19) have their own experience of staff shortages, precarious work and fragmented employment.

VII. The “high road” approach based on principles like rehabilitation, education, work and equality has been severely compromised in recent years: the system may be rehabilitative “on paper” but is failing to live up to that in practice (3.1), forcing ministers to announce spending initiatives (3.2).

VIII. Prison performance is closely monitored but over recent years the trends have been down rather than up (3.3). The performance of the private prisons appears to be as mixed as it is among publicly-run prisons (3.7). Elements of independent scrutiny have played an important role in exposing the decline in safety and working conditions (3.4) as have the trade unions (3.5).

IX. Government reforms are focussing on autonomy for public prisons, but whole-prison contracting out and Private Finance Initiative prisons may be set to increase (3.6). Governor autonomy could have a significant impact on many of the factors influencing job quality (3.8), as will the new Offender Management in Custody model (3.9).

X. Work for the prison service is governed by civil service rules but in practice many prison officers feel out of control (4). As the mainstay of the operational workforce, prison officers fulfil a wide range of roles (4.1), described in detail and job-evaluated, but that is no guarantee of job quality (4.2).

XI. Specialist prison officer roles (4.3) are multiplying with the unfolding of the Offender Management in Custody model (4.4) and HM Prison and Probation Service hopes it will improve recruitment and retention while cutting costs (4.5). However, Operational Support Grades still play an important role (4.6).
XII. Roughly one in four public-sector prison staff are “non-operational”; although not formally part of the main pay-setting arrangement (the pay review body) they are closely aligned (4.7).

XIII. Opportunities for career development seem to have been as limited in the private prisons as they have been in the public sector, but the challenge for employers to engage staff is just as acute (4.8).

XIV. Induction and probation processes, which follow clearly defined rules in the public sector prisons, will be important in current attempts to build up staffing levels (4.9).

XV. Training commitments are formal but apparently not well regarded in practice by most staff (4.10). Provision in private sector prisons is also an area of concern for trade union members (4.11).

XVI. Fitness is one of the requirements in the prison officer recruitment process but continuing requirements to re-pass the test are regarded as unfair (4.12)

XVII. Trade unions are well-organised but prison officers are subject to a legal ban on industrial action, hampering the POA in its attempts to address the problems of the service (5). Members have shown their willingness to take industrial action but were blocked by the courts (5.3). The POA is critical of a lack of binding arbitration (5.4) and restricted facility time (5.5).

XVIII. The general framework of British employment rights is supplemented by much more detailed regulations in British prisons (6.1) but despite that formality the POA describes it as a poor employer (6.2).

XIX. Annual leave has been cut back in line with civil service policy (6.3); parental and related leave entitlements are broadly in line with general statutory provision, but in some respects more flexible (6.4). Considerations of equality are supposed to be factored-in to prison service policies (6.5). The unions were forced to take court action to defend their redundancy terms (6.6).

XX. The consequences of staff cuts can be seen in the inability of some prisons to maintain their “regime” (7.1) and the dire state of some of the prison service physical estate (7.2).

XXI. Prisoner training and work is seen as a key part of the government’s rehabilitation aims (7.3) but drug abuse, self-harming and deaths including suicides are more likely to attract publicity (7.4).

XXII. High job demands and low job control can result in work-related stress for staff (8.1) and inability to manage workload is an apparently common problem (8.2), as is the sense of a lack of support (8.3).

XXIII. Sickness absence levels in the prison service have been falling and improved absence arrangements negotiated but there are clear signs of presenteeism (8.5). Prison staff are not only exposed to drugs but may also be driven to substance or alcohol abuse (8.6).

XXIV. The prison service badly needs to stabilise and reduce staff turnover (8.7) but problems of low morale persist in the public prisons (8.8) and private prisons (8.9).

XXV. It is apparently common for prison staff to find themselves on the receiving end of disciplinary complaints even though that doesn’t seem to be reflected in HMPPS statistics (8.10).

XXVI. There doesn’t seem to be much hard evidence on prison staff holding second jobs (8.11) and while corruption is reported periodically, the “vast majority” of staff are honest professionals (8.12).
XXVII. The decline in prison safety has coincided with staffing cuts – a link that even the Conservative government has accepted, given the graphic increase in violence (9.1) but occupational health services seem to be viewed with scepticism by many staff (9.2).

XXVIII. The long squeeze on public sector pay has been compounded by a divided pay system for HMPPS staff and prison officers (Fair and Sustainable) and a pay setting mechanism (the Prison Service Pay Review Body) that has lost the confidence of the POA (10). It has once again produced a sub-inflation award this year (10.1) which helps explain recent efforts that to secure a negotiated pay deal (10.3).

XXIX. Distinctive and lower-paid F&S grades are still only filled by just over half of the operational workforce, which remains divided (10.4). F&S terms treat locality-based payments differently and differ in other ways from the “closed grades” (10.5).

XXX. Pay pressures forced the government to introduce new market supplements in selected prisons but that has not addressed general pay problems (10.6). Evidence from the private prisons tends to highlight lack of pay/career progression as a bigger concern than actual salary levels (10.10).

XXXI. In 2017 average weekly earnings for a full-time prison officer stood at £551 per week (equivalent to just over £28,652 per year) compared with £662.50 for all full-time employees. Female prison officers on median earnings earn £106.60 gross per week less than men (10.8).

XXXII. Changes to the civil service pension scheme involve an increase in pension age which has been deeply unpopular with the POA and its members – something they are still fighting to change (10.9).

XXXIII. While unions take an active part in consultation and can suggest changes (5.2) rank and file POA members are sceptical about their ability to question management (11). The principle of having a voice, being able to complain effectively, is as important to prisoners as it is to staff (11.1).

XXXIV. Better recognition for prison staff, more funding, less overcrowding, tackling the staffing shortfall/reducing the prisoner-staff ratio, addressing stress and staff worries about going off sick, getting broken things fixed, giving more time for rehabilitative activity, and providing better career paths are some of the issues flagged by those most closely involved (12).

1. Introduction

The aim of this report is to assess the quality of employment in British prisons in 2018, focussing on England and Wales. It remains, predominantly, a public sector service (despite significant contracting-out to private sector employers) in which civil service traditions prevail. The employment and operational framework is highly regulated and trade unions play a strong role (notwithstanding an exceptional legal ban on industrial action by prison officers).

But its public sector status also means that since the economic crisis it has been subject to austerity, pay curbs and big staffing cuts. The culmination of these pressures coincided with a disastrous rise in violence and drug-taking, combining to undermine employment quality in practice. The service has also been the focus of successive government reform plans – adding instability to the equation – and is currently on a trajectory towards greater autonomy for prison governors.
Most of what has happened since the economic crisis has taken place under successive right-of-centre Conservative-led and Conservative governments, whose ministers are now trying to manage a prison crisis that their own policies have contributed to. That reform process was interrupted by the 2017 general election, when draft legislation (the *Prison and Courts Bill*) fell and was not replaced. Nevertheless, most of the Bill’s measures are being taken forward anyway.

The most tangible responses to the prison crisis have been the promise to employ 2,500 more prison officers (after having previously cut 7,000) and selective pay supplements for a minority of staff (after years of capped, below-inflation pay rises). But, with the biggest prison population in western Europe, a lot more would need to be done to reverse what one of the leaders of the Prison Officers Association (POA) recently described as “the rapid decline of a once proud organisation and service”.

### 1.1 Acknowledging the problems

The senior minister responsible for the prison service, and for managing the government’s response to the current crisis, is the Lord Chancellor and Secretary of State for Justice (the Justice Secretary). Between July 2016 and June 2017, that position was filled by Liz Truss who inherited that role just as the system’s problems reached a peak, symbolised by the riot at HMP Birmingham in December 2016 (see section 1.2).

Only a few weeks beforehand, Truss had published her *Prison Safety and Reform White Paper* setting out the latest reform plans. It was prefaced with a quote from social reformer Elizabeth Fry (1819) who branded prisons in England and Wales “nurseries of crime” when they should be “schools of industry and virtue”.

Truss went on to say: “We will never be able to address the issue of re-offending if we do not address the current level of violence and safety issues in our prisons”. It was a conclusion that that could no longer be avoided, given the chorus of concerns being raised, not least by Michael Spurr, Chief Executive of the National Offender Management Service (the government agency responsible for running the prison system, now called HM Prison and Probation Service, HMPPS). Spurr admitted that levels of violence, self-harm and suicide had risen and remained “unacceptably high” with a massive increase in the supply of illicit drugs.

His explanation of the problem was defensive but also revealing: “It is undeniable that the rise has coincided with major changes to regimes and operating arrangements in public sector prisons combined with significant staff reductions which have reduced overall unit costs in line with our 2010 Spending Review commitments. But the rise in violence and self-harm crosses the whole sector (public and private) and affects a wide range of establishments, including those where resources have been maintained or increased through this period”.

HM Chief Inspector of Prisons was far more explicit in his 2016-17 *Annual Report*. He described safety as the basis upon which any other constructive activity in a prison is dependent: “When a person is sent to prison, the state accepts responsibility for their well-being, including their physical and mental health, safety and education. There is clear evidence that for too many prisoners the state is failing in its duty”.

The report, and others like it, painted a shocking picture of what the current crisis in British prisons means for prisoners and – by extension – prison staff (including problems which in many cases were
the subject of earlier un-implemented recommendations, and poor conditions that there is no budget to remedy):

- in the space of a year, the percentage of adult male prisons judged good or reasonably good had slumped from 78% to 49%
- 30% of young adults (aged 18 to 21) being held in adult establishments said they spent less than 2 hours a day out of their cells
- the decline in provision for children and young people was “staggering”, by February 2017 there was not a single establishment inspected in England and Wales in which the Inspector felt it was safe to hold children and young people
- they had seen regimes “where boys take every meal alone in their cell”
- in many prisons the inspector found shower and lavatory facilities that were filthy and dilapidated, but with no credible or affordable plans for refurbishment
- in far too many prisons staff shortages made it impossible to provide a decent, rehabilitative environment
- across the entirety of their inspections, 42% of recommendations on safety from previous inspections had not been achieved

The independent Prisons and Probation Ombudsman reached consistent conclusions in its *Annual Report 2016-17*. It described a prison system “still in crisis”, with self-inflicted deaths in custody up by 11%, other types of death by 23%, and eligible complaints by 9%. The clear upward trend in serious assault incidents since December 2012 was also reflected in the Prison Governors’ Association (PGA) evidence to the Prison Service Pay Review Body. It made a link between that and attendances by the HMPSS National Tactical Response Group, which provides tactical and operational expertise in serious incidents of disorder, with “Tornado”-trained officers: incidents rose steadily from 118 in 2010 to 580 in 2016 while the number of NTRG staff almost doubled from 27 in 2010 to 44 in 2017⁴.

### 1.2 Birmingham and other “incidents”

These pressures have contributed to repeated “incidents” that periodically bring the British prison system to the attention of the media, such as the riot at privately-run HMP Birmingham on 16 December 2016. In a parliamentary statement Truss described how, at 9.15am, 6 prisoners climbed onto the netting, snatched the keys and forced staff to withdraw for their own safety, gaining control of the wing and then another wing.

Mutual aid arrangements allow public and private prisons to support each other but where the incident is serious enough the local response is bolstered by Tornado teams – as it was in Birmingham where 13 teams were deployed. Thirteen hours later they had secured all four wings, with three prisoners taken to hospital, and 380 prisoners subsequently transferred.

This should not have come as a surprise. Birmingham had the highest number of prison assaults on staff in 2015 (164 in that year alone) and its Independent Monitoring Board (IMB) said staff resource constraints gave cause for concern: in particular there was a lack of capacity to run the full prison “regime” (the timetable for when prisoners are locked in their cells or unlocked, for roll-checks and schedules for work, education and association, family visits, exercise, gym access, library etc.)
The managing director for G4S custodial and detention services (the contractor running HMP Birmingham) told MPs that the riot should be viewed against other evidence of a successful transfer from the public to the private sector, where staff had “rediscovered their public sector ethos”.

Pressed by angry MPs, Truss confirmed that G4S would cover the cost of what happened at Birmingham, including the resources employed by the public sector, but added: “We need to be honest that this is a problem across our prison estate—we have seen issues at our private sector prisons and our public sector prisons”.

Birmingham was far from an isolated incident of “concerted indiscipline”. Around that time, there was trouble at HMP Lewes (October 2016,) requiring national response units; 230 prisoners were involved in a disturbance at HMP Bedford (November); 40 prisoners were involved at HMP Moorland (December); and, following the Birmingham riot, in 2017 prisoners took over part of Swaleside, with further disturbances at Featherstone, Winchester, Haverigg and again at Birmingham.

The cost of repairing these establishments – which are also of course the workplaces of prison staff – included over £444,000 at HMP Bedford, £166,000 at HMP & YOI Lewes, and £168,000 at HMP Erlestoke (payments made between 2015 and the start of 2018 to Carillion, one of two private companies contracted to provide Total Facilities Management, before that company’s collapse earlier this year, see Section 2).

1.3 Short-term responses, longer-term reform

In the short term, interventions available to prevent risks like these from escalating range from deploying extra staff on detached duty and overtime to installing CCTV, or making fast improvements to building facilities where damage presents risks. The government said it has resourced two additional national dog teams to support more perimeter patrols (helping to prevent throw-overs and drone operations); increased the number of Tornado-trained staff by 10%, and increased intelligence and dedicated search capability at prison level.

However, the crisis has lent new urgency to what the Prison Officers Association calls the “rhetoric” of reform, a recurring theme since 2010 when Conservative-led governments took over responsibility for the prison service. According to the PGA they inherited a prison service “not perfect by any means, but performance was good, stability was good and self-inflicted deaths, whilst never wanted, were low”. Since then, there has been a succession of twists and turns in policy:

- in 2011 the government promised to end inefficiency and bureaucracy, making prisons places of hard work and training, but with substantial cuts in the Ministry of Justice Budget
- a competition strategy for nine existing prisons (eight in the public sector) was launched but subsequently halted as NOMS became convinced that it could run safe, secure, and decent prisons far more competitively
- the “benchmarking” of all public sector prisons (see Section 2) began, massively reducing cost per prisoner place, with a Voluntary Early Departure Scheme to cut staff. As the President of the PGA put it, “the tap was turned off recruitment and the consequences of this decision is still reverberating in 2017”
- a further wave of reform led to the “Fair and Sustainable” F&S pay structure (see Section 10) with lower starting salaries and job evaluation (reducing the risk of equal pay claims). This, coupled with reform of pensions, made joining the prison service a far less attractive option
• in May 2015 Michael Gove (who took up as Justice Secretary, having previously been the Education Secretary) began testing out his Academy Schools model in prisons: a number of pilot establishments across England were identified and began testing autonomy while the rest of the prison estate continued with austerity
• from July 2016, reform policy took another turn under Liz Truss (see below), who was herself succeeded as Justice Secretary by David Lidington and then by David Gauke (prompting talk of “churn” at the top of the Ministry of Justice).
• By the summer of 2018, Gauke switched the focus to prison population and the need to reduce custodial sentencing.

In terms of job quality the most important practical commitment is probably the promise to appoint 2,500 more Band 3 prison officers by the end of 2018 (the ten most challenging prisons were to receive the first 400: Chelmsford, Eastwood Park, Exeter, Guys Marsh, Leeds, Liverpool, Moorland, Nottingham, Wayland and Winchester).

This 2016 plan is already having an impact on overall numbers (see Section 2), by December 2017 there had been a net increase of 1,970 Band 3 to 5 officers (FTE). However, it falls far short of replacing staff losses and is increasing the young, inexperienced component of the workforce, while deepening the division of the workforce between old, closed grades and those on Fair and Sustainable (F&S) conditions of service (see Section 10).

Another headline-grabbing move, post-Birmingham, was the introduction of market pay supplements of £3,000 or £5,000 at 31 prisons, for new recruits and those on F&S grades. Although it may have alleviated some of the many pressures at these establishments, the Prison Officers Association (POA) said it did nothing to ease the crisis up and down the country and was “yet another divisive decision on pay, outside of any discussion or consultation with either the POA or the Prison Service Pay Review Body”.

However, the current UK Conservative government has a broader agenda of reforms (articulated through the November 2016 White Paper and the Prisons and Courts Bill) which have the potential to affect the quality of employment. They include:

• enshrining in law what prisons should be delivering, holding the Secretary of State to account and giving them a stronger framework to intervene
• giving governors in all prisons more powers and more responsibility for running their prisons and increasing autonomy
• strengthening independent scrutiny and monitoring of prison inspections (the Chief Inspector and Inspectorate of Prisons and the Prisons and Probation Ombudsman)
• attracting new staff from the armed forces, graduates, and a new apprenticeship scheme
• closing the most dilapidated and outdated prisons and investing £1.3 billion in new facilities, including new public sector prisons (like HMP Berwyn) but with new private prisons also on the agenda
• ensuring that from 2020 all prisoners serve their sentences in stable and productive regimes
• introducing a new Offender Management model, where residential officers in public sector prisons have a caseload of 6 prisoners each to support and challenge (private prisons are also expected to offer a model which also provides one-to-one support for each prisoner11).
• improving market rates where needed and utilising recruitment and retention premia
• annual league tables based on new performance measures
• a transparent funding formula to allocate resources based on prisons’ functions
• allowing companies to interfere with wireless signals to stop inmates from illegally contacting the outside world
• providing new powers to test for psycho-active substances so that prisons can respond quickly to new drugs.

Richard Burgon MP (Shadow Justice Secretary) signaled the support of the left of the centre Labour Party for some of these ideas but Labour blames the crisis on the Conservative Government’s cuts agenda and the decision to cut 7,000 frontline prison officers. However, the Bill did not complete its journey through Parliament before the June 2017 General Election and no prison reform legislation was included in government programme (the Queen’s Speech) announced on 21 June 2017.

1.4 Job not yet done
David Liddington, who succeeded Liz Truss as Justice Secretary acknowledged that prisons have been going through a particularly turbulent time and the government needed to create calm and ordered environments for effective rehabilitation. Assurances were given at the parliamentary Justice Committee on 25 October 2017 that the most pressing priorities for reform, such as recruitment, improving safety and security, and empowering governors, could be delivered without legislation, through operational changes.

Looking ahead, the government promised a prison safety strategy and action plan that would include further detail on the Offender Management in Custody model (see section 4) which is key to its vision to improve safety and develop rehabilitative prisons that deliver a supportive environment for offenders.

By July 2018 the state of Britain’s prisons was once again in the headlines as a result of statistics on the continuing rise in knife crime offenses, with television and other media coverage highlighted levels of drug trafficking and abuse. Justice secretary David Gauke admitted that if increases in the prison population continued as they had done in the past “then we will really struggle”.

He argued that, for short sentences prison should be a last resort, while recognising that members of his own Conservative Party may need convincing: “It’s disruptive for the offenders but not in a way that helps them to rehabilitate. And it’s disruptive to prisons, takes huge amounts of officer time dealing with people coming in and out of prison, when that time would be better devoted to rehabilitating those who are in prison for a longer period of time”.

1.5 Social partners
HM Prison Service did not contribute directly to this report on employment quality but, in its 2018/19 submission to the Prison Service Pay Review Body (PSPRB, which makes recommendations to government on pay and conditions for prison staff) its parent Agency (HMPPS) described its plans to reverse staff attrition, maintain operational stability, and provide pay awards for all:

• addressing turnover (which HMPPS says it now has a better understanding of) and retention (including through mentoring arrangements)
• maintaining the divide between staff on Fair and Sustainable terms and the closed grades (although with the aim of getting rid of it eventually)
• increasing basic hours of work and changing payments for working longer hours (HMPPS expects this to save money, improve operational resilience and reduce recruitment and retraining requirements)
• recognising morale problems caused by workers on closed grades being excluded from consolidated pay rises
• implementing the Offender Management in Custody model (OMiC) including “key workers”
• creating new career development opportunities by creating new specialist roles and planned changes to its promotion arrangements
• continuing with operational graduate recruitment and direct-entry senior leadership
• reviewing POELT entry-level training
• maintaining the emphasis on localised market supplements
• localising recruitment processes (eg putting Governors in charge)
• having a stronger focus on diversity in recruitment

Unions in the prison service are well organised and vocal even though their confidence in management is at a low point. The recognised HMPPS trade unions are:

- Prison Officers’ Association (POA)
- Public and Commercial Services union (PCS)
- Prison Governors’ Association (PGA)
- Prospect
- FDA
- Unite
- General and Municipal Boiler Makers (GMB)
- Union of Construction and Allied Technical Trades (UCATT)
- Napo
- UNISON
- GMB/Society of Chief Officers of Probation (GMB/SCOOP)

At the 2018 annual conference of the Prison Officer's Association (POA, the largest of the trade unions in the sector) the HMPPS chief executive was presented with an empty box in which to put all the “broken promises”. Evidence of stress and demoralisation among POA members (see Section 8) was echoed in a survey of private sector prison staff published by the Community trade union and the Howard League for Penal Reform.

The Prison Governors Association (PGA) said good intentions had been thwarted by the employer’s failings and the mood of the membership over pay and reward, and attitudes to their employer “greatly worsened”\(^5\). Prison staff tend to feel disregarded and overlooked by the Government, their employer and the public, with media coverage of their work usually rare - unless there are problems to report.

This lack of trust is reflected in the fact that POA once again this year (2018) declined to submit evidence to the Pay Review Body (as other unions do) and instructed its local officials and members not to engage with the PSPRB during visits to prisons. Within the previous two years its members its
voted more than once to take industrial action, only to be quashed by the courts. Attempts in late 2016 to address a range of problems (including retirement age and the lack of an adequate disputes procedure) through a negotiated three-year deal were voted down by members (see Section 10).

At the time that this report was produced the union was exploring an employment tribunal challenge to 2015 pension scheme changes (which have affected retirement age) and held a successful consultative ballot of Operational Support Grade members for action up to and including a strike over these issues (there are almost 4,500 OSGs, within an operational workforce of just over 26,000, who do not have Prison Officers’ legal status as constables).

1.6 About this report
A considerable amount of research work has been done on the quality of prison life for prisoners (from the Inspectors’ reports to Cambridge University’s Quality of Prison Life survey) but – according to Gail Kinman from Bedfordshire University – much less on the quality of working life for prison staff. This report draws on existing research and other information on employment quality for prison staff, taking into account the current context and the four dimensions of quality: job content, working environment, employment conditions and voice & representation. It covers:

2. The prison system (the prison estate and population, the workforce and staffing levels, and the main roles within the prison workforce)
3. The way the prison service works (ethos, funding constraints, monitoring performance, governor autonomy and contracting out)
4. Prison jobs (work content, training and prison careers, requirements of the job)
5. Industrial relations in the prison sector (the ban on prison officer industrial action, other bargaining groups, disputes)
6. Regulation of prison employment (operational rules, working time and parental leave)
7. Prisoner welfare issues likely to impact on the quality of employment (self-harm and death in prison, healthcare, living conditions)
8. Staff wellbeing (stress, workload, sickness absence, staff turnover)
9. Health and safety (assaults and violence, working conditions, occupational health and safety)
10. Pay and conditions (Prison Service Pay Review Body, Fair and Sustainable, pay additions)
11. Voice in prison (prison officers, instructional officers, prisoner complaints)
12. Views of the social partners (HMPPS, trade unions, other institutions)

2. The prison system
This section covers management of the prison system, the predominantly public prison estate; prisoner numbers, categories, profile and overcrowding; the prison workforce including “Benchmarking” and the prisoner-staff ratio; and how the main tasks are performed.

The structures and regulations that determine how the market of prison services works, how work is organized and how added value is produced in England and Wales are shaped principally by the

The service is run by Her Majesty’s Prison & Probation Service (HMPPS), known until April 2017 as the National Offender Management Service (NOMS) (it is referred to by both names in this report). HMPPS is an Executive Agency of the Ministry of Justice (MoJ), the department responsible for adult and young offender management services for England and Wales. The replacement of NOMS by HMPPS involved a new division of responsibilities with the MoJ (see below).

HMPPS oversees HM Prison Service (HMPS), which runs the public sector prisons. HMPPS also includes the National Probation Service (NPS), the newly-established Youth Custody Service (YCS) for children in custody\(^\text{16}\) and HMPPS headquarters. It manages rehabilitation services and contract-manages private sector prisons, prisoner escort services (PECS) and electronic tagging.

This is the framework within which decisions are taken about how many and what type of prisons are required to operate, the number of staff employed to manage that work (directly employed or contracted out) and the division of the workforce into distinct occupational groups – all factors that have a fundamental impact on the quality of employment.

2.1 Managing prison operations and policy

**Prisons in England and Wales are overseen by HM Prison and Probation Service (re-branded from “NOMS” but with a new division of responsibilities between operations and MoJ policy-making)**

An HMPPS framework document published in April 2017 (when it replaced NOMS) set out the arrangements for the governance, accountability, financing, staffing and operation of the Agency, with the Ministry of Justice implementing a “functional leadership model to join-up and share professional, corporate services across the department”.

The department was to be responsible for setting standards, commissioning frameworks for local delivery (e.g. education or health), agreeing funding formulas or targets, and advising ministers in cases of serious performance failure. HMPPS would be responsible for monitoring and managing performance; and there would be joint responsibility for evaluating and improving the system.

HMPPS operates within the MoJ human resources operating model and people strategy but an HR function remains in the Agency to deliver key business-specific services including employee relations (within the MoJ medium term employee relations strategy), organisation development and change management, HR business partnering to frontline services and operational training.

Some saw the switch from NOMS to HMPPS as essentially a rebranding exercise. Kevin Brandstatter, GMB National Officer for prisons, accused the government “tinkering with the structures” rather than dealing with overcrowding, poor staffing levels and the poor state of repair, etc.: “The rising levels of suicide and violence also impacts on our members as it is often they who have to clean up the mess left as a result of a prisoner hanging him or herself, slashing their wrists or dying from a drug overdose”.

However, the Prison Governors Association had more specific concerns about a “disconnect” between experience on the ground and decisions taken by senior management at the centre, with HMPPS responsible for delivery of operations, but the MoJ in charge of commissioning services,
future policy development, accountability for setting standards and scrutinising performance. The PGA said: “The reform programme gives an opportunity to rectify that, but it must be recognised that there is a problem there to be addressed”.

2.2 The prison estate

The prison estate, smaller now than in 2010 but with large prisons being planned or opened, is still dominated by public sector-run institutions, with the private sector playing a supporting role.

Numbers vary as establishments are opened or closed temporarily or permanently. In April 2018 there were just over 120 institutions (compared with 140 in 2010) including publicly-run prisons (HMP) and youth offender institutions (YOI), 14 contracted prisons (HMP and YOI), HMPPS immigration removal centres and secure training centres (STCs)\(^\text{18}\). The type and locations of all these institutions are set out in the prison map in Appendix 1.

Included in this total are two of the three types of custody for young people\(^\text{19}\) (YOIs and STCs). YOIs are run by the Prison Service and private companies and are for people aged 15 to 21 (people under 18 are held in different buildings). STCs are run by private companies for people aged up to 17 and give 30 hours of education and training a week, following a school day timetable. The third category, Secure children’s homes, are run by local councils for people aged 10 to 14 and also give 30 hours of education and training a week, following a school day timetable.

Under the Transforming Rehabilitation programme (an earlier government reform initiative) the prison estate was realigned to designate a range of prisons as local “resettlement prisons”, so that probation providers who will be working with offenders in the community can work with them before release too.

Part of the government’s current reform programme is a “new for old” plan to replace inefficient prisons with new prisons (such as HMP Berwyn) and put extra house blocks in existing prisons. The government plans to provide up to 10,000 more prison places, but the building and opening of new sites is running ahead of closures\(^\text{20}\): some that were due to be closed and rebuilt by 2020 will now remain open until 2019 including many old and dilapidated facilities.

The parliamentary Justice Committee sees the new-for-old programme as an opportunity to improve the physical infrastructure (thereby improving working conditions) but has expressed concern that it is leading to the creation of large, multi-purpose prisons (eg housing more than 1,200 prisoners) when questions about the relationship between size and effectiveness have not been addressed.

2.3 Prison population

The prison population has risen by 20% to around 85,000, leaving England and Wales with the highest imprisonment level in western Europe.

In December 2017 the population in 117 prisons (public and private sector) was 84,399 with a further 347 in publicly-operated Immigration Removal Centres taking the total to 84,746. There were just under 10,000 foreign national prisoners (41% originating from the European Union excluding the UK).

It’s the highest imprisonment level in western Europe, according to Council of Europe Annual Penal Statistics (for 2018 the E&W figure of 84,373 compared with 73,822 in Poland, 68,974 in France and
57,608 in Italy; Turkey had 232,886). However, although international comparisons of the prison population rate (prisoners per 100,000 inhabitants) can be problematic, the overall rate for England and Wales (146.4, 2016 figure) is by no means the highest, although it is above the median among Council of Europe member states (117.1).

Prisoner turnover (and the work associated with inducting and releasing prisoners) is considerable. During one recent three-month period 21,732 offenders were received into custody (11,202 remand first receptions, 10,486 sentenced first receptions and 44 civil noncriminal first receptions). In 2015 as a whole there were 113,798 total entries to the penal system in England and Wales, equivalent to 197.3 per 100,000 inhabitants, compared with a European median of 167.3 (2016 SPACE I report).

The overall size of the prison population reflects conscious political and policy choices, the Justice Committee says, and could be controlled without interfering with sentencing decisions (e.g. by making it easier to achieve release or having readily available community services). British prisons have been described as full to bursting, and the Prison Governors Association urges the government to “be brave” on this issue and not worry about votes. However the current Prisons Minister, Rory Stewart has publicly doubted whether there is the will among the public and the will in parliament to take the measures to reduce that population.

2.4 Categorising risk
Work demands in the prison system depend on the risks involved, as well as prisoner numbers, which can have a bearing on staffing needs and job quality.

Prisoners are categorised using the Offender Assessment System (OASys). They range from Category A (prisoners deemed to pose the most threat to the public, the police or national security) to Category D prisoners (who can be trusted in open conditions). Most prisoners are either held in male local prisons or male Category C prisons. Un-sentenced prisoners, or those on remand awaiting trial, are generally in category B accommodation. The risk categories are potentially important for job quality because of the job implications (the POA has in the past warned against prison closures because of the changing risk profile).

2.5 Prisoner profile
Prisoners are getting older and sentences longer with violence, drugs and sex playing a big role.

The proportion of prisoners aged under 21 decreased from 14% in 2007 to 6% in 2017, down by approximately 5,900 (those under 18 are the responsibility of the Youth Custody Service). The proportion aged between 21 and 29 also fell, from 34% in 2012 to 30% in September 2017.

The proportion of 30-39 year olds remained relatively stable (around 30%) but the over-50s increased from 9% in 2007 to 16% in September 2017. The number of inmates aged over 50 is projected to grow from 12,700 to 13,900 by 2020. There is a recognised need for a national strategy for older people in prison (who may be entitled to be assessed and supported under the Care Act).

The increase in older prisoners is driven partly by increases in convictions for historic sex offending. It means prison staff are having to manage not just ageing prisoners and their age-related conditions, but also the end of prisoners’ lives and death itself, potentially with limited training. HM
Chief Inspector of Prisons has reported finding too many examples of prisons shackling the terminally ill – even to the point of death.

The most frequent length of sentence being served (as at the end of December 2016) was a determinate sentence over 4 years although many are admitted for six months or less (the figures have remained relatively stable for over a decade, except for an increase in indeterminate sentences). The Average Custodial Sentence Length (ACSL) was 16.5 months in the year ending June 2017, a 20% rise since June 2010 when it was 13.8 months (HMPPS evidence).

Just under one third (31%) of offenders sentenced for indictable offences in the year to June 2017 had 15 or more previous convictions or cautions, up from 20% in 2010. Violence against the person (VATP) offences currently account for the highest proportion (25%) of prisoners while sexual, theft and drug offences each accounted for approximately 15% (factors driving this pattern include young men with a history of violent offending, drug use and gang membership; anti-social attitudes and poor self-control).

### 2.6 Women in prison

Women make up only a small proportion of the prison population.

The proportion of women in the prison population has fallen from 17% in 1900 to just under 5% (the low point, 2%, was in the late 1960s). This is a much lower level of incarceration than the general involvement of women in the criminal justice system (see chart).

In line with sentencing patterns, women typically serve shorter sentences. Female prisoners have reported feeling better supported in prison, but less safe, and they were more likely to self-harm and self-harm more frequently than men. There are lower rates of assault in female prisons, but a slightly higher proportion of disciplinary incidents relative to the population.

### 2.7 Overcrowding

Many British prisons are overcrowded, the population is close to capacity and expected to grow.

For HMPPS, crowding is measured as the number of prisoners who, at unlock on the last day of the month, are held in a cell, cubicle or room where the number of occupants exceeds the uncrowded capacity of the cell, cubicle or room. This includes the number of prisoners held two to a single cell, three prisoners in a cell designed for one or two and any prisoners held crowded in larger cells or
dormitories. For example, if 12 prisoners occupy a dormitory with an uncrowded capacity of 10, then the 12 prisoners are counted as crowded.

As of Friday 8 July 2018, the prison population (82,882, down slightly from its December 2017 level, see section 2.3) was close to the system’s usable capacity (86,542) and government projections envisage the population growing to 93,000 by 2022. The government has said it would “always have enough” places for those sent by the courts and “will aim to deal with the prison population in a way that gives the taxpayer the best possible value for money” (parliamentary answer 6 March 2017).

HMPPS itself reported that in 2016/17 nearly 21,000 prisoners out of some 85,000 in total were held, by their own definition, in overcrowded conditions. Between April 2016 to March 2017 the proportion in overcrowded accommodation was 24.5% rising in local prisons to over 15,000 of the 31,800 held in such establishments, 48%. The prevalence of crowding based on this measure has remained relatively stable since 2003/04 (24 to 26%).

However, crowding is also assessed by comparing a prison’s Certified Normal Accommodation (CNA) against its actual population, and on that basis the problem appears even more widespread. At 30 June 2017, 65% of prisons (75 out of 116) were operating with crowded conditions. The CNA is supposed to represent a good, decent standard of accommodation and is determined by the Prison Group Director on the basis of operational judgement and experience.

Some of these overcrowded prisons were just over their CNA but in several cases they were over by hundreds, like HMP Wandsworth, which was recently described as one of the most overcrowded prisons in England and Wales: The significance of this for the quality of employment there would be hard to miss, when we also read that at the time (February-March 2018) 36% of the prisoners were receiving psychosocial help for substance misuse problems; 40% said it was easy to get illicit drugs; 450 referrals were made to the mental health team each month; and 42% of the were men were locked in their cells during the working day (partly because there were only enough full-time activity places for around a third of the population).

This is not just a public sector issue. Controllers and Directors of contracted-out prisons must ensure that the approved operational capacity is not normally exceeded other than on an exceptional basis to accommodate pressing operational need.

2.8 Workforce
The prison workforce has shrunk by over a quarter since 2010, with many seasoned officers of 5-20 years’ service leaving the job. 7,000 posts were abolished, 2,500 are being created.

There were 26,423 operational and 10,648 non-operational HMPPS staff (full-time equivalent) in post on 31 March 2018, including around 3,000 HMPPS HQ staff (see Table 1). Total prison staffing increased in 2017 and early 2018 as a result of the Prison Safety and Reform White Paper target of recruiting 2,500 more officers, but that followed a cut of 7,000 full-time prison officer posts (see Chart 1).

By March 2018 the number of prison officers stood at 17,686, compared with a low point of 14,904 two years earlier, a net increase of 2,782. In 2010 there were 19,908 so there is still a shortfall of 2,222 on that basis. However, Operational Support numbers have not increased, the March 2018 figure of 4,495 is still down a little from 4,577 in 2015 and 7,698 in 2010, and it is a similar story for
Supervising Officers, more or less stable at 1,965 compared with 2015 but down from 3,940, although the number of custodial managers has increased.

The Prison Governors’ Association points out that governor numbers have also been cut\(^{14}\). At the end of 2009 there were 1,545 Governor posts, whereas in 2017 it says there were 919 operational manager posts in establishments, of which 845 were “filled by real people”. The operational manager group had been reduced by over 33% and other data indicated that 156 operational manager posts were vacant (15.7%).

The grading structure in the prison service is usually described in terms of the Bands applicable under the Fair and Sustainable pay structure (see Section 10) rather than job title or old closed grades. The operational workforce (uniformed grades) is mainly made up of Band 3/4 Prison Officers supported by Band 2 Operational Support staff (OSGs) and supervised by Band 4 Supervising Officers, Band 5 Custodial Managers, Band 6-8 Managers and Band 9-11 Senior Managers.

### Table 1: HMPPS staff in post (FTE March 2018)

<table>
<thead>
<tr>
<th>Operational grades</th>
<th>Number</th>
<th>Non-operational grades</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Band 3/4 Prison Officers (including specialists)</td>
<td>17,686</td>
<td>Band 3 Administrative Officer</td>
<td>3,292</td>
</tr>
<tr>
<td>Band 2 Operational Support</td>
<td>4,495</td>
<td>Instructional Officer</td>
<td>1,225</td>
</tr>
<tr>
<td>Band 4 Supervising Officer</td>
<td>1,965</td>
<td>Psychology</td>
<td>1,108</td>
</tr>
<tr>
<td>Band 5 Custodial Manager</td>
<td>1,390</td>
<td>Band 4 Executive Officers</td>
<td>768</td>
</tr>
<tr>
<td>Band 6-8 Managers</td>
<td>700</td>
<td>Industrial/Facilities</td>
<td>638</td>
</tr>
<tr>
<td>Bands 9-11 Senior Managers</td>
<td>186</td>
<td>Band 2 Administrative Assistant</td>
<td>386</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Band 9-11 Senior managers</td>
<td>360</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chaplaincy</td>
<td>316</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other staff</td>
<td>384</td>
</tr>
<tr>
<td><strong>Operational total</strong></td>
<td><strong>26,423</strong></td>
<td><strong>Non-operational total</strong></td>
<td><strong>10,648</strong></td>
</tr>
</tbody>
</table>


In the non-operational (civilian) workforce the main groups are administrative staff, managers and instructional officers on Band 3/ specialist production instructors on Band 4. Instructional officers work with around 11,000 prisoners who are employed in paid workshop activities like laundry, farms and gardens, textiles and other contracts (activities that do not undercut local firms). Other non-operational jobs include intelligence analysts, psychologists, facilitators, and chaplains.

The chart below highlights the prison officer trend at band 3-4, along with the operational total, since March 2010 when there were 19,908 in bands 3-4, and an operational total of 33,962. Apart from the contracting out of ancillary services (see 2.19) the rapid fall followed implementation of the 2012 Benchmarking agreement (see below). The largest annual percentage decrease in staff (16.6%) and absolute decrease in staff (5,036) took place between 2013 and 2014.
2.9 Recruitment
To increase staffing levels, as the government now intends, the Prison Service needs attractive terms and conditions as well as energetic and effective recruitment processes.

The difficulties of recruiting and retaining enough sufficiently qualified, competent people to train as Prison Officers or Operational Support Grades are “massive”, the Prison Governors Association reckons, and many prisons are managed by temporarily appointed or promoted governors “as nobody applies for the posts when they are advertised” (due to inadequate pay bands, massive variations between the different pay scales and the need for a review of job evaluation).

HMPPS launched a new localised recruitment process for 27 of the 31 London and South East sites in the market supplement initiative (see Section 10), putting Governors in charge of the selection process and reducing the risk of losing candidates as they work through the vetting process, which can be lengthy. HMPPS is committed to reducing the average time it takes to recruit from 118 days to a target of 70. Accelerated development for existing staff is also part of its workforce plan.

Efforts to recruit more staff are clearly having an impact though, with a net increase of 1,970 Band 3 to 5 officers (FTE) by December 2017 and even more applicants (but with a considerable backlog of individuals to be vetted). Specific efforts to attract more OSGs brought over 1,000 possible recruits. HMPPS believes that improved retention (see Section 8) will save the significant time and money that it takes to train a new recruit\textsuperscript{32}.

At an October 2017 meeting of the Whitley Council consultative body it was reported that 5,335 officer training places (POELT) had been provided up to that point in the financial year, over 1,000 new “POELTS” were being trained, and the number of POELT training venues had increased from 6 to 47. However the difference between training places being provided, and the net increase in the number of officers, hints at continuing retention problems (see Section 8).
These figures should be seen in the context of Justice Committee concerns about “well documented” difficulties of attracting new staff (April 2017). Based on a visit to HMP Wormwood Scrubs in London the Committee noted that it is hard for prisons to recruit people when they are in competition with jobs such as loading luggage at Heathrow which pay more. Its suggestion of “greater flexibility in the way in which we reward and remunerate our prison staff to reflect local jobs markets” reflected the debate over pay supplements versus zonal payments (see Section 10).

HMPPS workforce plans for 2018/19 and beyond include an apprenticeship scheme plus graduate and senior leadership direct entry. It began recruiting high-calibre graduates into its “Unlocked” scheme, with the first recruits deployed into prisons in August 2017 (50 candidates). The new recruits will experience a two-year development programme where they will work as Prison Officers.

HMPPS will incentivise those who are successful to stay by ensuring they can progress quickly through the ranks, which will help to refresh its talent pool “for the next generation of senior leaders.” It planned to provide 115 more places on this programme starting in July 2018. Participants will be placed into the youth estate as well as the adult estate.

It also launched a Direct Entry Senior Leadership scheme with 25 out of 100 applicants due to start in April 2018. Over the next year HMPS also plans to have a series of new apprenticeship development entry schemes under the Securing Futures banner “which will support existing staff with career development and help more people enter the organisation at a variety of levels”.

On a sobering note, the PGA says there has been no commensurate reduction in violence among prisons that have already achieved their target staffing level (due under the Offender Management in Custody model, see section 3.9): prisoners have learned that they can “get away with” misbehaving” and it may take a considerable period of time before control of the prisons is re-established and prisoner and staff safety restored. PSI 44/2003 covers arrangements for filling prison officer vacancies.

2.10 Workforce diversity

As the prison population ages, the staffing profile is becoming younger and slightly more female.

The proportion of women in the prison workforce in March 2018 was 37.5%, having risen in 2016 from its former level of 34-35%. That is a much higher proportion than exists within the prisoner population (see above). However, women are unevenly distributed among prison establishments and within the grading system (where gender differences correspond to pay differences, see Section 10). The National Probation Service employs a higher proportion of women than the prisons, helping to raise the NOMS/HMPPS female proportion to 47% (21,759 women, 24,262 men, 31 March 2017).

Within the prisons, 60% of those working in women’s prisons are female, a proportion that has remained broadly consistent over time. The proportion of prison staff that work part-time has risen a little but still stands at only 11.1% (compared with a quarter of employees generally). The NOMS Annual Staff Equality Report reveals evidence of gender segregation by grade, not just by prison type (men’s and women’s). In particular, 44.7% of Operational Support Grades are women, but only 25.5% of Band 3-5 Prison Officers are (see Table 2).
Table 2: Proportion of women in the prison workforce by grade

- Operational Manager Band 10-11 (including SCS) 37.5%
- Operational Manager Band 7-9 32.8%
- Band 3-5 Officer 25.5%
- Operational Support Grade (OSG) 44.7%
- Non-operational Manager Band 6-11 53.3%
- Non-operational Below Manager (Band 1-5) 64.7%

While the prisoner population is getting older the prison workforce is getting younger, no doubt boosted by staff turnover coupled with the recent recruitment drive: 40% of staff are under 40, up from 34% in 2010, following a big growth in under-30s in 2017/2018; and a haemorrhage in the 40-49 age group, 23% down from 35% in 2010 (the Youth Custody sector is excluded).

Black and minority ethnic (BAME) representation among prison staff has barely changed from 6.0% to 6.4-6.5%. However, the “declaration rate” has dropped from over 90% to under 70%. Declaration rates for disability and sexual orientation are even lower so, although there are declared figures (disabled just over 1,200, down from 1,400-1,500 before 2015; and LGB just over 500), no percentage representation rate has been officially calculated.

The Lammy Review\(^3\) on the treatment of, and outcomes for, BAME individuals in the Criminal Justice System (published in September 2017) made two recommendations relevant to these figures: increasing the proportion of new BAME prison officer recruits; and improving representation of BAME leaders in the prison workforce. Both recommendations were accepted by the government in December. HMPPS has set an objective of 14% of all recruits to be BAME by December 2020, reflecting the proportion of working age BAME people in the wider population.

2.11 Private prison staffing

Private contracted prisons have not been immune to the kind of staffing problems seen in the public sector prisons.

A recent study of Community members found staffing levels and patterns that are, at times, dangerous\(^3\). Some private prisons were technically fully staffed, but the staffing levels were so low that they did not have enough people to achieve the very basics of keeping people safe and delivering a full regime. That, high workloads and frequent rotations to different parts of the prison made many officers feel powerless to achieve what they saw as a central part of their role.

One officer was quoted as saying: “On our house block we have 60-odd on a wing and I work it by myself. I work 0715 to 2000 and I might only see and speak to another officer a couple of times a day...I cover two floors and so might not know about an incident in a cell until the following day”.

Many of the officers in the study no longer felt that they could make a difference as the conditions in their prisons meant they could not form quality relationships with prisoners.

2.12 Benchmarking and New Ways of Working

The big staffing cuts after 2012 took place under a money-saving “Benchmarking” process which unions agreed as an alternative to privatisation, but now express doubts about.
Benchmarking, also known as the prison unit cost programme, was designed to “duplicate commercial models which have addressed the challenge of increased cost pressures and demand for lower prices and delivered better quality services with a lower cost base” (Justice Committee, *Prisons: Planning and Policy 2014-15*).

A Justice Committee report in 2015 found that both the Prison Officers Association and the Prison Governors Association had welcomed the decision largely to substitute public sector reform for the privatisation programme, and worked to implement it.

The POA has been involved in Benchmarking since November 2012, its stance spelled out in a May 2014 in a special edition of its magazine, *Gateolog Extra* and circulars issued in 2012 and 2013. It followed the announcement of the Prison Competition for the management of 9 prisons and the prospect of competition for a further 25 prisons, which POA said NOMS did not have the resources to bid for.

In these circumstances POA leaders pressed for a return to a benchmark of prisons as a viable alternative to wholesale privatisation, a way forward that was taken up by the-then Secretary of State. The union’s engagement in Benchmarking was endorsed at a special conference on 28 February 2013 with a local, area and national structure to be established. However, the union was clearly aware of the risks, even as it took part, urging vigilance and building in checks and balances.

Given the importance of the Benchmarking process in the subsequent reductions in staff numbers and hence job quality, it is worth looking a bit more closely at what was involved:

To apply Benchmarks, NOMS introduced *New Ways of Working* involving modifications to the core day; maximising opportunities for prisoners to be in purposeful activities, with staff following prisoners; less time for structured association; and fewer layers of management. It estimated that savings would be facilitated by around 5% of prison staff taking voluntary redundancy but in fact the number of full-time equivalent staff in public sector prisons contracted much more sharply, as staff turnover doubled. The process, as described by the POA, has three stages (Mobilisation, Transition and Transformation, MTT) while the staff-to-prisoner ratio is a key concept within that (see below).

At the Mobilisation stage, members of the Business Development Group (BDG) would visit each establishment and then design the “New Ways of Working” (NWoW) profiles for those establishments. This was described as a 7-stage process “and must include extensive consultation with local POA committees following the introduction of the local engagement protocol”.

Anticipating challenges to the BDGs NWoW proposals, the union said these should be made via an “issues log”. At stage 7, a Management Proposal for Change (MPC) should be issued to the local POA committee by the local Senior Management Team (with a date set for the “Transition” stage to commence). A Protocol of Engagement would ensure that POA Officials were given full opportunity to familiarise themselves with and challenge the MPC. The union warned: “Whilst it is anticipated that most disputes will be resolved locally, some may need to be resolved via the National Disputes policy (PSO 8525) or through the regular POA/ BDG meetings”.

At “Transition” the prison begins to work the NWoW profiles. However, each establishment would be allocated an extra resource (the “MTT Resource”, money over and above the establishment’s budget) to enable a smooth transition/tapering from existing working practices to the required NWoW practices. The amount would vary from establishment to establishment, as the union explained:
“For example, NWoW profiles are largely dependent upon sending prisoners to work and other off-wing activities. As a result, NWoW profiles reduce residential staffing numbers during the times that prisoners are at work. However, if there are insufficient off-wing activities for prisoners to go to, then they HAVE to remain on the residential units and additional resources WILL be required to provide a safe, secure and decent workplace. Staff (MTT) resources over and above the BDG profiles should then be allocated to such areas on a targeted basis. The MTT resource, can be in 2 forms, surplus staff or money to pay for Payment Plus, both are intended to ensure that the required numbers of staff are in place to maintain Safe, Decent and Secure operating levels at the prison”.

The final stage of NWoW was “Transformation” to what is otherwise known as “Steady State” which could only be reached once the full criteria of the NWoW requirements and BDG profiles were met, on the authority of the NOMS assurance board. NOMS would determine that there is no longer a need to allocate the MTT Resource to any prison in Steady State.

Steady state is measured on three criteria: (1) the Establishment’s Staff in post (SIP) figures match the Total Staff Funded (TSF); (2) the requirement for off-wing activities for prisoners to attend and that the prison regime is operating effectively; and (3) the delivery of the regime to be compliant with the agreed principles of the Memorandum of Understanding (MoU) between NOMS and the POA.

To maintain the safety of POA members, the union urged branch committees where necessary to initiate a local dispute and inform their NEC area representative if the 3 stages of the Benchmark Process were not adhered to by the employer. It also advised that if the Senior Management Team failed to uphold the principles of the Benchmark process at any time, a local dispute should be raised. Part of the agreement was that NOMS would invite submissions of ‘Notice of Change’ from POA branches to the Business Development Group (BDG) in which they could request either a variation to staffing numbers or a change to profiles.

Integral to Benchmarking and prison funding was the staff to prisoner ratio, often referred to as a “1:30” figure (a regime-related concept distinct from the overall prisoner to staff ratio, see below) The POA and NOMS BDG team agreed that a safe staff to prisoner ratio must be in place for prison regimes but the formula used was in fact the “Zero-based Resource Approach” (ZeBRA), based on a core day established for competition and an optimum staffing complement of all grades37. While this did, for example, provide a ratio of 30 to 1 in a number of prisons, in others the ratio was less “but the principle remains the same” (Gatelog Extra):

- If you have 3 staff available to operate a regime it does not mean that you have to or that you should unlock 90 prisoners on the basis of your staff to prisoner ratio
- The number of prisoners unlocked must be dependent on the prison layout and the categorisation of the prisoners under your supervision and control.
- Other factors may apply “and all regimes MUST be supported by the appropriate risk assessments, safe systems of work and contingency plans”.

Two years on (2014) the POA warned that Benchmark was “about saving money, delivering more for less and demonstrating that the public sector can be competitive with the private sector”. It had been consistent in arguing that the application of Benchmarking must not put safety at risk: “From prison to prison, this is the most contentious issue within the Benchmarking process, and unless addressed properly it has the potential to result in unsafe places of work”. It added:
“NOTHING and certainly not Benchmarking replaces the legal obligations of an employer and employee in respect of the Health and Safety at Work Act 1974. The POA and NOMS BDG have consistently advised our members and their staff that New Ways of Working under Benchmarking must be supported by appropriate risk assessments, safe systems of work and contingency plans”.

**2.13 Staffing under Benchmarking**

Benchmarking and the resulting drop in staffing levels has led to a deteriorating prisoner-staff ratio, damaging the prison “regime” (including time spent locked up).

The introduction of Benchmarking was followed by a sharp drop in staff numbers; not surprising as its aim was “reducing expenditure more rapidly than would be possible through prison-by-prison competition” (Justice Committee). However, the Committee’s view was that the trend towards lower staffing levels was “not solely related to benchmarking”: other factors were believed to include NOMS allowing too many staff/experienced staff to leave through voluntary redundancy arrangements; staff resigning; imposed freezes on recruitment orchestrated at a national level rather than a local level; and high sickness rates.

The risk of “going too far” and ending up with staffing levels that were too tight was recognised. The Prison Governors Association says there was no science to Benchmarking: “The blunt tool of 1:30 was used to assess Prison Officer numbers and applied across the majority of prisons. Resources were reduced in administration functions and Senior Management Teams”. The policy failed to acknowledge that every piece of work in public sector prisons “required people because IT infrastructure was non-existent”.

Given the reduced workforce, and the elevated number of prisoners, the overall prisoner-staff ratio has inevitably deteriorated. NOMS/HMPPS figures show that, across the estate, the number of prisoners per full-time equivalent member of the remit group (all operational staff) has stabilised to between 3.0 and 3.1 but is much higher than it was 10 years earlier, when it was 2.1 (PSPRB 2017). A Justice Committee report noted that the ratio rose from 3.8 in September 2010 to 4.9 in September 2014.

Ratio problems don’t just affect operational staff. According to the PCS union, in workshops the ratio has gone up from 12 to 1 to as many as 30 to 1, making it more stressful. Coupled with the shorter amount of time that prisoners are coming out of their cells, there is little or no time for rehabilitative interventions, which affects achievement of the target of getting 80% out and working every day: “You can be expecting 29 prisoners and get 4”.

It is an issue that HMPPS is sensitive to, and its plans specifically include expanding capacity in order to increase the staff to young person ratio by boosting the number of frontline posts in public sector YOIs by 20%. Key to its Offender Management in Custody model (OMIC, see section 3.0) are Prison Officer “keyworkers”, each responsible for the casework of six prisoners. Prisoners should have a consistent, named officer to challenge and support them away from violence and reoffending.

However, the parliamentary Justice Committee wants to see how the keyworker model is benefiting prisoners, measured for example through sentence progression and the Measuring the Quality of Prison Life survey (which has been developed by Professor Alison Liebling and other staff at Cambridge University’s Prisons Research Centre).
It has also recommended that the MoJ clarifies the extent to which governors will have freedom to vary the care ratio; provides greater clarity about how the model will apply in private prisons; greater transparency on the methodology and evidence base used to determine the ratio; and more detail on the proposed case management role prison officers will undertake and how that role will be delivered in practice, including time and resource commitments.

Evidence presented by Liebling to the Justice Committee inquiry on prison reform has already highlighted the impact of the reduction of experienced staff on prison culture and legitimacy: if you do not have enough experienced staff, prisoners run the prison; if you have too many long-serving staff who are no longer motivated, things start to deteriorate; and there needs to be professional competence, a decent regime and meaningful activities.

2.14 The “non-effective” rate
Staffing levels need be adequate to maintain regimes, but should do so in a way that takes account of staff who are not at work.

One indication of tight staffing levels in the service was the vote (at the POA’s 2017 conference) to seek negotiations to increase the “non-effective” percentage built into the operational workforce beyond 20% of total target hours; it should reflect profiled work lost to maternity, paternity and adoption leave and back to work/phased return plans, the resolution said.

In response, HMPPS issued figures showing that those forms of leave accounted for only a small proportion (around 1%) and that the 20% non-effective rate is made up of three elements:

- 14.6% leave – described as generally enough for the majority of prisons and where up to 50% of operational staff are in receipt of long-service additional leave entitlement
- 3.1% sickness absence – providing enough cover for staff to take an average of 8 days sick per year (figures in section 8.5 suggest the level of sickness absence is higher)
- 2.3% training – roughly enough to allow each member of staff to have 5-6 training days per year with some local training delivery accounted for (there are some instances where additional Training is built into the effective hours of a profile, by default either increasing the overall non-effective rate or reducing the pressure on the 2.3% training rate).

HMPPS added that other factors contribute to the overall non-effective or non-productive levels in prison delivery, “some of which are manageable and some maybe less so”. These include Restricted Duties, Suspension, Medical Appointments, Detached Duty, Secondment, Trade Union Official Leave, Disability Leave, Mutual Aid and Special Leave. It had no plans to increase the 20% rate.

2.15 Main roles in the prison workforce
British prisons fulfil the regular tasks using a mix of specialist and generalist roles, some of which rely on staff employed by external contractors.

For the purposes of this report, responsibility for a range of standard tasks in European prisons, as they are allocated in England and Wales, is mapped out below (see Table 3) based on prison service role profiles. Remand prisoners are usually detained in the same institutions as other prisoners.
### Table 3: Standard prison tasks

<table>
<thead>
<tr>
<th>Tasks</th>
<th>Occupation performing (regular, specialised, external staff)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance</td>
<td>Part of the Prison Officer role is to supervise, manage and control prisoners decently, lawfully, safely and securely whilst carrying out all activities</td>
<td>Operation and review of CCTV is within the OSG job description.</td>
</tr>
<tr>
<td>Nursing and medical care</td>
<td>Prison healthcare is commissioned through a partnership arrangement involving the National Health Service (see 2.17) but services are mainly provided by a range of healthcare service providers (which can include third sector organisations, social enterprises and private contractors).</td>
<td>Prison service job profiles still include a Specialist Prison Officer - Healthcare Officer, expected to “assist in the delivery of nursing care to a defined caseload of patients” and administer treatments.</td>
</tr>
<tr>
<td>Education of inmates</td>
<td>The education of inmates is provided by colleges/private contractors through the Offender Learning and Skills Service.</td>
<td>Instructional Grades are part of the non-operational prison workforce while the responsibilities of a Specialist Prison Officer – Instructor include training prisoners in the required skills for prison workshops</td>
</tr>
<tr>
<td>Integration of inmates</td>
<td>If a residential unit is used as First Night/Induction accommodation, a Prison Officer – Safe, Decent, Secure has a range of specific additional duties (see above)</td>
<td>Reception activities including dealing with prisoner queries, photographing, collating documentation, searching property and parcels, and assisting officers with receiving of prisoners are within the OSG job description</td>
</tr>
<tr>
<td>Recreation of inmates</td>
<td>Supervising prisoner activities including exercise and association is part of the Prison Officer – Safe, Decent and Secure job description (there is also a specific Sports and Games Prison Officer role profile).</td>
<td>Not within OSG job description.</td>
</tr>
<tr>
<td>Personal assistance of inmates</td>
<td>A Prison Officer – Safe, Decent, Secure must support prisoners in line with the Personal Officer strategy</td>
<td>Night OSGs must provide prompt help and support to prisoners who require it; and interact with and support prisoners who are on an open ‘ACCT’ or Victim Management Record.</td>
</tr>
<tr>
<td>Preparation &amp; distribution of food</td>
<td>Food delivery including trolley delivery and collection is included in the OSG job description.</td>
<td>Cleaning not specifically mentioned in OSG job description. Some of this work may fall within the contracted-out Facilities Management remit.</td>
</tr>
<tr>
<td>Daily household related activities (e.g. cleaning, distribution of objects and consumables)</td>
<td>Maintaining the general cleanliness of the wing is part of the Prison Officer role. Receiving items for prisoners and checking all seals are intact on property storage is within the OSG job description.</td>
<td></td>
</tr>
</tbody>
</table>
2.16 Non-direct employees

Members of the directly-employed prison workforce (operational and non-operational) interact on a daily basis with a variety of not directly employed workers (NDEs) including healthcare staff, educational workers and facilities management (FM) workers.

The presence of NDEs in both public and private prisons is regulated (for example, PSI 42/2014 Vetting function - Exclusion of Personnel on Grounds of Misconduct) but job quality is as much a matter for the private contractors that they work for, as for the prison service. Topics which are more generally covered in other sections of this report, are described here.

2.17 Healthcare staff

Staffing pressures, poor opportunities for development and training, fragmented employment and an increasingly risky work environment mean healthcare staff feel undervalued and unsupported.

Historically, prison health care was organised outside the National Health Service, leading to questions about equity, standards, professional isolation and the capacity of the service to carry out adequately its healthcare function (The Future Organisation of Prison Health Care March 1999).

Today the directly-employed workforce includes over 1,000 psychologists, divided between the prison service and HMPS HQ, but its role as a direct employer of primary healthcare staff has given way (over time) to a partnership approach with the NHS. From April 2013 NHS England became responsible for all healthcare commissioning.

The number of directly-employed non-operational prison healthcare staff was already dropping after 2010, from 390 nursing grades (2.5% of non-operational staff) plus 50 other healthcare staff down to less than 100 in 2013 (coinciding with the movement of many healthcare functions into the Primary Care Trusts of the NHS). Since then it has dwindled to almost none.

Healthcare staff working in prisons are now generally employed by contractors and many are represented by the Royal College of Nursing (which describes itself as largest nursing-specific trade union organising the prison healthcare workforce). The POA organises in the three secure hospitals in England and Wales, at Broadmoor, Rampton, and Ashworth where members took strike action after two nurses were dismissed following the restraint of a violent patient (they eventually won compensation of over £40,000 for unfair dismissal, with a separate award for a POA branch officer who was “targeted” by senior management in what the union called “trade union discrimination”.

Inevitably mental health problems are a major challenge. In the in June 2017 the National Audit Office produced a highly critical report of the mental healthcare provided by HMPPS for offenders in its care. If the service was to improve the mental health of those in prison it would require a step change in both effort and resources.

2.17.1 The prison system for healthcare staff

While NHS England is now responsible for commissioning (and does so on a regional basis) the immediate employer of healthcare staff in a prison could be an NHS or non-NHS prime provider, or a subcontractor working to the prime provider. There can even be multiple contractors/employers employing healthcare staff within a single prison.
As a result, the prison healthcare workforce is even more fragmented than other NDE workforce groups (like education and facilities management) which has implications for its representation (including union representation). It also makes it difficult to know the total number of healthcare workers in the prison workforce, although RCN estimates that it must be in the thousands.

One of the biggest private providers, Care UK Justice Division, operates 42 prison services offering health services reception health checks and regular GP services, to help with substance misuse, chronic or long-term conditions, podiatry, physiotherapy and optometry. Other providers include Spectrum CIC in the North West, and social enterprises and NHS Trusts in other parts of the service.

Among staff who work in prisons in the RCN’s 2017 Safe Staffing Survey, 64% said care was compromised on their last shift; 45% attributed that to staff shortages. In a response to the House of Commons Health and Social Care Select Committee inquiry into prison healthcare, RCN argued that despite being on the frontline, nursing staff increasingly find themselves unable to provide high-quality, person centred care to their patients. At its May 2018 congress the RCN agreed to work with employers to improve the morale and working conditions of prison nursing staff across the UK. Much of what follows is based on its response to the Select Committee.

When asked (in 2017[43]), the government could not provide information on the number and proportion of prisons that have a psychiatrist, psychotherapist or qualified psychiatric nurse based on site but said it was “expected that all prisons have access to a full range of mental health professionals as per services within the community”. RCN admits that the lack of robust data makes it difficult to accurately assessment of current provision.

However, it cites evidence pointing to staff shortages affecting care, concerns about the skill mix, and problems with lack of support and supervision. It called for comprehensive workforce planning to ensure appropriate nursing staffing levels to ensure the delivery of safe and effective care for patients. This means the right numbers of nursing staff, with the right skills, in the right place, at the right time across all prison healthcare settings regardless of provider, to meet the holistic needs of the prison population.

Shortages amongst other prison staff also impact on the ability of nurses to deliver safe and effective patient care: “When nurses are unable to find ways to work around the lack of availability of prison officers, there is a risk that this vital work will be left undone and compromise patient care”.

Strategic action is needed to attract, recruit and retain nursing staff to address nursing staff shortages. This should include raising the profile of nursing opportunities offered within prison settings. Alongside this, current nursing staff must have access to continuous professional development opportunities to develop and expand their skills and knowledge. This will also be crucial for retaining current nursing staff working in prison settings and equip them to meet fast changing patient needs.

2.17.2 How the prison service works for healthcare staff

Contracts for prison healthcare services are held by a variety of organisations, and increasingly care is being delivered by non-NHS providers (often with different aspects of healthcare within one prison being provided by different organisations). This fragmentation can add complication and confusion,
“especially in an environment where individuals are presenting with additional, complex needs, and would benefit from a more coherent, joined-up support package”.

This means that many RCN members deliver NHS services in prison but are not employed by NHS organisations. They may experience a gap in pay in comparison to their colleagues employed by NHS providers; endure poorer working conditions, loss of career and education opportunities, less clinical leadership; and have concerns about maintaining safe and effective best practice. The current commissioning process risks a “revolving door” of staff transfers from one employer to another.

2.17.3 Prison jobs for healthcare staff
Healthcare staff working in prisons are particularly vulnerable to tensions between the needs of the patient and the pressures of the prison environment, especially given the cuts in prison officer numbers. While many are prison-based, there can be “in-reach” services too (like addiction services).

The World Health Organisation (WHO Europe) healthy prison concept stresses that the health and well-being of prisoners is not the sole responsibility of those providing health care in a prison, it is also dependent upon the regime and ethos of each establishment. However some “tension” between health and security staff may be inevitable: health care staff must always remember that their first duty to any prisoner who is their patient is clinical; and be aware of what health staff can do/be asked to do but also of the activities in which health staff “should never be involved”.

The RCN report to the Select Committee submission gave an example of the pressures and tensions prison healthcare staff are under: “Working as a nurse in prison requires many different skills. You have to be a primary care nurse, an acute nurse, a mental health nurse, a palliative care and elderly nurse – and sometimes even a prison officer – all at the same time. I dealt with suicide, self-harm, serious mental health, the use of Spice, acute abdominal pain, sepsis and even an incident of manslaughter – and that was just in one week”.

2.17.4 Industrial relations for healthcare staff
Information on staff employed by private contractors appears to be limited but for staff employed by the NHS, the Agenda for Change agreement and the recommendations of the NHS Pay Review Body (as accepted or otherwise by the government) would set the framework for pay and conditions (prison staff are not explicitly mentioned in the agreement handbook).

One effect of fragmentation and privatisation is that many staff will be on “frozen” Agenda for Change terms and conditions as a result of TUPE. It also leaves the RCN with the challenge of securing recognition. Each prison has Prison Partnership Board which brings together management and primary care commissioner but RCN believes that could be strengthened by the right to appoint RCN safety representatives.

2.17.5 Regulation of prison employment for healthcare staff
Healthcare arrangements in prison are covered by a National Partnership Agreement with NHS England, which is responsible for commissioning all healthcare services for prisoners (see page 00).

2.17.6 Healthcare staff wellbeing
Healthcare staff need more consistent access to opportunities which support the health, safety and wellbeing of nursing staff working in prison healthcare settings. Employers must do more to create safe working environments for nursing staff in prison healthcare settings, ensuring their protection...
from exposure to violence, aggression and physical attacks. This will be central to retaining the current workforce. The RCN is now in dialogue with the prison service about the threat of psychoactive substances.

2.17.7 Health and safety for healthcare staff
As with other trade unions, RCN is concerned about assaults members including physical attacks which can cause lasting health problems: in one example, a clinical nurse manager lost the sight in one eye after being punched in the face by an inmate. As the smoking ban was implemented across prisons, it was expected that prisoners would use more and more diverse methods of seeking intoxication, and RCN called for a review of the guidance related to psychoactive substances:

“Nurses and health care assistants are often first on the scene when inmates need emergency care, and under current guidance, they are expected to enter cells before the smoke has cleared. Our members report suffering the effects of inhaling the drug for hours following exposure, with some unable to drive home after their shifts. In at least one case, a nurse was taken to A&E by ambulance after being knocked unconscious by the psychoactive fumes”.

2.17.8 Pay and conditions for healthcare staff
The industrial relations framework applies, as above. RCN says the Secretary of State for Heath and Care should provide direct (ring-fenced) funding to improve the pay of all nurses working in prison settings employed by contractors delivering NHS services, to prevent a dangerous imbalance of nurses moving from the independent sector to the NHS because of better pay.

2.17.9 Voice of healthcare staff prison
RCN has called on the Secretary of State for Heath and Care to develop a new national staff council to cover all nurses and healthcare assistants delivering health and social care who are not directly employed by an NHS organisation. A new inclusive sector council would provide a mechanism to improve workforce planning, recruitment, retention, staff engagement, employment skills, standards of care and productivity across independent health and social care.

2.17.10 RCN perspective
The environment that nursing staff in prisons face every day is tough. Overcrowding, increased drug use, violence and the high number of prisoners dying by suicides have left the prison system in crisis and staff traumatised and exhausted. Across the UK, the prison population is ageing, bringing fresh challenges for those providing care. With many people in prison coming from deprived and disadvantaged communities, with poor health and often disengaged from mainstream health services, a period of imprisonment is a unique opportunity to turn around their health outcomes and life chances, “but perhaps one that is being missed”.

2.18 Education staff
As non-direct employees (NDEs) prison educators find themselves squeezed between a troubled prison environment and contracted-out providers where jobs can be low-paid and precarious.

The prison service directly employs over 1,200 instructional officers (March 2018 figure) but it also relies on qualified further education staff employed by a range of private contractors: Novus (Manchester College), PeoplePlus, Weston College and Milton Keynes College. The service is monitored by Ofsted in the same way as other education services.
The **University and College Union** (UCU) describes itself as the largest union for teaching professionals working in prison education, with approximately 1,300 members. **Prospect** also represents teaching staff in prisons.

A resolution passed at UCU’s 2017 FE sector conference talked of “chaotic privatisation”, numerous drug-related incidents and the “systematic dismantling of prison education including reduction of staffing to levels which routinely compromise safety and the short-sighted vandalism of the prison curriculum through privatisation and cuts”.

UCU is concerned that the current round of tendering (PEF) with its emphasis on cost will lead to further marketization and a race to the bottom, potentially undercutting experienced colleges and leading to the introduction of less qualified teachers, with less experience of the intricacies of prison education (although UCU have been able to have some input into the tendering ‘pack’).

### 2.18.1 Education and employment in the prison system

UCU wants a nationwide campaign to improve the status of prison educators and to encourage recruitment into the profession. However, precarious employment is a significant problem: in the 2014 UCU/Institute of Education report *Prison Education - Professionalism against the odds* only half of respondents were on full-time contracts; the other half were employed part time with a contract or hourly paid.

### 2.18.2 How the prison system works for educators

Short term contracts, funding limitations and sudden funding changes and poor staff autonomy have led to poor stability: “The number of providers isn’t the problem, but rather the precarious nature in which contracts have been administered to date”.

Instability of funding has led to a proliferation of casualised and zero hours contracts. UCU has called either for the halting competitive tendering or extending OLASS/Offender Learning and Skills Service contract terms to five years. It says the employment practices of private providers should be assessed when contracting prison education.

In the context of prison reform, the union had been engaging with MoJ and HMPPS to minimise any tensions which might arise between its reps and their employers through governor-led commissioning which could lead to fragmented delivery and a reduction in quality (this was one of its main concerns in the review of prison education chaired by Dame Sally Coates)

### 2.18.3 Job content for educators

The union is concerned that prison educators are increasingly being asked to carry out non-teaching roles including escorting and searching prisoners (in breach of an OLASS agreement with HMPPS). In some prisons the cleaning contract does not apply to the education unit, leading to teachers having to do cleaning tasks (such as toilets).

Carrying out these non-teaching duties can change the nature of the learner/teacher relationship and the union has worked with the **Prisoner Learning Academic Network (PLAN)** to commission research into the teacher/learner relationship in prisons and the potential impact on staff and prisoners of this “mission creep”.
The union’s 2016 workload survey\(^46\) included over 100 prison educators. A quarter said workloads were unmanageable most of the time, with departmental and general administration accounting for much of the increase in work demands (along with student administration/marking and internal quality assurance), partly as a result of cuts to funding.

Across different roles (admin, technical, grounds and facilities, assessors, course leaders, learning facilitators, lecturers, managers, trainers and tutors) average full-time equivalent hours per week for prison educators were 45.8 (less than in further or adult/community education). Over a third said working hours had increased significantly over the previous three years while over 80% said the pace or intensity of work had increased significantly.

2.18.4 Industrial relations for prison educators
UCU is now officially recognised by all prison education providers in England, following its recognition deal with PeoplePlus (25 May 2018). Each of the providers has a potentially national scope (in August 2010 a strike by UCU members at the Manchester College over new contracts/pay cuts affected more than 70 prisons and young offender institutions).

At the main provider, Manchester College\(^47\), UCU meets regularly with management through two different negotiating forums (one of which is focused entirely on work in the justice sector). It is consulted about any changes TMC plan to make (eg a negotiated redeployment agreement to prevent staff from losing work).

The TMC branch has a health and safety convenor who attends the college health and safety committees. Facility time arrangements (as current in 2015) provided one hour a week for the local reps, with additional time for representation; four hours a month for the health and safety reps, and three hours a week for anyone who takes on the role of London rep on the TMC branch committee.

At the Milton Keynes Prison Education Branch, the sort of issues dealt with at branch level include contract negotiations; safety advice (“be extremely careful about what you take home from work”); the threat from psychoactive substances; use of body cameras (“neither MKC nor UCU endorse the use of body cameras”).

2.18.5 Regulation of prison employment
As NDE workers in a prison context, there has been an issue with governors deciding to exclude members of the teaching staff even though they are employed by external providers. Five years ago the union was successful in getting an appeal process included in the relevant Prison Service Instruction\(^48\), but there are problems with its interpretation in that an appeal must have the support of the employer in order for it to progress.

An exclusion affects any future possibility of getting work in a secure establishment, not just with that particular employer, so it has a much greater effect than just current employment. UCU’s concern is that under these arrangements the provider will have one eye on their relationship with governors when making such decisions, which are therefore unlikely to be unbiased. An appeal is (should be) an opportunity to have someone independent re-look at a decision), but the interpreted requirement severely limits an individual’s right to a fair and independent appeal (as UCU puts it, the very purpose of the PSI).
Gate time is a more everyday problem. Educators entering prisons may be delayed by up to 15-30 minutes for reasons beyond their control and this time is currently not paid for by the provider. The union has asked the government for action on this.

Another work-related issue flagged up in the union’s Charter for Prison Education is that longer education sessions of 3.5 hours can often have a negative impact on learning as many students struggle with long sessions and this can lead to an increase in drop-out rates. It called for greater flexibility at local level on timetabling.

2.18.6 Staff wellbeing for educators
In the 2014 report *Prison Education - Professionalism against the odds*, half of respondents reported that they were “likely to look for a new job in the next 12 months”. Video testimony from members points out that the prison environment is not set up for education (no belts, phones, cameras); long class times (over three hours) with no Prison Officer present can make toilet breaks a problem; while loneliness, the risk of assault and the sense that “anything could happen” can be stressful.

2.18.7 Health and safety issues for prison educators
Health and safety is a high priority in UCU reports and conference resolutions, and the union has called for a health and safety audit of prison educators’ working conditions. Members are under pressure to work with large groups and individuals known to be intimidating or violent, there can be a failure to listen to staff concerns around safety, and regular failure to risk assess learners. Other concerns relate to escorting prisoners alone, physical and verbal assault, and the expectation that staff will engage in unpaid working time. UCU works with the POA on these issues.

UCU has had to ask for vaccinations to cover prison-relevant conditions. UCU is also concerned that spice/psychoactive substances may be brought into the education unit and can result in staff being affected (eg through inhalation). This is exacerbated by the fact that educational sessions may no longer be supervised by a prison officer and there is therefore no instant support available.

In the context of bidding to provide education in small lots of prisons (under OLASS 5/the Prison Education Framework) the union had been engaging with MoJ and HMPPS to ensure that the health and safety is “locked into the contracts”. It had input into the design of the PEF to highlight areas of concern in the governor-led commissioning process and to ensure a standard for health and safety in prison education. It should be part of a review of prison inductions and refresher training, to standardise the induction information provided to educators.

2.18.8 Pay and conditions for prison educators
One of the most common complaints among members is the systematic failure to pay staff properly for the work they do, creating tensions between their professional and vocational commitment. The 2014 report *Prison Education - Professionalism against the odds* found a £15,000 difference between the modal salaries reported for prison educators and those teaching in FE colleges Terms and conditions of employment (they were being paid less than in mainstream FE, with the largest number were in the £24,000-£27,000 range, with only around 10% earning over £30,000 per year).

That report also noted the shockingly low morale, self-esteem and low regard for employers felt by casualised staff. The union wants contracts to include a requirement for parity with FE colleges.
2.18.9 Voice at work for educators
Prison education staff are clearly influenced by conditions within the individual prisons they work in but their employment relationship is with one of the private contractors mentioned above. There is, for example, an agreed national framework for escalating unresolved health and safety issues locally, regionally and, where necessary, nationally within NOVUS and Milton Keynes. To support this a program of site safety inspection was undertaken by UCU’s national health and safety official at targeted locations in Novus and MKC prisons.

In terms of wider policy, earlier evaluations of the OLASS service (ie the 3rd stage) took staff concerns into account as a determinant of quality (allowing the union, for example, to object to practices limiting their ability to act autonomously as teachers). In the 4th evaluation of OLASS, which was delayed, UCU “would have liked to have been consulted”.

2.18.10 UCU perspective
UCU’s Charter for Prison Education describes the union’s vision for a stable and effectively resourced prison education system which supports prison educators to deliver a broad and balanced curriculum to students in prison. Ultimately, this vision will ensure the best outcomes for students, society and the economy.

The 2014 UCU/Institute of Education report Prison Education - Professionalism against the odds found that despite 97.1% of prison educators possessing level 4 or above qualification, there were a number of factors that hindered a fully professional approach to prison education including insufficient teaching resources for educators to carry out their job effectively; access to adequate past education records; and staff to deliver a continuous quality education.

The power of prison educators to help offenders turn their lives around is being “squandered” due to constant retendering for teaching contracts. In relation to the former Prison and Courts Bill/reform programme and governor autonomy, UCU said that “without more investment in prison education, strong quality controls and action to address the pay gap between prison educators and other further education staff, the proposed reforms may fail to make a real impact”.

Loans for Level 3 qualifications are still a feature of the new PEF and mean that education units will struggle to develop higher level skills – more funding for prison education is needed.

UCU General Secretary, Sally Hunt, has made the point that prisoners who do not take part in education are three times more likely to be reconvicted than those that do: “We need a much more thoughtful approach when it comes to what happens in our prisons. The government might like to sound tough on crime, but locking more people up and not providing the funds for those already behind bars to receive a worthwhile regular education makes little sense. Prison education is the key factor in cutting reoffending, but the constant chopping and changing of education contracts and government tinkering with the system means many don’t get to see their courses through properly.”

2.19 Facilities management
Facilities management was contracted-out just three years ago but one of the two contractors has collapsed and the other’s future is being questioned: in the meantime, the partly casualised (agency) workforce finds itself plugging gaps in the direct prison workforce.
The directly-employed HMPS workforce includes 638 industrial/facilities workers (March 2018 figure) engaged in agriculture, catering, building and allied trades, and employing engineers, electricians, caterers, fitters/plumbers, gardeners and carpenters (many are represented by Unite). However, a much larger workforce (currently around 2,000) is employed by one of two facilities management (FM) contractors in 2015. That dates back to 2015 when 1,670 FTE transferred out of HMPPS to the private sector as a result of the Competing Delivery of Service project.

2.19.1 Contracted-out staff
Until earlier this year Carillion plc and Amey plc between them provided facilities management services for the public sector prison estate in England and Wales under FM contracts that commenced in June 2015.

Amey continues to provide FM services including a linen and laundry sorting service on behalf of HMPPS at 61 sites across the North East, North West, East, West Midlands and Wales (it also provides community rehabilitation, prisoner escorting, youth transportation and runs Rainsbrook Secure Training Centre). Figures provided by Unite at the time that this report was written show that Amey had just over 1,000 directly employed staff, almost 400 agency workers and 113 vacancies.

As of January 2018 Carillion provided FM services at 52 prison establishments across the South and East of England. The collapse of Carillion in January 2018 forced the Ministry of Justice to create a new government-owned company Gov Facility Services Limited (GFSL) to take over. Around 1,000 staff, including 100 contractors transferred to the new company. At the time of the collapse, Carillion had a 25% vacancy rate. POA complained that the staff TUPE-d over were treated awfully.

The collapse of Carillion was a public scandal which the government should have anticipated but, in a parliamentary response less than one year earlier, it said that despite “some issues with resources” at the outset of the contract, performance had “generally been good”. But according to Unite, which organises prison maintenance staff, both contracts were considered to be troubled with concerns about backlogs in urgent repairs (a cause of increasing disorder and violence in prisons, which is directly putting the safety of prison staff in danger).

The POA had also warned HMPPS and the Ministry of Justice that FM privatisation of would not deliver either the service required or the savings promised (£115m). Throughout 2017, while Carillion issued profit warnings, POA members across England and Wales could “see daily the failures of these contracts which are not fit for purpose and full of holes”. It had been a “disaster waiting to happen” and the POA, like many other unions who had members in Carillion, had been ignored when the warning signs were all too clear. It called for all maintenance to be returned to the public sector, noting that HMPPS had set up a specialist team to review facilities management across the entire estate.

While Carillion’s collapse has attracted the most attention, Amey has not escaped criticism (see below). In March 2018 Unite called for a radical overhaul of the manner in which prison maintenance work is undertaken. The Prison Governors Association has also questioned the use of private contractors to manage the prison estate. In evidence to the PSPRB in January 2018 PGA criticized outsourcing of facilities management, maintenance, repairs and stores which in many prisons had had “a serious, detrimental impact on their running”. Problems like the unavailability of
prison clothing, running out of basic stores, and calls for staff to bring in spare uniform due to a shortage, all had a negative impact on the quality of prison life and prison employment.

The PGA added that issues of maintenance, repairs and associated underinvestment in the estate have had a profound impact “with at least one prison refusing to accept any more prisoners while observation panels remained smashed and another prison offering a new reception the choice of a cell with running water or working electrics but not both”.

One prisoner told the Chief Inspector of Prisons that it was easier to get drugs than prison clothing, and prisoners in several prisons have demonstrated violently about the conditions they are held in (and that the staff work in): “This is a pervasive issue that goes to the core of the decency agenda and significantly damages the institutional trust so vital for the management of prisons and the rehabilitation of prisoners. Staff and prisoners are working and living in truly squalid conditions making the job a prison governor has to do much more challenging”.

2.19.2 How the prison service works for FM staff
One indication of how arrangements work for FM staff, provided by Unite, concerned Amey’s approach to getting appropriate security clearance for new staff. The company was said to be to be doing this in two stages (before and after starting work) with the risk that later checks could result in failures. Another example was the treatment of two maintenance workers at Liverpool Prison. Between them had combined service of 45 years, but were dismissed for raising safety issues (being required to work alone in secure areas of the prison). They complained to the governor, who informed Amey, and the workers were sacked for bringing the company into disrepute.

2.19.3 Prison jobs for FM staff
Amey employs a wide range of different staff but Unite is concerned that some, for example cleaners and painters, are in fact being used to escort prisoners (a practice that seems to be commonplace). They are also being compelled to carry keys, where this should be done on a voluntary basis (Unite urges caution about members carrying keys at all).

Apart from the safety implications it means skilled employees are not being used on the trade that they were recruited for, and some maintenance work and painting is not getting done (there are examples of prisoners being invited to paint their own cells). Anecdotal evidence backs these concerns up. As one member put it, “painters don’t paint, they just escort”.

The union does not believe that its members are getting the training they need on issues like suicide awareness, legionella, breakout or firefighting, or inductions for new starters, and it has doubts about the qualifications of new recruits (the example given by the union was one month’s training for an electrician). These are all local examples that the union sees as part of a wider national picture, at odds with the company’s formal procedures.

2.19.4 Industrial relations for FM staff
After the collapse of Carillion, bargaining at GFSL seems to be reverting to a workable format, Unite says, but industrial relations at Amey “leave a lot to be desired”. The union was in dispute with the company in 2016 over progression pay, and included the possibility of industrial action in a ballot on the unilateral award of an interim pay increase in January 2018. More recently a disagreement has arisen over facility time for local union reps (as distinct from the attendance of lay reps at the
The union says it finds it almost impossible to track what is happening in each establishment and whether local managers are following set procedures.

2.19.5 Regulation of prison employment for FM staff
Operating within the public prison service, Amey should fall within the regulated framework but Unite is not confident that it complies. Security checks are one issue (see above) but there have also been complaints about employee personal data being lost.

2.19.6 Wellbeing for FM staff
Unite describes prison FM work as a stressful, hostile environment where morale is low; members feel that the company doesn’t train them properly, doesn’t always pay on time (for example in the case of call-outs) and don’t believe that it is “fully committed to the contract”. Concerns about lone working have also been raised.

2.19.7 Health and safety for FM staff
In addition to the wider points already mentioned, Unite has highlighted fire extinguishers not being checked consistently (with visual checks being relied on) or fire alarms tested appropriately; pest control has been cut; and conditions have deteriorated generally. Its conclusion is that workers are being placed in a situation which is not good for their health and wellbeing.

2.19.8 Pay and conditions for FM staff
The Amey’s directly-employed workforce are employed on a variety of contracts: some are based on staff salaries at the time of the transfer and the TUPE regulations; others are applicable to newly-recruited staff. It has led to a complicated pay structure that includes different hours of work across differing contracts. That was reflected in the company’s 2017 pay offer to Unite, GMB and PCS, which had not yet been fully settled when this report was compiled in July 2018 (an interim pay award was unilaterally applied in January).

Under that offer there would be no salary increase for new starters since January 2017 (as they were not contractually entitled to a review until April 2018) or anyone who had already had a salary increase as part of a change to their terms and conditions. For other staff it would be a mix of:

- 0.5% for those who received the National Living Wage increase on 1 April 2017
- 1.25% for those already paid above the median or mean salary for their role
- 2.75% for those paid below the median or mean for their role
- An additional 0.5% for those who were entitled to a “progression increase” (those who transferred to Amey who were not already at the top of their former pay scale)

With settlements at these sort of levels, pay has been eroded by inflation, leaving members heavily dependent on allowances, unsocial hours premia and on-call/standby payments.

2.19.9 Voice in prison for FM staff
The unions and the company meet formally through a national forum but industrial relations within the wider company don’t seem to be conducive to workers having a strong voice, judging from issues mentioned by Unite.
2.19.10 Unite perspective
Prospects for the prison FM workforce look very uncertain. Amey has less than two years to run on its five-year contract and Unite interprets its general approach to be that of a company that expects either to lose or give up its contract. Although GFSL could arguably take over the Amey contract, Unite fears that its future in the public sector may be limited and it could simply be packaged up for a takeover by another private contractor. Unite would like to see the FM contracts taken back in-house as part of the prison service, as they were before privatisation in 2015. Although the public sector environment is changing, the union points out that autonomous governors will still be operating “within a structure”.

3. Prison aims and realities
The “high road” approach to imprisonment in the UK based on principles like rehabilitation, education, work and equality has been severely compromised in recent years.

This section of the report looks at the “ethos” behind government and prison service policy and how that has been constrained, not least by funding. The gap between aspiration and reality shows up in prison performance monitoring as well as in the reports of a range of independent scrutiny bodies.

Social partners and others complain that the service is falling short of its objectives, and that delegating parts of the service to private contractors has not necessarily helped (for example, the collapse of facilities management contractor Carillion earlier this year, and experiences in some of the private sector prisons). The current government’s reform plans put responsibility for achieving prison service aims even more firmly in the hands of governors, being given greater autonomy.

3.1 Prison ethos
Although the British prison system is rehabilitative “on paper” it is failing to live up to that in practice, with consequences for employment quality.

HMPPS says it has a clear and dedicated focus on reforming offenders and protecting the public while ensuring best value for money from public resources (HM Prison and Probation Service framework document, April 2017). That involves “strengthening the frontline”, empowering staff to focus on delivering better outcomes and by having clear lines for accountability for delivery, all of which sounds like it should be good for prison staff.

Government statements about prison reform also typically come with warm words about rehabilitation and education to reduce re-offending. However, as the Justice Committee points out, failure to assess or deal with the implications of the growing prison population could lead to a “diminution of rehabilitative activity”. It has also expressed concern about the ratcheting-up of punitive rhetoric about prisoners and the criminal justice system influencing the behaviour of the courts, prison governors and prison officers, or a punitive “steer” from the top of the MoJ: “There is a real danger that savings and rehabilitation could become two contradictory policy agendas”.

Prison culture may have been more rehabilitative in the past, and a source of job satisfaction for prison officers, but with many prisoners locked up for most of the day, current practice can be more about “containing” than rehabilitation. A recent study of POA members showed how managerialism can take over, leaving staff with no option but to “enact the rules”, fostering a
“covering yourself” imperative (eg a prisoner may be found hanging in a cell but it requires two staff members of to be present in order to deal with it). Staff may feel that "protection is for prisoners, not us" (for example, not being allowed to know if a prisoner is HIV-positive) and self-protection could become grounds for disciplinary action.

3.2 Funding constraints

Budget cuts have been the constant backdrop to developments in the prison service since the recession but ministers have been forced to announce a number of spending initiatives.

The role of budget cuts in the current prison crisis was made clear in the NOMS 2014/15 Business Plan. It had successfully delivered about £750m cashable savings against the 2010/11 Baseline Budget Position and by the end of 2014/15 that was expected to be £900m: “This unprecedented level of savings has been achieved at the same time as delivering ... fundamental reforms”.

Referring to a budget reduction of around 20% (at the end of 2013/14) NOMS claimed it was providing services at much lower cost while still maintaining good performance: “These savings are being achieved not simply by cutting services or reducing quality but by fundamentally reforming the way that we work – both in prisons (through restructuring; benchmarking; and ‘new ways of working’) and in probation” (by implementation of the Transforming Rehabilitation reforms).

Elsewhere the HMPPS chief executive has blamed problems on his budget being cut by 40% since 2010, despite the increase in the numbers of prisoners. The costs per place and costs per prisoner by individual prison (including by establishment) are published as a Management Information Addendum to the National Offender Management Service Annual Report and Accounts on the MoJ website: Prison and probation trusts performance statistics. It shows that the average cost per prisoner was £22,933 in 2016/17, a decrease of 5.4% from the 2015/16 figure of £24,249.

However, in May 2016 Justice Secretary Michael Gove told the Justice Committee’s Report on prison safety that an additional £10 million would be spent on prison safety issues, on top of £5 million to roll out body-worn cameras and additional CCTV, supplemented by £2.9 million from existing budgets already earmarked for prison safety in 2016-17 but not allocated.

Later, at the 2016 Conservative Party Conference, newly-appointed Justice Secretary, Liz Truss, announced an additional £14 million to recruit 400 prison officers; and in the Autumn Statement on 23 November 2016, Chancellor of the Exchequer Philip Hammond announced that he had “exceptionally” agreed to provide additional funding to the Ministry of Justice “to tackle urgent prison safety issues”. Up to £500 million (£100 million annually) would enable the recruitment of 2,500 extra prison officers to improve prison safety and fund wider reforms to the justice system (along with more sniffer dogs and a £3 million intelligence unit to target organised gangs).

Secretary of State Liz Truss confirmed the government’s aim of creating prisons that “change lives and do more than simply punish and house offenders”, incorporated at that stage in the (doomed) Prisons and Courts Bill. “For the first time, reforming offenders will be a statutory purpose of prison”. Reform measures, coupled with ensuring that time spent in custody is productive, were needed to reduce the £15 billion cost to society of reoffending and the emotional turmoil faced by victims.
3.3 Prison performance

Prison performance is monitored but over recent years the trends have been down rather than up.

Performance agreements are in place for all public-sector prisons, managed by HMPPS. Performance is checked and results presented through a variety of monitoring arrangements (which the government has promised to bring together including the Justice Data Lab, the Correctional Services Accreditation and Advisory Panel (CSAAP), the Innovation Fund, and the HMPPS Performance Hub).

HMIP inspects a different selection of prisons each year (not a random sample) and marks them against four criteria. As Chart 2 shows, recent trends among those prisons have broadly been downwards (data do not always necessarily reflect changes across the entire prison estate).

Chart 2: Prison performance

Source: Prison Service Pay Review Body 2017 (lines represent different measures)

One other yardstick for prison performance is escapes. The number of KPI prisoner escapes has fallen since 1995/96, when 52 prisoners escaped, to four KPI prisoner escapes in 2016/17 (in 2015/16 there were two escapes and none in 2014/15). The number of prisoner absconds has also fallen from a peak of 1,301 in 2003/04 to 86 in 2016/17. Earlier this year, the government revealed that 10 prisons were subject to special measure arrangements (the process for identifying, managing and improving underperforming prisons through agreed and time-bound performance improvement plans).

Following the collapse Prisons and Courts Bill, the Justice Committee was told (20 October 2017) that HMPPS had set up a new unit to make sure that its responses to independent reports are more rigorous and likelier to lead to changes. Plans for league tables showing prisons’ performance were strongly criticised by the Justice Committee, but for 2017/18 the existing Prison Rating System was
replaced by the Custodial Performance Tool (CPT). Overall performance is still graded into one of four bands (4: Exceptional performance; 3: Meeting majority of targets; 2: Overall performance is of concern; and 1: Overall performance is of serious concern) but that is based on seventeen commissioned performance measures, allowing for assessment against 3 main outcomes: public protection; safety and order; and offender reform. The ratings for 2017/18 were:

- 4: Exceptional performance 14 (12%)
- 3: Meeting the majority of targets 50 (42%)
- 2: Performance is of concern 39 (33%)
- 1: Performance is of serious concern 15 (13%)

Plans for more governor autonomy (see below) will have implications for the monitoring of performance. Governors will be held to account through performance agreements that they sign with the Secretary of State (see section 3.8).

3.4 Independent scrutiny

Elements of independent scrutiny have played an important role in exposing the decline in safety and working conditions for prison staff.

A number of channels of independent scrutiny have already been identified in this report. The role of **HM Inspector of Prisons** is to scrutinise conditions, “promoting the concept of ‘healthy establishments’ in which staff work effectively to support prisoners and detainees to reduce re-offending and achieve positive outcomes for those detained and for the public”.

All inspections are conducted jointly with education inspectors (in England, Ofsted, in Wales, Estyn); health care inspectors (the Care Quality Commission or Healthcare Inspectorate Wales) and the General Pharmaceutical Council. They play an important part in the UK’s obligations under the Optional Protocol under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment. The **Care Quality Commission** (CQC) inspects and regulates health and social care in prisons under a December 2016 agreement with the Prison Inspectorate. There is also a range of prisoner support, campaigning and pressure groups.

**Independent Monitoring Boards** (IMBs) which are appointed for every prison establishment (the Prison (Amendment) Rules 2008 amended the Prison Rules 1999 to replace “boards of visitors” with “independent monitoring boards”, following the renaming of the board by section 26(1) of the Offender Management Act 2007). Just 18 days before the December 2016 riot at HMP Birmingham, concerns raised in an IMB report prompted a government minister (Sam Gyimah) to admit that long-standing challenges in the prison estate “cannot be fixed overnight”.

The **Prisons and Probation Ombudsman** (PPO) is operationally independent of the Ministry of Justice. It which considers complaints, provides an annual report which the Secretary of State must lay before Parliament, and investigates and reports on any death of a prisoner or a resident of any approved premises. Its activity is covered by Prison Service Instruction PSI 2010/58.

3.5 Social partners on rehabilitation

Trade unions with members working in prisons have highlighted ways in which the service falls short of its rehabilitative aims.
The Public and Commercial Services union (PCS) has set out its vision for prisons in two separate reports. It argues that once in custody, society has to be prepared to “invest long-term in solutions to prevent recidivism through rehabilitation”; and it has called for the HMPPS Policy Statement to be reviewed to include as its main aim that “rehabilitation and the avoidance of recidivism is the focus of the agenda for the Prison Service”.

Many PCS members work as prison instructors and many of its recommendations relate to the role of work for prison inmates (it wants to see more research into the impact of “purposeful prison regimes” on ex-offenders). However, the union has also called for the development of Justice Woolf’s recommendations on community prisons; implementing the recommendations of the Dame Sally Coates review of education in prisons; and committing to Lord Farmer’s recommendations on maintaining links with family or significant others. It cites evidence from Norway and the Netherlands on alternative approaches.

Its Alternative vision for prisons points out that while the government has pledged to create up to 10,000 new places through a £1.3bn investment, new places doesn’t actually mean extra places. There has been under-investment not only in staff and in the estate but also to meaningful work, training and activities for prisoners, vital to improving the chances of prisoners to escape the cycle of crime and punishment and the harsh conditions that follow. If the service isn’t properly funded then nothing will change.

3.6 Contracting out

Government reforms are focussing on autonomy for public prisons, but whole-prison contracting out and Private Finance Initiative prisons are still part of the equation (in addition to the contracted out services mentioned above) and may be set to increase.

The Criminal Justice Act 1991 allowed the Secretary of State to enter into a contract with another person for the provision or running (or the provision and running) of a prison, or for that to be sub-contracted. Instead of a governor every contracted-out prison has a director (appointed by the contractor and specially approved by the Secretary of State) and a controller (a Crown servant appointed by the Secretary of State).

Under the Act, every officer of a contracted-out prison who performs custodial duties must be an authorised prisoner custody officer (or a prison officer temporarily attached to the prison); and their powers and duties are set out. The Prison (Amendment No. 2) Rules 2007 relaxed restrictions on the powers of directors over prisoner disciplinary hearings, segregation and restraint of prisoners.

HMPPS is responsible for privately managed prison contracts. The terms of each contract include an agreed level of service and, in most contracts, financial remedies apply where a provider fails to achieve this. The expectation is that there will be as much commonality in the commission for private and publicly managed prisons as is possible within the constraints of the existing contracts. In general, empowerment applies to privately managed prisons in line with their contracts, however, it is down to private companies to decide the extent to which their prison directors (private sector equivalent of a Governor) enjoy discretion within their company policies.

The first privately-run prison was established in 1992 and there are now 14 prisons run either by G4S, Serco or Sodexo, responsible for around 18% of the total prison population in England and
Wales. Some were set up on a private basis while others converted under the transfer of undertakings regulations (TUPE) starting with Birmingham (G4S) followed by Northumberland (Sodexo). Some were built under the Private Finance Initiative, PFI (eg Altcourse, Ashfield, Dovecote, Forest Bank, Lowdham Grange, Parc and Rye Hill). Some recognise the Prison Officers Association to represent staff but others recognise either the GMB, or Community (which merged with Prison Service Union in 2013).

The spread of private prisons halted after 2012 when G4S and Serco were banned from bidding to operate any further prisons and G4S lost the contract for The Wolds (the first privately-run prison in Europe, it reverted to the public sector as part of HMP Humber). That followed an HM Inspectorate report of "clear weaknesses", poor behaviour and high levels of drug use among inmates (the BBC said armed forces personnel had to be drafted in when G4S failed to recruit enough staff).

It has been argued that the opening of HMP Berwyn in early 2017 - financed and operated by the public sector – put the future of “whole prison” contracting in doubt. However, with the government aiming to deliver 10,000 new prison places plans were subsequently announced (26 June 2018) for a publicly funded prison in Wellingborough and a privately financed jail at Glen Parva in Leicestershire.

The POA highlighted comments by the prisons minister Rory Stewart (July 2018) which suggested that all new build prisons would be subject to competition with the public sector not allowed to bid: “Private prisons allow unsafe staffing levels and poorer terms and conditions for their staff. We need to invest in the public sector prison service and move away from the government dominated obsession with privatisation”.

Freedoms applying to privately-run prisons include the deregulation of Prison Service Instructions and Prison Service Orders and their replacement with policy frameworks which set out the minimum mandatory requirements to ensure a safe, decent and lawful system and these will be incorporated accordingly into the contracts. However, some of these regulations do apply to contracted prisons, such as PSO 01/2016 on managing staff corruption. Private prisons may also have been contractually required to use specific nationally commissioned contracts such as catering, or have received learning and skills services through the centrally-let OLASS contracts, but (going forward) Directors would have the same flexibilities as prison Governors (see below).

They are included in Prison Annual Performance Ratings (see section 3.3) and come under scrutiny by the parliamentary Justice Committee in the same way that public prisons do, exemplified by the committee’s Ninth Report on prison planning and policies (4 March 2015). It noted that while the public sector prisons were undergoing cuts in costs and staff numbers, NOMS had also negotiated with the private contractors to reduce their costs, including reducing staffing levels and increasing operational capacity.

In the event of disturbances the private prisons can and do call in public sector resources. On three occasions over a twelve-month period, HM Prison service provided support to deal with “concerted indiscipline” at private prisons: Doncaster in July 2016, Lowdham Grange in September 2016 and Birmingham in December 2016. On each occasion the National Tactical Response Group was deployed to provide specialist incident management support including advanced tactical options, advice, planning and development of intervention options.
In response to a parliamentary question from Labour MP Ian Lavery (about withdrawing Sodexo’s contract at HMP Northumberland due to reports of “mismanagement and understaffing”) prisons minister (Under Secretary of State) Sam Gyimah said: “We have robust processes in place to closely monitor and manage private contractors and will not hesitate to take action when standards fall short”.

However, when asked about plans to monitor staff in private prisons\textsuperscript{71}, it was reported on 10 January 2017 that “historically the information is not held” by the government, although plans to capture and monitor this data were being made. As it was, private providers were required “to maintain a sufficient number of staff, with the requisite level of skill and experience to ensure that the prison is a safe, secure and decent environment”.

The current government programme of employing an additional 2,500 new prison staff relate to public sector prisons. However, the government said\textsuperscript{72} it was “engaging with private providers” on how the staffing model outlined in the Prison Safety and Prison Reform white paper would be implemented in private prisons.

3.7 Private prisons and their performance

The performance of the private prisons appears to be as mixed as it is among publicly-run prisons.

The following examples (which also show union recognition) indicate the prisons’ 2017/18 CPT performance rating (from 1 “serious concern” to 4 “exceptional performance”, see section 3.3) and highlight a few of the relevant performance issues reported in the *Prisons Handbook 2017*:

**G4S-run prisons**

G4S Justice Services runs **HMP & YOI Altcourse** (CPT 3, GMB recognised) opened in December 1997. A 2015-16 IMB report noted concerns about staffing shortages but recruitment was underway. **HMP Birmingham** (CPT 1, POA recognised) was taken over by G4S in October 2011. Increasingly difficult behaviour of individual prisoners coupled with staff resource constraints gave the IMB cause for concern in 2015-16 and (as mentioned above) there was a large disturbance in December 2016 (a government report is expected.

**HMP Oakwood** (CPT 3, POA recognised) opened in 2012. It was commended by its IMB in 2015-16 but with a concern that a fifth of staff were aged 19-25. **HMP & YOI Parc** (CPT 2) opened in November 1997 as the first prison built under the Private Finance Initiative on a 25-year contract. Concerns about the availability of places on accredited courses, mental health problems, violence and substance abuse were noted in the 2015-2016 IMB report. **HMP Rye Hill** (CPT 3, GMB-recognised) opened in 2001 and was performing well although with some weaknesses, according to a recent HMCIP report.

**Serco-run prisons**

Serco Custodial Services runs **HMP Ashfield** (CPT 4, recognises Community which has a national agreement covering all the Serco prisons). It opened in November 1999 on a private contract and has been run by Serco since 2005. It was described as a well-run prison, according to a 2015-16 IMB report. **HMP & YOI Doncaster** (CPT 3) was built by the prison service and opened in 1994. An improvement notice issued in March 2015 lead to a change of Director and a refurbishment programme. **HMP Dovegate** (CPT 4) was built and opened in 2001. It had a difficult year in 2015-16 according to the IMB report, with a change of leadership and continuing problems with staff shortages (it includes Dovegate Therapeutic Prison). **HMP Lowdham Grange** (CPT 2) opened in
February 1998 as an industrial prison, and was managed and operated well according to the 2015-2016 IMB report.

**Sodexo-run prisons**

Sodexo Justice Services runs HMP & YOI Bronzefield (CPT 3, recognises Community which has a national agreement with Sodexo). It is a women’s prison which opened in 2004 on a 25-year Sodexo contract. Some limited concerns were mentioned in the 2015-16 IMB report (e.g. the number of prisoners with serious mental health problems). **HMP & YOI Forest Bank** (CPT 3) opened in 2000 under a 25-year Private Finance Initiative contract, and was described in the 2014-2015 IMB report as an excellent performing prison. HMP Northumberland (CPT 2, recognises POA) became part of the private sector in December 2013. After a period of rapid change with increased employment levels it became settled during 2015 according to the IMB report. **HMP & YOI Peterborough** (cpt 1 Male, 3 Female) opened in March 2005 was run by Peterborough Prison Management Ltd but subcontracted to Sodexo. Generally congratulated in the 2015-2016 IMB report despite problems with assaults and NPS.

A Justice Committee session on 28 February 2017 on prison reform, which interviewed senior figures from Sodexo, G4S, Serco and Carillion Services, provided some further insight into performance and league tables; penalties; and the use of new technology such as in-cell self-service kiosks (enabling them to be run with leaner staffing levels). The committee concluded that public sector prisons needed greater capacity to invest in cost-effective and operationally beneficial improvements “in the way that the private sector does”.

The committee heard that private sector prisons were performing significantly worse than public sector prisons in terms of assaults on staff and prisoners (30 assaults per 100 prisoners, compared with 22 in public sector prisons). Private prison witnesses responded that they tend to have some of the most challenging prisons and that you “cannot just compare all of them like for like”. One added: “With controllers on site, I think our behaviours are absolutely determined”.

### 3.8 Governor autonomy and prison management

**Reform plans that are giving governors greater autonomy could have a significant impact on many of the factors influencing job quality discussed in this report, but unions have mixed views.**

The government’s reform plans include giving prison governors more autonomy and it has promised training/coaching and learning to back that up. As planned, deregulation will reduce the mandatory requirements placed upon Governors, although policy frameworks are being developed to ensure that minimum required standards are met, with compliance monitored by the MoJ.

Former Secretary of State Lynn Truss described the government’s approach as “setting up the expectations on what we want prisons to deliver but also giving governors much more flexibility on how they achieve it”: they and frontline staff would be released from “pettyfogging rules and head office micro-management that stifles innovation”. The plans involved control over budgets (taking the lead from the first 6 Reform Prisons that were up and running in 2017); choice of behavioural programme; responsibility for commissioning healthcare services jointly with local NHS managers; starting to boost budgets by earning income for the prison and reinvesting it in their regimes; and selecting their own senior management.
More recently, commenting on the Birmingham riot, Pensions Minister Sam Gyimah said: “Governors are critical to the successful delivery of safe prisons (they will have) the authority to do their own workforce planning, decide what staffing structures best meet their local needs and deciding how to deploy extra staff in prisons”. On another occasion he said governors would be empowered “to determine the precise grade mix and deployment of staff into their establishment to meet the individual needs of their specific prisoner population, in line with set minimum service requirements which are aligned to the NOMS Offender Management model”.

Governors (Prison Service Manager 1) are one of three managerial grades in the public prison service and all prisons have one (their pay level depends on the complexity of the establishment). Reform will entail devolving responsibility from the centre to both Prison Group Directors (PGD) and Governors. The PGD is responsible for performance management and assurance; support and enablement; proactive intervention to support improvement as necessary (being directive only by exception), line management and the coordination of common approaches and strategic developments across a group of prisons (where this makes business sense/adds value).

The government says it recognises the need to enhance management capacity and capability at establishment level, including first line management posts (Custodial Manager), and additional senior posts for offender management (through Senior Probation Officer posts in prisons) and learning and skills contract management.

The practical experience of reform was discussed at a Justice Committee hearing on 14 December 2016 with six witnesses from trailblazer prisons piloting governor autonomy announced in May 2016 (Wandsworth, Holme House, Kirklevington Grange, Coldingley, High Down and Ranby). One of the witnesses (Executive Governor, HMP Holme House and HMP&YOI Kirklevington Grange) said: “Our position has always been that we will show what we can do from within the civil service as part of public sector prisons”.

The discussion gave an indication of some of the changes that were being introduced at the time:

- CCTV & body-worn cameras;
- staff re-profiling (moving staff around to be available at different times, for example, allowing a third member of staff available on the wings at key points in time);
- ring-fenced key staff (who deal purely with violence-related issues);
- localised recruitment drives (helped by the availability of higher pay levels);
- extra staff training (conflict resolution and five-minute intervention training);
- grilles to windows (as a deterrent to drones);
- having a clean environment where staff and prisoners feel better themselves;
- management visibility (one governor said: “I visit the establishment; I walk around twice weekly, and the staff and the men see it”);
- prisoner participation (starting to set up prison councils);
- peer support (eg. using the St Giles Trust to help develop peer support workers - someone who has “been there” and PID workers);
- changing the regime (eg. Wandsworth had changed its regime to make it consistent and deliverable, moving away from Prison Service benchmark: “It meant that in theory we were offering less time out of cell, but in reality it meant that more of our men got more time out
of cell than they were getting previously. That meant we were able to offer a regime consistently across the prison and we were able to get men engaged with education and work consistently for the first time in a very long time"

- improving premises/facilities management (eg. at Wandsworth there was one point in the summer when more than half of cell doors did not have observation panels and pretty much a third of the external-facing windows were missing as well. “We worked very hard with Carillion to fix those problems ... the flexibility we have as an early adopter meant that I was able to use some of that money to fix some of the problems quicker, and that has improved our environment and safety - the management of the contract has given us more freedom and more control over how we focus that work moving forward”);

- staffing capability (eg. bringing in a commercial director).

Unions have mixed views on the development of greater governor autonomy: some see it as a great opportunity for the service, but others are concerned about it will impact on staff (PSPRB 2017). One prediction is that the 2016 reform program will undermine collective agreements by allowing newly-empowered governors to by-pass them (Seifert 2017).

The POA has described the focus on additional powers for Governors as a somewhat untested idea. Although Governors in six prisons have received additional powers, a review has yet to be carried out on the impact this has had on the staff, inmates and rehabilitation. By delegating these powers to all Governors without full awareness of its impact seemed to be a brave and questionable move by the MoJ; and the union was yet to receive full confirmation that the Governors’ financial control will be ring fenced in regards to education, health and addiction programmes.

Its 2017 conference gave branches at Autonomy/Reform Pilot Prisons authority to engage with the Executive Governors on local issues that have a direct impact on that membership but the remit for issues that remain part of the National Prison Officer Terms and Conditions remain with the union’s National Executive. It mandated the NEC to resist any plans to transform single or groups of current state-controlled establishments into separate independent legal entities and any attempt to remove members’ current status as civil servants.

PCS has pointed out that there are limits to empowerment/autonomy as it is being developed: governors will not be allowed to change pay or allowances for example but will have more control over how money is spent on things like training, rehabilitation culture, recruitment and retention. It says allowing governors to retain profits from their industries to re-invest is “encouraging them to bring in less meaningful work that can be turned around quickly for financial gain to supplement central funding”. It calls instead for incentives for governors to actively seek employment and somewhere to live for those being released, with a new Careers Department closely linked to external agencies (like the Pathways to Employment process being developed in Norwich).

The PGA has in the past warned that the prison reform bill would become “the prison blame bill” but its President has spoken enthusiastically about the principle providing that there is sufficient expertise/resilience and funding (“release us from the shackles of bureaucracy and centralisation which basically means we are running prisons with our hands tied behind our backs” ... “give us the funding and tools to at least stand some chance of being able to meet the expectations of Inspectors rather than subjecting us to humiliating published reports that are not within our gift to improve”).
3.9 Offender Management in Custody (OMiC)

The new Offender Management in Custody model will have a significant impact on how the prison service meets its objectives, but also on job content and ways of working.

In 2015 NOMS/HMPPS conducted a review of offender management in prisons, driven by what was perceived as a failure of the existing model (which had been in operation since 2006). The findings were published and a decision to introduce a new Offender Management in Custody Model was announced in the House of Commons by the then Secretary of State Michael Gove. It was subsequently announced by Gove’s successor (Liz Truss) that 10 Pathfinder Sites had been chosen to begin its introduction. It includes the introduction of new job roles (Band 3 Key Worker and Band 4 Prison Offender Manager, see Section 4).

The POA’s latest statement on OMiC indicated that its NEC had not yet taken a decision to endorse the new model until evidence could be produced to show that it had been instrumental in the reduction in violence, self-harm and suicides in prisons and that re-offending rates were reduced. However the union was in ongoing consultation with HMPPS on its introduction including detailed discussions about prison officer roles.

4. Job content, training and prison careers

Work for the prison service is governed by civil service rules and detailed but also differentiated job descriptions. But in practice many prison officers feel out of control, and lack career opportunities (something which the “Offender Management in Custody” model may address).

Work in HM Prison Service is covered by the Civil Service Code which outlines core values and standards of behaviour, focusing on integrity, honesty, objectivity and impartiality. Role profiles drawn up in 2012 describe operational prison jobs in considerable detail.

Staff are subject to the NOMS competency framework which is used for recruitment, performance management and development discussions and decisions about progression. The 47-page document is made up of ten competencies and 4 NOMS-specific skills and behaviours, which include:

- achieving a Safe, Decent and Secure Environment: support the principles of dynamic security by treating the needs of offenders individually; developing controlled, professional relationships with offenders; and contributing to a constructive regime
- showing Drive and Resilience: must retain a professional approach when confronted by aggression and strong emotion from offenders
- caring: apply and support the decency agenda for staff and offenders
- persuading and influencing: seeks to understand others’ perspectives whilst following through on agreements
- acting with integrity: consistently acting in a principled, open and conscientiousness manner, and challenging unacceptable behaviour.

4.1 Prison officer role

Prison Officers are the mainstay of the operational workforce and fulfil a wide range of roles. In any assessment of job quality, what they are supposed to do and what their jobs are actually like is key.
There are over 17,000 prison officer staff in post (see Section 2). In the context of the Fair and Sustainable grading structures (see Section 10) these are in Bands 3 to 4 for pay purposes. The main POELT training programme (see below) recruits external applicants directly to this role.

Role profiles describe the Prison Officers’ job content; skills and knowledge; accountability and decision making; problem solving requirements; resource management and financial impact; organising and planning; and information management. These are seen as non-exhaustive (see section 6.1).

There are a very wide range of Prison Officer role profiles, from Safe Decent & Secure to Therapeutic Community Residential; Detention Custody Officer; Dedicated Search Team; Category A Escorts; Substance Misuse; Mandatory Drug Testing; Mother Baby Unit; Race Equality Officer; Activities; Safer Custody Coordinator; Violence Reduction Coordinator; Audit; Detail; Disability Liaison; Equality; Foreign Nationals; Operations and Security; Repatriations; Suicide Prevention Coordinator; Observation, Categorisation and Allocation (OCA); Legal Services; Sports and Games; Special Unit/Special Unit (Non Self Contained) and Outreach.

Focussing on the role of Prison Officer – Safe, Decent and Secure, the specific duty is to supervise, manage and control prisoners on the residential unit and during daily purposeful activity decently, lawfully, safely and securely whilst carrying out all activities. In detail the duties listed are:

- Supervise prisoner activities including exercise and association, maintaining the general cleanliness of the wing and making sure that meals are served in line with establishment policy
- Lock prisoners securely in their cells at each lock up period, keep account of the unit roll and make sure that prisoners are accounted for
- Support vulnerable prisoners and pass any relevant concerns to wing managers/staff, healthcare, safer custody dept and personal officer
- Share identified prisoner needs with reception staff
- Unlock prisoners in a timely manner
- Deal with any instances of self-harm in line with suicide and self-harm prevention strategies
- Support prisoners in line with the Personal Officer strategy, completing reports on prisoners as requested, within time limits set, which contribute to sentence planning and prisoner progress
- Encourage responsible and respectful behaviour in prisoners
- Receive and progress applications and complaints
- Maintain prisoner records by completing behaviour report entries and data entry onto the prisoner database
- Carry out accommodation / fabric checks, including searching prisoners
- Complete all administration in support of main duties including ordering cleaning materials and completing regime monitoring

If a residential unit is used as First Night/Induction accommodation, there are additional job tasks (as there are if it is used as Care & Separation Unit accommodation). Specifically these are:

- Deliver an effective induction in line with requirements
- Interview new arrivals ensuring a needs assessment is completed and appropriate referrals are made for prisoners who require interventions
- Brief all prisoners giving clear guidance and ensuring they are aware of how to seek help and information
- Deal with any prisoners concerns or issues raised at induction meeting
• Coordinate and support listeners network ensuring that any advice given is supportive and accurate
• Support vulnerable prisoners and pass any relevant concerns to wing managers/staff, healthcare, safer custody dept and personal officer
• Share identified prisoner needs with reception staff

In addition, the jobholder must undertake other Prison Officer tasks as follows:

• Supervise, manage and control prisoners decently, lawfully, safely and securely whilst carrying out all activities
• Exercise powers of the Constable
• Conduct searches on prisoners, staff and visitors as required
• Undertake external escorts
• Undertakes ‘first on scene’ incident response
• Understand, apply and conform to national and local polices
• Establish, develop and maintain professional relationships with prisoners and staff
• Maintain and update systems in line with local agreements
• Prepare relevant documentation to managers for verification / quality checking purposes
• Attend and contribute to relevant meetings as required
• Complete and update Personal Emergency Evacuation Plan

As a union the POA is actively engaged with job grading issues. Earlier this year it warned that some governors were using re-profiling as a means to try and re-introduce Band 4 Supervising Officers as Nights Orderly Officers. Its position was that this role should sit with the Band 5 Custodial Manager grade right across the estate; and that Supervising Officers cannot act as night managers, due to their fair and sustainable job descriptions and JES scoring.

4.2 Job control

Prison jobs are described and job-evaluated but that is no guarantee of job quality if, in practice, they are understaffed and prison officers feel that work is beyond their control.

Research among POA members into stress and wellbeing (Kinman et al) suggests that the job “on paper” probably isn’t the problem in the prison service. Poor levels of reported wellbeing had more to do with support and control. For example, more than half of the staff who took part said they seldom (26%) or never (32%) had the opportunity to decide when to take a break. They seldom (37%) or never (33%) had a choice in deciding what they do at work; and seldom (26%) or never (44%) find that their working time can be flexible.

The job is also quite repetitive, while demanding a high level of vigilance, and breaks are essential in order to recover both physically and mentally. A large minority said they seldom (29%) or never (16%) have a say in their own speed of work; and they seldom (31%) or never (14%) have a choice in deciding how they do their work. However, many did say that they sometimes (48%) or often (17%) have “some say” over the way that they work. Compared with other sectors of the economy (HSE data) POA members reported a lower level of wellbeing in relation to their control over their work.
In terms of their role, a typical snapshot response to a range of questions would be that members “often” knew what was expected of them at work, and “often” had the information required to go about getting their job done. They were “often” clear about their personal duties and responsibilities, and “often” or “sometimes” aware of the goals and objectives for their department; they “sometimes” understood how their work fitted in with the overall aim of their organisation.

4.3 Prison officer specialists

Under the 2012 role profiles there are a wide range of more specialist Prison Officer roles.

Existing Prison Officer Specialist role profiles exist for Catering Officer, Patrol Dog Handler/Search Dog Handler, Healthcare Officer, Instructor, Offender Supervisor, Physical Education Instructor, Programmes Facilitator, Use of Force, Therapeutic Community Programmes, and Intelligence. Supervising Officers provide day to day supervision and support for Prison Officers and Operational Support Grades (OSG), coordinating the delivery of the regime and activities within a Residential Unit in an establishment. They coordinate initial staff response until a Custodial Manager is in attendance. A Supervising Officer – Safe, Decent, Secure must undertake Orderly Officer duties via the establishment’s rota and may be required on a rotational basis to be responsible for the establishment during the night period (based on local risk assessed and establishment complexity).

4.4 OMIC and the new job roles

New job roles are being created under the unfolding Offender Management in Custody model. HMPPS believes they will make a difference to the service it is able to offer.

HMPPS says its workforce strategy has a strong focus on professionalising the service and providing opportunities for career development, and will create new specialist roles. These flow from a 2015 NOMS/HMPPS review and decision to introduce a new Offender Management in Custody Model (OMIC). Ten “Pathfinder” sites were chosen to begin the introduction of the new model (Chelmsford, Eastwood Park, Exeter, Guys March, Leeds, Liverpool, Moorland, Nottingham, Wayland and Winchester).

HMPPS wants frontline prison officers and staff to operate not just as security guards and minders but also as mentors, with the time to invest in relationships and run effective interventions. It is therefore giving every prisoner a dedicated officer, a Band 3 Key Worker, who can engage with them one-to-one. Every prisoner should receive a 45 minute weekly Key Worker session. Key Workers will manage a caseload of around 6 prisoners. All of this work should be included in establishment profiles. HMPPS says the recruitment of additional 2,500 prison officers will “underpin” the implementation of the key worker role (see below).

A second phase, Core Offender Management, was due to be introduced from spring 2018. It involves a move away from the Band 4 dual Offender Supervisor/Supervising Officer role and would see the introduction of the new Band 4 Prison Offender Manager (POM), which can be Operational or non-Operational depending on the model, after the governor has first consulted with the Trade Unions.

These changes are part of the range of current reforms alongside more governor autonomy, improving case management in prisons, a strategy to address staff corruption, and strengthening the response to the risk of radicalisation and extremism in prisons.
The POA took cautious view of these changes (see section 3.9), pointing out that Key Work should only be delivered if the establishment is above its Benchmark Total Staff Funded (TSF) for Band 3 Prison Officers (see section 2.2) and all Band 3 Prison Officers have received the Key Worker Training.

It also queried who would carry keys under OMiC. Part of the OMiC model involves probation officers coming into prisons (the role of probation officers is not discussed in this report) and the POA was concerned about whether not issuing them with keys would increase workload for prison officers. HMPPS has confirmed that the OMiC project increases the number of officers at Band 3 on residential units, meaning more staff are able to unlock cells and therefore not resulting in an increase in prison officer work levels (the decision around issuing keys is made locally, subject to governors’ discretion, but non-operational staff would not be issued with cell keys).

4.5 Promotion and career progression

Opportunities for promotion and career progression have been limited, but HMPPS says it wants to change that, improving recruitment and retention, and ultimately cutting costs.

Processes for promotion and advancement have been challenged by the POA. In 2016/17 just 3.8% of staff in Prison Officer Bands 3 to 5 were promoted to a more senior grade through an internal process (movements from Band 2 operational support to Band 3 are not included as promotions)\(^{82}\). Promotion was more common for non-operational staff below management level (5.2%), non-operational managers (8.9%) and operational managers (13.8%). That may help explain why 45% of POA members in the Bedfordshire University survey felt their opportunities for advancement were “very poor” while another 34% said they were “poor”.

However, the proportion of NOMS staff receiving a Temporary Cover Allowance edged up between 2014 and 2017, from 1.7% to around 3.5% and then 4.6%. Among band 3 to 5 officers it was 5.2%, and among operational managers it was 14.2%. We know from other figures quoted in this report that the service has been losing seasoned officers, and anecdotally there seems to be churn higher up too, but for Band 3 to 5 offers the chance to act up is greater than the chance of a promotion.

In its 2018/19 submission to the pay review body HMPPS said it was planning to introduce a new promotions policy that would help reduce the number of staff who were unable to take a promotion for financial reasons (a reference to the Fair & Sustainable pay structure under which promoted staff often incur a reduction in total pay as a result of losing certain allowances, see section 10.4).

It will involve the Introduction of an Advanced Prison Officer role (HMPPS is planning for 2,700 posts) subject to on-going dialogue with trade unions and staff. The role is specifically aimed at those who, through collectively gaining additional skills and experienced by completing relevant learning modules/qualifications, will gain a specialist level of expertise (it is expected that annual refreshers will be undertaken to ensure that the required skills and experience are maintained).

This role would be distinct from other Band 4 roles (Supervising Officer, Prison Offender Manager and Prison Officer Specialist) and focus on enhanced skills such as Tornado, mentoring, negotiation, Assessment Care in Custody and Teamwork assessment, Control and Restraint and first aid. The mentoring role, in particular, is viewed as an important part of HMPPS’ retention strategy “in the
context of the number of relatively inexperienced staff that are currently employed across the estate and the need to support them in their development” (2018/19 evidence to the pay review body).

HMPPS says the role is compliant with its job evaluation scheme (JES) and the incorporation of additional modules into a collective new job evaluated at Band 4 (it will sit alongside the other operational Band 4 roles such as Supervising Officer, Prison Offender Manager and Prison Officers Specialists). The prison service does not make specific payments for other specialist roles, and would not for the APO (the weighting of the role is supported by remuneration at a higher pay band).

HMPPS also had plans for the introduction of two new roles in the Youth Custody Service (newly established as a distinct and discrete branch of HMPPS), a Band 3 Youth Justice Trainee and a Band 4 Youth Justice Specialist. This initiative is in response to Charlie Taylor’s Review of the Youth Justice System published in December 2016 and increased levels of violence, self-harm and assault rates (doubled to 19 assaults per 100 young offenders in the last 6 years) and a reoffending rate of almost 70% of young people within 12 months of being released.

In the absence of acceptable opportunities for promotion, the service has relied on staff acting up or providing cover for higher grades, even though this is not always financially advantageous. In its 2017/18 report the pay review body recommended that the temporary promotion/cover payment should be the greater of either the minimum for the role or 5% (pensionable): “We think it is unreasonable for someone to earn less than the minimum salary for the role they are covering”. Improving the promotions policy should allow HMPPS to reduce the number of roles being “backfilled” on a temporary cover arrangement with Payment Plus hours (see section 6.2).

4.6 Support Services Operations

Operational Support Grades have, for many years, provided support for the more numerous Prison Officer workforce but do not have the powers, authority, protection and privileges of a constable (and don’t therefore face the same restriction on taking industrial action).

Work permitted to be done by Operational Support Grades (in F&S terms, Band 2 Operational Staff) was defined in 1987 and today there are almost 4,500. OSG activities and duties are:

- Gate/Portal duties: ensure the secure entry and exit of staff, visitors/vehicles, carry out searches of staff (but not prisoners), visitors, contractors and vehicles. Issue and collect staff keys/radios.
- Contractor Escorts: be responsible for identifying and escorting vehicles and contractors within the establishment
- Emergency Control Room/Control Room: operate the establishment radio system and CCTV to ensure the security of the establishment through secure movement of persons and vehicles. May be required to train staff in radio procedures. May also be required to review CCTV tapes of visits, labelling and storing in compliance with protocols.
- Visits: book visits, identify and process visitors on their arrival, ensuring all visitors both domestic and official are appropriately searched and their details are collated, escorting them if required; Monitor CCTV.
- Censors/Correspondence: monitor/log mail and report any illicit or contraband items maintaining the preservation of evidence
- Monitor phone calls made and received by prisoners
• Night Duties: ensure cell doors are locked/secure and all prisoners are safely accounted for
• Reception: assist in supporting appropriate tasks within reception ensuring that any prisoner queries and property are processed appropriately; Photograph prisoners; Collate all relevant documentation for the Reception/Property process; Search/x-ray all incoming prisoner property and parcels accepted in Reception; Receive items for prisoners and check all seals are intact on property storage
• Prisoner supervision: supervise prisoners as required. Undertake prisoner clothing/property exchange. Assist officers with free flow movement and receiving of prisoners when required
• Food delivery: undertake food trolley delivery and collection, which may involve use of an electric tug vehicle
• Driver: Transport prisoners and their escorts to their destination in the cellular vehicle where applicable; Collect mail from local sorting office
• Monitor the prisoners PIN Phone system maintaining the log of PIN Phone requests from prisoners; Complete all relevant paperwork keeping an audit trail of conversations
• Complete an SIR (security incident report) for intelligence gained from monitoring phone calls or illicit / contraband items found
• Check that any legal numbers are registered solicitors

OSGs must also understand, apply and conform to national and local polices

• Respond appropriately to invoke emergency procedures in line with Local Security Strategy and National Security Framework, utilising knowledge of local contingency plans and the actions required in relation to incidents. Any initial decisions or actions will need to be referred to management for further action.
• Undertake administrative duties relating to area of work as required
• From time to time, you may be required to undertake additional activities which are appropriate to the level of your Group Profile (GP).
• From time to time, OSGs may be required to undertake additional activities which are appropriate to the level of their Group Profile (GP).

Under the OSG heading there are job profiles for OSG nights; OSG Stores, warehouse and Receiving Incoming Deliveries (RIDS); and OSG Driver. OSGs carry out a range of activities across key areas of the establishment including gate, visits, censor activity and reception. They are also flexibly deployed to other support service activities within operational areas when required.

The Nights job description requires OSGs to support staff during the night period, ensuring cell doors are locked and secure and all prisoners are safely accounted for. As required by the Night Orderly Officer and Local Security Strategy it involves regular and effective patrols/wing patrols, pegging, and observation of prisoners including those on Assessment, Care in Custody & Teamwork (ACCT), or Cat A and E list prisoners.

Night OSGs must log any events; carry out and report roll checks; work within the Wing Offices as detailed, providing prompt help and support to prisoners who require it; interact with and support prisoners who are on an open ACCT or Victim Management Record and record as necessary; and monitor prisoners subject to security checks such as Category A and Escape List.

They undertake additional night duties as required, including Gate, PIN Phones, production/collation of orders; give a full briefing of the night’s events at handover; administrative duties relating to area of work as required; and responding appropriately to invoke emergency procedures, utilising
knowledge of local contingency plans and the actions required in relation to incidents. Any initial decisions or actions will need to be referred to management for further action.

The **Stores/Warehouse/RIDS** job description requires OSGs to monitor, log and x-ray all deliveries to the establishment and ensure onward delivery to the relevant internal area. It also involves requesting/requisitioning and receiving goods; supervising the prisoner workforce in relevant areas; preparing completed manufactured goods for distribution to other establishments; receiving and distributing staff uniform/clothing and transporting laundry; complying with waste management; monitoring outside storage areas and containers; general fork lift truck and HGV duties; vehicle checks; receiving and documenting all recorded prison mail; distributing/removing office furniture/equipment as required; and other tasks similar to those listed for OSG.

The **driver** job description requires OSGs to navigate journeys; drive official vehicles transporting prisoners and their escorts to and from the establishment; complete deliveries and collection of items; and be flexibly deployed when required. In addition to duties similar to those listed in other OSG job descriptions, drivers must plan routes, including any overnight stays/safe havens and maintain awareness of the call sign for the police radio; stay with the vehicle whilst escorts take prisoner to location; maintain the security of the vehicle at all times – including during overnight stops; and search the destination before the prisoner is released from the cellular vehicle.

### 4.7 Non-operational staff

**Roughly one in four public-sector prison staff are “non-operational” employees including administrative and executive staff, instructional officers, managers, directly-employed industrial/facilities staff, psychologists and chaplains. Although not formally part of the main pay-setting arrangement (the pay review body) they are closely aligned (see Section 10).**

The main task of civil servants in the prison service who are not prison officers or other uniformed grades is to “manage and deliver the requirements of the legal system for each prisoner” as included case files that involve their release dates, their rights with regard to special religious and family matters, and their education and training. Instructors make up an important component of this workforce. Falling morale among these grades (eg. As indicated by the NOMS “pulse” survey) is said to be the result of increasing prisoner numbers and “less management support”.

The biggest component of the non-operational workforce are over 3,000 administrative staff including assistants (keeping records, filing papers, inputting data, photocopying, performing switchboard duties, letter writing, or dealing with telephone or written enquiries) and officers (providing clerical support such as processing and receiving information, maintaining files and records, data analysis, linking or cross checking information and assembling cases, procuring goods or services, placing orders, dealing with suppliers, and chasing deliveries).

The directly-employed workforce includes over 1,200 instructional officers (March 2018 figure) who provide prisoners with vocational training, such as in engineering, plastics, printing, tailoring, footwear, woodwork etc. They lead groups of prisoners in practical workshops on anything from carpentry and gardening to plumbing and bricklaying. Instructors come from a wide variety of specialisms, including building, bricklaying, carpentry, catering, clothes making, gardening, plumbing, waste management, woodwork, welding and many more.
The directly-employed workforce includes over 1,000 psychologists and HMPS describes itself as the biggest single employer of psychologists in the country: “That means we have far more career routes and broader options than most other organisations”. Psychologists can join HMPS through 3 different routes: Interventions facilitator (GCSE-qualified); Trainee forensic psychologist (graduate); and qualified psychologist.

Non-operational staff in HMPPS are represented a National Trade Union Side (NTUS) in which the Public and Commercial Services Union (PCS) with around 4,000 members is recognised along with GMB, Prospect and UNITE. Prospect says it represents members working as non-operational Phase 1 managers and Non-Phase 1 grades (eg. Catering Managers, Chaplains, Substance Misuse Workers, Farm Managers, Medical Officers, Professional and Technology Officers, Psychological Assistants, Scientific Officers, Stores Officer Grades, Trainee Psychologists, pharmacy staff and teaching staff in prisons).

PCS is critical of the current approach taken to prison work and activities and has its own stance on job content. For example, it says instructors need to be empowered: working in direct contact with individual offenders for, on average, 6 hours per day they are well placed to apply rewards and sanctions (be they financial or sentence progression) and “to develop the types of relationships that allow them to evaluate the prisoners and make meaningful assessments”. It has also called for the existing role of Communities engagement manager to be expanded to include “careers advice” (or to introduce such a role within Learning and Skills).

4.8 Jobs in the private prisons

Opportunities for career development seem to have been as limited in the private prisons as they have been in the public sector, but the challenge for employers to engage staff is just as acute.

The Community/Howard League for Penal Reform report says opportunities are almost non-existent in many prisons and officers find themselves on low or stagnant pay despite years of service. Prison officers feel they have been overstretched and neglected. Their ideas on how things could be improved are all too often ignored. Responsibility was often added as service length increased but this was not met by promotion or increase in pay; as a result, officers may “vote with their feet” (i.e. leave).

One officer was quoted as saying: “There’s nothing available for staff to upskill. They’re stopping people from being able to progress and better themselves across the prison. There were 20 leavers in October alone”. The report recommends creating clear career paths that enable experienced and skilled officers to progress; and the provision of opportunities to develop new skills and specialisms that are met with promotions and pay increases. Ministers, company executives and prison leaders must be more ambitious for current and future prison officers. They must focus on providing staff with the opportunity to have successful and fulfilling careers where they can make a difference. This, in turn, will have an impact on raising the status of prison officers.

The report found that the job description and aims of prison officers were unclear, with the lack of attention placed on the prison officer role apparent in the wide variety of responses from participants to questions about their duties and aims. Some described broad and competing aims and objectives (emotional crutch, financial crutch, and disciplinarian, but also “running a small
community”). Others saw their role as maintaining order on the wings, and felt that some of the work they were being asked to do (health worker/social worker) was inappropriate.

Prison officers described a huge range of tasks that they were responsible for, including: cell searches, supervising medicines, building relationships, identifying people with mental health problems, helping prisoners navigate the prison system, mentoring, preventing suicide and self-harm, fetching food from the kitchens for the wing, ensuring people had adequate supplies of basic essentials, instilling discipline, helping prisoners keep in contact with their families and personal officer paperwork. Officers wanted to do all these things well, but felt a lack of time, training and too few staff often made this impossible. As a result, many participants agreed with those who described their role as “jack of all trades, master of none”.

Despite having a complex role and wide variety of duties, officers were able to exercise little discretion to problem solve and prioritise. The lack of attention paid to the prison officer role had left officers in a double bind where they had a large number of prisoners, often with complex problems to monitor and look after, but with very little power to exercise those responsibilities. Several of the 27 officers interviewed for the Community/Howard League report thought that this was a bigger issue in private sector prisons, where the removal of decision-making powers had been particularly marked in recent years, leaving them dependant on management approval (something the prisoners pick up on). The report called for officers to be given the autonomy, professional discretion and responsibility to make a positive impact.

The key worker model, or something like it, seems also to exist in the private sector but may be frustrated by a lack of adequate staff, the Community/Howard League report seems to suggest. It quotes one prison officer: “We’re assigned seven (personal officer) prisoners, but often you might never see them. You might not see them for three weeks. It’s hard to keep in contact, but you have to be a good officer and spend time with them. It’s difficult though”.

4.9 Staff induction

Induction and probation processes, which follows clearly defined rules in the public sector prisons, will be playing a particularly important role in current attempts to build up staffing levels.

With the prison service finally attempting to address staff shortages through extra recruitment, induction and probation have a particularly important role to play. The process is managed within a formal, regulated procedure which aligns with principles developed by Civil Service Employee Policy, ensuring that employees on their probationary period are assessed against the delivery of outcomes and behaviours. The policy aim is “helping employees who are new to the Service to understand what is expected of them, feel engaged and motivated, and give of their best”. It reflects the principles which underpin the Staff Performance Management policy and stresses the need for consistency as well as support: “Employees on their probationary period will be supported and developed to meet clearly defined levels of performance and will receive feedback on how they have performed. Induction is a process, not an event”. Wherever possible, induction begins before taking up the post (eg. a letter of welcome) and will vary in content and duration according to the prior experience of the new employee. Employees appointed to permanent posts or fixed-term-appointments of a year or more must normally serve a probationary period.
4.10 Entry and post-entry training
Like many other aspects of prison work, training commitments are formal but apparently not well regarded in practice by most staff.

The prison service emphasises the standard of training that recruits can expect but in the survey by Bedfordshire University (Kinman et al) less than 7% of POA members rated on-the-job training as very good/excellent. The majority verdict was “average” 35%; “poor” 37%; or “very poor” 21%.

On entry, Prison Officer recruits complete a 10-week Prison Officer Entry Level Training (POELT) course before beginning their role (12 weeks including weeks 1 and 12 hosted at the home establishment). During the course, they are required to complete the SFJ Level 3 Diploma in the management and care of individuals in the custodial environment. POELT is delivered at one of a number of training sites across England and Wales.

At the pre-recruitment stage applicants are assessed (through on-line tests) to ensure they meet required competencies on leading and communicating, managing a quality service, achieving a safe and secure environment, showing drive and resilience, caring and persuading and influencing. At Recruitment Assessment Day (RAD) there is also an assessment of physical fitness, qualities and the skills looked for in a prison officer. The fitness test is to assess ability to meet the physical demands of the job and involves completing a “bleep test”, an agility test and push/pull strength tests.

The POELT course combines a mixture of theory and practice based classroom and dojo activities, covering health and safety responsibilities; organisational, legal and moral responsibility to those in custody; communication and interpersonal skills; safer custody in custodial environments; offending behaviour and methods for reducing re-offending; operating safely and securely; recording and reporting; use of force; searching individuals; escorting; and pro-social behaviour in working relationships with individuals. In-course assessments aim to demonstrate competence in radio procedures and urgent message; rub down searching; full search; cell searching; handcuff; accommodation fabric check; roll checks; and locking and unlocking.

The SFJ Level 3 Diploma must be completed during the POELT course. It involves a written final summative assessment paper (knowledge & scenario-based questioning); 12 knowledge-based work books (Level 3 qualification); a range of practical skills assessments (Level 3 qualification); use of force - theory and practical (Level 3 qualification); demonstrating and maintaining professional standards; being able to work with others to produce a work-based project; a weekly personal development journal; and a range of personal reflection records.

In addition to ‘introduction to mental health’, and ‘introduction to safer custody’ courses (part of POELT), training in awareness of the Personality Disorder Knowledge and Understanding framework is “widely available to prison-based staff”89. “Emotional and Mental Wellbeing” training is delivered to officers in the young people’s estate, and a number of establishments had worked with NHS trusts to commission bespoke mental health training.

HMPPS said in its 2018/19 evidence to the Pay Review Body that it was reviewing POELT training to ensure its relevance and planned to pilot a more “experiential” learning approach through the summer of 2018, while its longer term ambition remained to introduce a Prison Officer Apprenticeship in 2019.
For **OSG jobs**, Operations Assistant entry level training starts with a 2-week induction training course at the Prison Service College (PSC) at Newbold Revel, Rugby, or one of the local training centres. Applicants must hold a valid driving licence if there will be a local requirement to drive vehicles (driving and navigating is an appropriate OSG duty as defined in PSI42/1997, Operational Support Grade: Schedule 3). It includes an ability to fulfil all spoken aspects of the role with confidence through the medium of English or (where specified in Wales) Welsh. All of the competencies in the National Offender Management Service (NOMS) Competency and Qualities Framework are relevant to selection (leading and communicating, collaborating and partnering, managing a quality service and achieving a safe and secure environment).

### 4.11 Training in the private sector

**Training provision in private sector prisons is also an area of concern for trade union members.**

The Community/Howard League report identified inferior training and deficiencies in shadowing provisions once training is finished as problem areas in the private sector. The period of training was judged to be too short (between seven and nine weeks); and the quality of mainly classroom-based training not as good as the residential training in the public sector.

The report also identified a lack of additional training for long-serving officers, with officers reporting that they couldn’t access refresher training, mainly due to staff shortages. Others felt that they needed additional and more in-depth training on issues such as mental health, working with sex offenders, identifying and preventing radicalisation and preventing self-harm in order to be more effective in their jobs, but found very few opportunities were available.

Almost all participants cited shadowing existing officers as a crucial part of training and essential for preparation to work independently on the wings, part of developing “jailcraft”. The length of and importance placed on shadowing varied slightly between different prisons and companies, but it did not appear to be well organised or last for long periods in any of the institutions represented. The very high staff turnover in some prisons undermined the whole concept of shadowing.

The report called on the government to support the setting up of a specialised training and standard setting college, akin to the College of Policing, to promote and deliver high quality training across publicly and privately-run prisons. It also recommended that prisons across the sector should look to reinstate meaningful mentoring and shadowing schemes for new officers.

### 4.12 Fitness test

**Fitness is one of the requirements in the prison officer recruitment process but continuing requirements to re-pass the test are regarded as unfair.**

Fitness assessments are an annual requirement for recruits, C&R Advanced staff and new specialists under Prison Service Order PSO 8625 (2001). They involve a grip test, a multi-stage fitness test (bleep test), a dynamic upper body strength test, a speed agility test (running and changing direction), and a shield test (holding a shield in a functional position).

The use of a fitness test for serving officers is extremely unpopular with POA members who have voted repeatedly (at their conference) to have it abolished. At the time that this report was written the union had not secured abolition of the test but did have an acknowledgement from the
employer that an equality impact assessment was required to examine the issues, which the union believed to be discriminatory within the current testing process in relation to age.

5. Industrial relations
Trade unions are well-organised in the prison sector but subject to a legal ban on industrial action being taken by Prison Officers (who have the status of constable). This has hampered the Prison Officers’ Association in its attempts to respond to the current crisis in prison work.

Unions are highly organised in the sector and employment relations are formalised along civil-service lines, but a legal ban on industrial action by prison officers acts as a limit on what can be achieved through negotiations. Anecdotally, relations between some prison governors (who are being granted increasing autonomy) and union representatives can be difficult – rapid turn-over and stress seem to be part of the problem at that employment level too. In some respects, therefore, the system in England and Wales has recently come to look more like a “low road” strategy, with a worsening of employment quality in practice.

The HMPPS Chief Executive has delegated responsibility to set terms and conditions of employment and procedures which apply to the civil servants working within the Agency (other than Senior Civil Servant grades). The Agency submits evidence to the Prison Service Pay Review Body (PSPRB) which is described as being “independent of government, HM Prison Service and trades unions”, while at the same time implementing pay changes “in line with the government’s response to the Prison Service Pay Review Body’s recommendations”. In its 2018/19 evidence HMPPS said it was developing a pay and reward strategy which would support its ambition to “refresh relationships with the trade unions that help to implement the reforms that our prison system needs”.

In prisons that have been transferred to the private sector (such as Birmingham) the transfer of undertakings regulations (TUPE) protect terms and conditions to a degree, but have been weakened following the Alemo-Herron judgement. Trade union recognition is likely to be carried over under these circumstances. But in cases where prisons have been opened on a private basis union recognition and terms and conditions have to be negotiated from scratch (the UK’s statutory recognition procedure is not regarded as fit for purpose by the trade unions, although they do use it).

5.1 Trade unions in the prison sector
Trade unions are generally well organised in the prison service and include wide spectrum of differing (and sometimes competing) organisations.

The Prison Officers Association (POA) is the largest union in prison membership terms but mainly recruits within the operational workforce. It represents 30,000 members in prisons, immigration detention centres and secure psychiatric hospitals. Historically it has sole recognition rights throughout the Public Sector Prison Service for the following most operational grades and joint recognition for governor grades along with the Prison Governors Association (PGA, a non-TUC affiliated union formed in 1987 that represents over 1,000 senior UK prison staff) and the Public and Commercial Service Union (PCS). Non-operational prison staff are represented by a wider range of other HMPPS-recognised trade unions including PCS, Prospect, Unite, GMB and others (see Section
1. Employer fragmentation and precarious work has affected union representation in the field of prison education while agency staff play a significant role the facilities management workforce.

5.2 Pay setting and consultation

The POA and other HMPPS trade unions are consulted through the “Whitley Council” system.

The Chief Executive of HMPPS (which is a government Agency) has delegated authority for pay bargaining for all Agency staff (except Senior Civil Servants). It submits evidence to the Prison Service Pay Review Body (which is independent of government, HM Prison Service and trades unions) and implements pay changes in line with the government’s response to the Prison Service Pay Review Body’s recommendations. Consultation is conducted along “Whitley Council” lines. The POA has a full seat on the staff-side of the National Whitley Council, together with its own Prison Department Whitley Council. The National Trade Union Side in NOMS/HMPPS involves PCS, Prospect, FDA and GMB trade unions. There are Whitley sub-committees covering a number of specific topics.

5.3 Industrial action

Prison Officer Association members have indicated their willingness to take industrial action over a number of the problems mentioned in this report but have been blocked by the courts.

Industrial action is currently at a low level in the UK. A range of restrictive laws, including the Trade Union Act 2016, make it difficult but by no means impossible to take industrial action but there are additional constraints for operational prison staff: Prison Officers are barred from taking industrial action by the Criminal Justice and Public Order Act 1994. On 19 July 2017 that was confirmed at the High Court with a permanent injunction restraining the POA from inducing, authorizing or supporting any form of industrial action by any prison officer.

Section 127 makes it unlawful for anyone to induce a prison officer to take or continue to take industrial action, which is specifically defined as “withholding of services as a prison officer” or “any action that would be likely to put at risk the safety of any person (whether a prisoner, a person working at or visiting a prison, a person working with prisoners or a member of the public”). The ban on striking does not apply across the UK: in Scotland, Prison Officers are allowed to strike.

The International Labour Office (ILO) 336th Report of the Committee on Freedom of Association made clear that the Prison Service Pay Review Body is regarded as a compensatory mechanism for the condition that prison officers do not have the right to strike. As a result, the review body expects that whilst its recommendations are not legally binding, the Government is committed only to depart from them in exceptional circumstances (PSPRB 2017). This has not prevented it from doing so, not least in the implementation of the 2018 pay award.

The crisis in British prisons coupled with years of pay restraint contributed to this situation. During 2016 several unofficial protests took place, organised by the POA, over safety concerns, including instructions from the union to withdraw to a place of safety. Under section 100, ERA, it is automatically unfair to dismiss any employee(s) for withdrawing to a place of safety or for taking other appropriate steps to protect their own safety or that of others, if they do so because they reasonably fear serious and imminent danger.
In November 2016, and again in February 2017, the POA made more structured calls for action from members, to highlight the risk from deteriorating conditions. Specifically, the union recommended that members withdraw from a range of voluntary tasks following the failure of promised talks. Approximately 10,000 officers participated.

Secretary of State Liz Truss insisted that it is unlawful for Prison Officers to take industrial action, including – as a Labour Party parliamentary question put it – where authorities refuse to address a health and safety grievance. The “right way” to deal with any such grievance, she said, is through “the continuation of local dialogue and then potentially further discussion at a regional and national level if an agreed way forward cannot be found”.

The government resorted to the courts and the Ministry of Justice (MoJ) was granted two interim injunctions, whereupon officers returned to their duties. Then, in July 2017, the MoJ applied for a permanent injunction preventing members of the POA from striking, which it was granted.

The High Court ruled that withdrawing from voluntary tasks was unlawful and a breach of discipline that when done at short notice, was likely to put at risk the health and safety of people at the prison, and that the phrase “withholding of services as a prison officer” was wide enough to include tasks that a prison officer was not contractually obliged to perform. The POA described the court case as “an attempt to silence the POA membership from the crisis within our prisons”.

Within days of the permanent injunction, the Prison Governors’ Association publicly declared themselves “devastated” at the complete decline of the prison service. Without enough staff, prisons could only “hold and control” prisoners, they said. The PGA had been in talks with the Ministry about prison safety and said that although the pledge of additional officers (made before the High Court hearing) was welcome, the prison service was losing staff faster than it could recruit them. The challenge of getting new officers into prisons was a gargantuan task made more difficult with the current pay restraints.

5.4 Disputes

Procedures for resolving disputes are doubly important where industrial action can be legally barred, but the POA is critical of the lack of binding arbitration in its current national agreement.

The POA says there is no disputes agreement in place that the union has any confidence in, it allows for arbitration but decisions are not binding and POA has experience of broken agreements. This has been a thorny issue for the union, which in 2007 withdrew from the Joint Industrial Procedural Agreement (the local disputes procedure remained in place). In 2011 a new procedure, the National Disputes Resolution Procedure for Changes to Specified Terms and Conditions, was finally agreed but only on the basis that it was the best that could be achieved and since then (particularly in the context of disputes in late 2016 and early 2017) it has fallen short, as far as the union is concerned.

What the national procedure covers: it covers change proposals from NOMS (HMPPS) that may impact on terms and conditions in regard to leave, ill health, grievance procedures, disciplinary procedures and procedures and working arrangements if they are capable of constituting terms and conditions where they are set out in ‘Bulletin 8’. These conditions are set out in the schedule of letters of appointment, relevant up-to-date P5Is and PSOs and other statute and case law that amount to terms and conditions”. That includes annual leave policy as set out in the staff handbook;
ill health policy in PSO 8404 Management of Attendance; grievance policy in PSO 8550 Staff Grievance; and disciplinary procedures in PSI 2010/06 (and AI 2010/05).

**What the national procedure does not cover:** specifically exempted are issues of pay; individual disciplinary action or any type of individual complaint (dealt with by the grievance procedure); local issues (dealt with by the local disputes procedure); operational issues (dealt with by managers using the existing change procedure and the Whitley structures where disagreement continues); or other polity issues (consultation on such matters will be progressed through the Whitley structures).

**Failure to agree, conciliation and arbitration:** if there is a Failure to Agree the matter automatically proceeds to conciliation unless “either party objects in writing to it, giving reasons”. The government’s conciliation service ACAS regulates the procedure for conciliation and, at the end, will summarise and agree the position of the parties. If the procedure moves on to arbitration (with an arbitrator chose by ACAS) it is carried out under the principles of pendulum arbitration on the basis of agreed terms of reference. The arbiter’s award “will be implemented as if it was an agreement between the parties”.

Establishment-level disputes are covered by Prison Service Order PSO 8525 (November 2008) which includes an enabling agreement on change proposals and resolving disputes. It provides a procedure to support managers and POA representatives in establishments who are unable to reach agreement on local issues which affect POA members (other than personal grievances, or where there is already an agreed national policy or on issues where other procedures already exist, for example on pay). Whilst all actions under the procedure are mandatory for management and staff, it is not legally binding between the POA and management, it “relies on the good faith of both parties”.

**Management of change:** if management wish to implement a change which impacts on POA members, they must formally consult with the POA branch by issuing a Management Proposed Change (MPC) notice. There is no standard format for the MPC, but the document should clearly state that it is a MPC.

**Suggestions for change:** if the POA branch are not satisfied that an issue they have raised with management has been properly addressed, they can raise a Suggestion For Change in writing. There is no standard format for the SFC, but it must clearly state that it is an SFC, outline the issue of concern, give the reasons for that concern and the suggested change. The POA branch must allow a minimum of 28 days for discussion and a formal response.

**Constructive engagement:** the parties must engage constructively to discuss the changes that management or the POA branch want to make and seek to reach agreement where possible within the 28 days (although this period can be extended by consent of both parties if it is likely to help in securing agreement). If it seems unlikely that agreement will be reached during this stage, the parties may contact their respective POA NEC area representative, Area Manager or Employee Relations for assistance as appropriate.

**Failure to agree:** if agreement is not reached, the party that raised the MPC or SFC can register a dispute in writing after the expiry of the 28-day period (or more quickly if it is evident that agreement will not be possible). When a dispute is registered the working practices which were in place immediately prior to the MPC or SFC being raised must be maintained until conclusion of the disputes process. However, in exceptional and compelling circumstances, the Chief Operating Officer of NOMS may authorise a temporary management override to permit all or part of the requested change (from either the management or trade union side) to be applied whilst the disputes process is concluded.
Employee Relations Committee: when a dispute has been registered with the Employee Relations team, it will be discussed at the earliest opportunity by the Employee Relations Committee made up of three NOMS (HMPPS) Management Board members and three POA NEC members or their nominated representatives. The Committee meets every month and is chaired by the Chief Operating Officer. It may reach agreement on the substantive dispute, on an alternative means for resolution, or return the dispute to local level for further discussion.

The POA is not the only prison trade union to find existing dispute arrangements unsatisfactory. In October 2017 the PGA complained that HMPPS had refused to attend ACAS “unless the PGA took them to court” and criticised HMPPS for being “antagonistic rather than collaborative”. It highlighted a key aspect of the PGA’s dispute procedure which is that “in the event of a dispute between the parties as to whether a matter is capable of and suitable for arbitration under this agreement, a final decision will be taken by the arbitrator”.

The “new way of working” which was extended to instructional officers under a 2014 collective agreement with the PCS union, provided for there to be a central Instructional Officer contact point, to ensure consistency of approach, and an expectation that the union (PCS) will respond to management consultation in less than the stipulated and agreed 28 days. It recognises that “with fewer people to operate prisons, and fewer layers of management, it means we need judgement, initiative, flexibility, new ways of working and accountability at each level”.

5.5 Facility time

Facility time has been restricted in the civil service and wider public sector, affecting time off for union duties in the public prison service (different and potentially more generous arrangements still apply in private prisons).

Government (Cabinet Office) guidelines issued in 2012 stipulate that no union officials should spend more than 50% of their contracted working hours on paid facility time, while the total amount of facility time was halved to 0.1% of annual pay bill. The union argued that its facility time was part of the “compensatory mechanism” for industrial action restrictions under Section 127 of the Criminal Justice and Public Order Act, however the more restrictive policy framework was applied (PSI 17/2014).

Facility time is defined as the provision of time off from an employee’s contractual role to undertake trade union duties and activities to members of recognised unions (see Introduction). Members of these trade unions may be granted paid or unpaid facility time to enable them to participate in the conduct of business by the Trade Union but the PSI primarily concerns members of staff elected as representatives of their trade union. Reflecting Cabinet Office guidance it says representatives must spend at least 50% of their time in their civil service role. This includes part-time workers and those working shifts. There is no limit to the number of Trade Union posts or roles a representative can occupy (known as “layering”) as long as the annual 50% limit is not breached.

The PSI identifies union reps, learning reps and health and safety reps as having legal rights to time off; the process they can use to request facility time; and the opportunity for trade unions at national level to discuss any “fixed” facility time allowances they may wish to allocate to representatives (normally a percentage or a specific number of hours/days per week).
PCS says branch committee members have a minimum number of days allocated which can be increased to a maximum of 50% of their time according to workload. A POA request to allow a full-time local union rep on site “due to ever-increasing demands and levels of violence” was turned down by HMPPS. Current arrangements allow for up to 8 hours facility time per branch, “and due to the limited number of hours available at this time, there are no plans to increase this allowance”.

6. Regulation and minimum standards

The regulatory framework that applies to the prison service is far more extensive than the standard British employment law framework but is let down in practice by staff shortages and the inability of most operational staff to undertake collective industrial action.

6.1 General framework

The general framework of employment rights is supplemented by much more detailed regulations in British prisons.

Table 4: General rights framework for employees in Britain

<table>
<thead>
<tr>
<th>Main rights available to employees and “workers”</th>
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<tbody>
<tr>
<td>information about pay, notice and holiday entitlement</td>
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<tr>
<td>National Minimum Wage</td>
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<tr>
<td>pension auto-enrolment rights</td>
<td></td>
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<tr>
<td>protection against unlawful pay deductions</td>
<td></td>
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<tr>
<td>working hours, rest breaks and statutory holidays</td>
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<tr>
<td>right to access the statutory trade union recognition procedure</td>
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<tr>
<td>right to be accompanied at a disciplinary/grievance hearing</td>
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<tr>
<td>protection from discrimination</td>
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<tr>
<td>the right to reasonable adjustments for disabled workers</td>
<td></td>
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<tr>
<td>data protection rights, including the right to make a data subject access request</td>
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<tr>
<td>statutory protection from risk to health and safety</td>
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<tr>
<td>protection against detriment for whistleblowing</td>
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<tr>
<td>protection against detriment and right not to be refused work because of a blacklist</td>
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<tr>
<td>protection of a zero hours contract worker against detriment if they work for another employer in breach of a contractual ban</td>
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<table>
<thead>
<tr>
<th>Main rights available to employees but not “workers”</th>
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<tbody>
<tr>
<td>written statement of particulars</td>
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<tr>
<td>statutory minimum notice</td>
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<tr>
<td>implied contract terms such as mutual trust and confidence</td>
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<tr>
<td>express contractual rights in the employment contract</td>
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<tr>
<td>reasonable paid time off for trade union reps for union duties and training where a union is recognised</td>
<td></td>
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<tr>
<td>reasonable paid time off for union learning reps where a union is recognised</td>
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<tr>
<td>reasonable unpaid time off for members to engage in union activities where a union is recognised</td>
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<tr>
<td>reasonable paid time off for safety rep duties and protection from detriment or dismissal for acting as a safety rep</td>
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<tr>
<td>time off for public duties</td>
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<tr>
<td>parental leave and pay rights (qualifying agency workers also have rights to pay, but not to leave)</td>
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<tr>
<td>time off for antenatal and adoption appointments and maternity suspension rights (qualifying agency workers also have these rights)</td>
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<tr>
<td>statutory sick pay (qualifying agency workers also have these rights)</td>
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<tr>
<td>unpaid parental leave</td>
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<td>unpaid dependency leave</td>
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<td>right to request flexible working</td>
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<tr>
<td>right to request time off for study or training</td>
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<tr>
<td>protection in business transfers (TUPE)</td>
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<tr>
<td>redundancy pay and rights</td>
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<tr>
<td>guarantee pay on layoffs or short time working</td>
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<tr>
<td>medical suspension pay</td>
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</table>

Source: The Law at Work 2018, Labour Research Department
Britain has a framework of statutory employment rights, some related to employees and workers, others just to employees (see Table 4) but contractual rights also play a crucial role, as do laws prescribing what trade unions can and cannot do, such as the Trade Union Act 2016. Parts of this framework may change when the UK leaves the European Union in 2019.

The regulatory framework covering the prison service is far more extensive. Former Secretary of State Lynn Truss has described it as having more than 46,000 pages of rules and regulations governing everything from the number of shower caps each prisoner can have, to the maximum size of bath mats. The governor autonomy programme is expected to provide more flexibility.

The Prison Rules 1999 (which replaced the 1964 rules and have been successively amended) provide the main legal framework for the management of prisons, including the treatment of prisoners, the conduct of prison officers and the powers and duties of boards of visitors. Principle changes in 1999 affected distance learning, communication, searches, confinement in a special cell which lasts beyond 24 hours, drugs, Governor’s punishments, prohibition of certain visitors, and rules relating to boards of visitors (rules dealing with prisoners under sentence of death were removed).

In relation to prison officers the rules require that they:

- assist and support the governor, obey lawful instructions and inform the governor promptly of any abuse or impropriety
- do not receive any unauthorised fee, gratuity etc in connection with their office
- submit to being searched in the prison if the governor directs
- do not take part in any business or pecuniary transaction with or on behalf of a prisoner (without leave)
- do not (without authority) bring in or take out articles (money, clothing, food, drink, tobacco, letter, paper, book, tool, controlled drug, firearm, explosive, and weapon are specifically mentioned)
- do not (without the knowledge of the governor) communicate with any known former prisoner, relative or friend
- do not make any unauthorised communication to the press/publish any matter or make any public pronouncement

In relation to prisoners the 1999 regulations cover training, treatment, outside contacts, after care, classification, privileges, temporary release, information, requests and complaints; women prisoners; religion; medical attention; physical welfare and work; education and library; communications; property; special control, supervision and restraint and drug testing; and offences against discipline.

Prison Rules are supplemented by Prison Service Orders (PSO, permanent documents that outline procedures to be followed by prison and headquarters staff) and Prison Service Instructions (PSI, temporary documents that contain mandatory actions but which usually expire after 12 months). With effect from 1 August 2009 PSIs have been used to convey mandatory actions to prison establishments. Together with AIs that apply to HQ staff and PIs that apply to Probation Trusts, PSIs have an expiry date which can be up to four years from the date of issue but they can be extended (there are many instructions that have expired but continue to apply – they remain in force unless explicitly cancelled). These arrangements are set out in PSI 2011-001.
The MoJ/NOMS Directory of Service Specifications defines what should be delivered as part of the service. Aspects of the service that are specified in this way include secure operating environments, catering, prisoner complaints and discipline, co-commissioned services, early days and discharge, mandatory drug testing, nights, approved premises, and regimes (including prisoner retail, faith and pastoral care, physical education, activity allocation and employment, training and skills).

**Prison Officers** have all the powers of constables and prison officers in bands 3, 4 and 5 are civil servants. Under section 126 of the Criminal Justice and Public Order Act 1994 (CJPOA), they also deemed to be employees for the purposes of the employment protection legislation. The principal sources of prison officers' contractual terms and conditions of engagement are:

- the engagement letter;
- the contract of employment;
- the Employee Handbook;
- the Civil Service Management Code;
- Bulletin No.8 (part of the negotiated 1987 Fresh Start agreement);
- Prison Service Instructions (PSIs);
- Prison Service Orders (PSOs); and
- Notices to Staff (NtS).

Annexed to a prison officer's standard engagement letter is a summary of the principal terms and conditions of appointment. This states that a prison officer's duties are set out in the job description but it is not an exhaustive list and they will be required to undertake activities that are “appropriate to the level of your Group Profile”. The job description for a prison officer (Band 3, for example) lists in non-exhaustive fashion the responsibilities, activities and duties that a prison officer is required to undertake. A High Court hearing in early 2017 concluded that the employer may make "reasonable alterations and [add] additional tasks of a similar level", but cannot make significant adjustments without conducting an examination under the Job Evaluation Scheme.

The system of PSIs is continually being updated. Not all of these are directly relevant to day-to-day job quality for prison staff but may are. The most recent updates covered:

- 2018: home detention curfew assessment process; post-incident care; data protection; records and information management
- 2017: attendance management; display screen equipment; staff resourcing; body-worn cameras; separation centres; shared parental leave; regime management planning;
- 2016: preventing and managing staff corruption; management of accident reporting; adult social care; interception of communications; faith and pastoral care; information risk management; searching of the prison; dealing with evidence; cells, area and vehicle searching; consultation on occupational health, safety and fire; health and safety for manual handling; writing healthcare reports; marriage and civil partnerships; handling sensitive information; information sharing; transgender offenders; public protection instructions; religious festivals; and implementation of equality analysis
- 2015: deportation; prison library; sentence calculation; rehabilitation services custody; central vetting; management of health and safety; early days in custody; resettlement; categorisation; escape list; fire safety; release on licence; disposal of unauthorised property; adult safeguarding; prisoners assisting other prisoners; radiation safety; cell sharing; knives and other offensive weapons; parole; centralised case supervision; enhanced behaviour monitoring; performance related pay; security of prisoners at court; open source research; unlawfully at large; first aid; use of force; litigation claims;
management of stress in staff; external prisoner movement; annual leave policy; health and safety arrangements for workplace inspection; risk assessment; and monitoring and measurement of health and safety performance.

Apart from their letter of appointment, non-operational staff are covered by PSIs/PSOs/NTS, some of which are contractual, some not. There is not a single document covering their terms and conditions (non-operational staff aren’t covered by Bulletin 8) but there is a less prescriptive agreed equivalent, Our New Way of Working, Managing and Delivering (NTS 21/2014) that covers Instructional officers.

6.2 Working time in the prison service
Despite the formality of prison working time rules, the POA describes it as a poor employer with no work-life balance, no part-time work, and identifies problems with the application of the rules. HMPPS sees longer hours as a solution to some of its problems.

The Fair and Sustainable working time framework is set out in the Pay Policy Manual (PSI 28/2012). Just over half of Prison Officers (just under half of operational staff generally, see page 00) are still on pre-F&S terms and conditions and many have been reluctant to move onto these terms so far. However the key working time rules under F&S are:

**37-hour week**: the pay ranges for each Band are made up of base pay for working a standard full time 37-hour week (excluding lunch breaks). Staff who work a shift pattern will have their working week averaged over their shift cycle. **HMPPS has plans to vary the basic week, see below.**

**Part-time**: for staff who work part time (reduced hours) pay is based on full time annual salary divided by the standard full time hours and multiplied by the agreed number of hours worked.

**Term-time**: for staff who work less than 52.2 weeks per year, (i.e. who have agreed with their line manager to work ‘term time’) are paid the portion of the appropriate full time annual pay for the hours that they actually work.

**Non-standard working patterns**: for staff who have an agreement to work a non-standard working pattern under Work Life Balance (WL8) or Flexible Working (not to be confused with Flexible Working Hours), their salary will be adjusted where required.

**Additional Committed Hours (ACH)**: Eligible Prison Officers, those at Band 3, have the option of committing to work between 1 and 4 Additional Committed Hours per week, over and above 37. Prison Officers who work part time are not eligible. ACH is non-pensionable and paid at an enhanced rate. The annual calculation for ACH is Base pay ÷ 37 hours x no. of additional hours (i.e. 1, 2, 3 or 4) + 20%. Once they have started ACH, they can change the number of hours committed to, or terminate the agreement altogether, by giving twelve months’ notice (or a shorter period if agreed). ACH will immediately cease if they transfer to another role, or on promotion.

**Additional Committed Hours Pensionable (ACHP)**: As a transitional issue on moving to the “Fair and Sustainable” pay structures (see Section 10) some staff may be eligible to work two “Additional Committed Hours” on a pensionable basis where their previous contract was on a 39 hour a week pensionable basis.

**Payment Plus**: Payment Plus payments (an enhanced hourly rate) may be available for additional hours worked in the following circumstances: staff on a bedwatch; staff on constant observation; staff on a Category A escort over and above the profiled staffing level; or for staff working in newly-
built accommodation whilst recruitment of staff takes place and to temporarily cover vacancies against the Target Staffing Figure, where authorised by the Deputy Director of Custody. Only those additional hours worked outside of a scheduled shift will attract payment of Payment Plus hours and not the entire shift. Payments are non-consolidated and non-pensionable. Individuals who are contracted to work part-time but who work any Payment Plus additional hours (over and above their working hours) will be paid the Payment Plus rate for those hours. Full details of how the Payment Plus policy operates are contained in PSI 24/2008.

**Overtime:** NOMS staff are eligible for overtime except Prison Officers, Specialist Officers, Supervising Officers, Custodial Managers, staff in receipt of RHA and all staff in Bands 9 to 11. Overtime is the extra time worked in excess of the number of contracted weekly hours i.e. for full time staff, at least 37 hours a week, or at least 37 hours a week plus any ACHP worked. It is paid at single time x 1.33 (weekday time) or single time x 1.75 (weekend time).

**Time off in lieu:** If an individual employee prefers, subject to management discretion, they may take TOIL equal to the actual hours worked instead of receiving an overtime or extra duty payment.

**Overtime credits:** these are designed to provide a minimum payment when individuals are unexpectedly called into work to work overtime for a short period (e.g. Facilities and Services staff required for urgent maintenance work).

**Required Hours Addition (RHA):** payment of RHA will be considered for roles in Bands 6 to 11, where the role requires them to regularly work unpredictable and unsocial hours, and be on call to attend their office/establishment at any time, when required. If an individual chooses to work unsocial hours or attend duty at weekends that is not the basis for RHA but overtime may be considered. As a guide, unsocial hours should amount to around 17% of an individual’s working hours over a three-month period. RHA will be paid at 15% of base pay, and is pensionable. PSI 26/2013 provided specific guidance on RHA eligibility and payment in order to ensure that its application is fair and consistent.

**Unsocial hours working:** Some staff in certain roles (eg. OSGs, Prison Officers, Supervising Officer / Specialist Officer, Custodial Manager, and those in Facilities and Services roles) are expected to regularly work unsocial hours as part of their rostered shift pattern. To compensate them for working unsocial hours, they are paid a separate, additional 17% of base pay, pensionable. Unsocial hours include regularly being required to work evenings (hours worked outside of 7am to 7pm Monday to Friday), weekend, Public and Bank Holidays and night duties. The proportion of unsocial hours worked will vary depending on role and local arrangements; as a guideline, those in qualifying roles will work around 20-30% of their hours as unsocial.

**On-call:** the governor/Head of Group may authorise payment of an on call allowance to staff (excluding those in Bands 6 to 9 who are in receipt of RHA and anyone in Bands 10 and 11) who have a rostered commitment to remain continuously and immediately available outside normal work hours for a period of more than 12 hours for operational reasons; and are specifically required to be on call when an operational need arises. Other rules apply if these conditions are not met.

The standard shift hours for prison officers are based on a 39-hour working week although they start on a 37-hour contract until completion of their initial training (POELT) when they can opt to work between 37 and 41 hours per week. That usually involves a rolling shift pattern, usually of 39 hours, which includes some nights and some weekends and some public and bank holidays (any public or bank holidays worked are added to annual leave). Salary is dependent on the number of hours worked.
Employees have the opportunity to work overtime in certain circumstances. Work life balance options such as part time hours and job shares are also available, subject to completion of the 10-week full-time POELT course and Induction. Annual Leave starts at 25 days per year rising to 30 days per year after 10 years’ service. Prisons operate 24/7 and staff will be expected to work on some public and bank holidays but any public holidays worked are added to annual leave entitlement.

In the Bedfordshire University stress and wellbeing survey (in which 1,682 POA members participated) 83% of respondents were contracted to work for at least 40 hours per week and 62% worked overtime on a regular basis, working an average of 8.72 hours per week over and above their contracted hours. A large minority said they could “rarely” take their annual leave at a time of their choosing (44%) or could never do so (4%).

PCS said that if particular contract for external work is negotiated, staff may be eligible for a 15% red hours pay top up covering hours worked between 7p and 7am, and weekends (to apply to an individual, 80% of their working week must be in red hours). NTS 21/2014 applies. Admin staff have a flexible working arrangement that provides TOIL for overtime worked; under the New Way of Working, Instructors have to be paid for overtime but can claim it as TOIL.

The way that variations in working time are handled is a contentious issue and one that can have a very direct impact on job quality.

The Service continues to make use of Payment Plus to help address the staffing deficit. At the end of March 2016, the equivalent of 847 full-time equivalent staff in Bands 3 to 5 / officer grades were in receipt of Payment Plus for staffing reasons, which was equivalent to 4.5 per cent of the staffing requirement.

Union calls for Payment Plus to be taken into account in pensionable pay have been met by encouragement from HMPPS to re-engage with PSPRB: “making allowances and premium payments such as Payment Plus pensionable is not within the gift of either HMPPS or the PSPRB, and we would need to seek agreement from the Cabinet Office for such a change”. In the past, NOMS has indicated that it would like to replace Payment Plus with a “contracted hours scheme”

Time Off In Lieu (TOIL) is effectively a debt HMPPS accrues of time owed to staff because they have carried out additional, unpaid hours of work. This needs to be repaid in future by allowing the relevant staff time off. The outstanding TOIL balance at 31 March 2016 for staff in Bands 2 to 5 / support grades and officers was reported to be 340,000 hours across all establishments or an average of 14 hours per staff member. TOIL balance averages were provided by grade:

- 35 hours per Band 5 staff member or equivalent (slightly up from 34 in 2015);
- 14 hours per Bands 3 and 4 staff member or equivalent (the same as in 2015); and
- 10 hours per Band 2 staff member or equivalent (slightly down from 11 in 2015). In summary, TOIL has remained around roughly the same levels as for end March 2015.

The PGA says that “consistently working more than the conditioned 37 hours per week in the pressurised and violent environment that we call ‘being at work’, is not representative of the attendance model that a modern, business focused organisation such as NOMS purported to be”. It asked the pay review body to recommend payment for additional hours worked over the
conditioned 37 hours at an hourly rate greater than that associated with Payment Plus rate for prison officers.

The risk of long working hours is formally recognised by the prison service. Policy on Additional Committed Hours (ACH) points out that total working time should still comply with the Working Time Regulations and should be monitored locally. This is as much of a concern for governors themselves as it is for prison officers. The most recent PGA staff survey showed that 41.3% of PGA members work, on average, in excess of 48 hours per week and 98.5% work in excess of contractual hours (37 hours per week).

The prison service has attempted to plug the gaps in its available working time resources by requiring POA members to travel all over the country as part of their Detached Duty Policy. The POA has described this as being no way to run a professional uniformed service: any member ordered on Detached Duty should raise a grievance on the matter, though they should agree to undertake the detached duty under protest and seek legal advice. It has also expressed concern that when operational staff request to work reduced hours (under the Flexible Working scheme) they have been told that they could only do this on a job-share basis. It says this undermines flexible working, and each request should be considered on individual merits.

The POA has sought a reduction in the working week to 37 hours for all staff in Uniformed grades. HMPPS says this would considered as a pay increase which is determined through the PSPRB. Instead, HMPPS is looking to increase working hours as one way of addressing current constraints and its reform plans. It is introducing new arrangements for permanent contracted hours which will allow Prison Officers and Support staff who are on Fair and Sustainable (F&S) terms to vary their working hours over and above 37 per week (currently only an option for those in Band 3). The intention is that staff will be able to agree permanent contracted hours and receive pensionable payment for anything between 37-43 hours (Band 2, 3 or 4), or 37-39 hours (Band 5).

This policy change will also apply on recruitment to new Prison Officers at Bands 3-5 and Band 2 OSGs who will be brought in on a 39-hour week contract with the option to vary this upwards or revert to 37 hours. HMPPS says this will “improve productivity and deliver savings” by reducing reliance on additional hours; providing operational resilience; opportunities to increase guaranteed earnings; facilitate grade movement; and “over time reduce our continued recruitment demand through improving retention and the level of experience within the organisation”.

It has estimated that over 80% of operational staff (11,921) would be working a permanent contract of 39 hours or more, “which will reduce reliance on Payment Plus and generate savings of £13m per annum from 2020/21”. It should also reduce recruitment and training requirements, reducing costs and improving retention rates as the workforce becomes more stable.

The prison service has already experimented with working time changes within the non-operational workforce. The 2014 Instructional Officers agreement is an example of the way in which the service is trying to provide a rehabilitative approach whilst managing with a reduced workforce, an approach which is dependent on staff filling the gap through more flexible working practices.

“Imaginative” shift patterns: it entails making “full and imaginative” use of the Fair and Sustainable agreement to work within the parameters of the core Monday to Friday weekday hours of 7am to 7pm and “appropriate and imaginative shift pattern solutions” within this.
Red hours: It also means a new approach to Red Hours working (Red Hours is defined as unsocial hours worked outside the normal Monday to Friday 7am to 7pm green hours working period) so that there are Instructional Officers available to allow workshops to operate outside those hours (a necessary reassurance to businesses looking to provide employment contracts). Any requirement to work red hours as part of a local contract arrangement will be subject to reasonable notice and the operation of agreed work-life balance considerations where local management has sufficient resources to provide the required cover. In this case additional remuneration will be payable: a 17% unsocial hours payment for staff on Fair and Sustainable terms and conditions, and 12.5% for those on pre-F&S conditions.

Voluntary paid overtime: overtime is provided for, or this can be taken as Time Off in Lieu (TOIL). Attendance is planned through an Instructor Coordinated Attendance System (ICAS) based conditioned hours being 37 net (36 in London) and 42 hours gross, with annual leave planned as far ahead as possible. The agreement allows for the possibility of prisoners remaining in the workshop area at lunchtimes, rather than returning to their cells.

Rehabilitation: the agreement envisages prison workshops as “places of structure and discipline” where prisoners are expected to work a full working week; industries teams will work especially closely with resettlement teams and stakeholders to provide support, looking to employment opportunities on release; and contributing to the delivery of a new “core day” which maximises the opportunities for prisoners to attend work, programmes and purposeful activity before returning to their cells in the evening; and also to “Every Contact Matters”. However, Instructional Officers will take a more pronounced lead in recruiting, appraising and dismissing prisoners, reflecting the external labour market.

The agreement adds that the health and safety of staff and prisoners is paramount, and in determining the appropriate number of Instructional Officers, the NOMS Benchmark team and the Governor will take full account of a 20% non-effective time profiled based on pay banding group; the activity and nature of the instruction; geography and workplace layout; the category or prison and nature of the prisoners to be allocated; and full consideration of health and safety issues including the Management of Health and Safety at Work Regulations 1992/99 and all relevant fire regulations.

6.3 Annual leave
Annual leave has been cut back in line with civil service policy.

Basic Prison Officer entitlement is 25 days annual leave plus bank holidays (pro rata where applicable) but allowances vary depending upon grade, length of service and number of hours worked. However, overall entitlement was adjusted in December 2015\(^97\) to reflect a reduction in privilege days arising from the Civil Service reforms; to clarify management of the Queen’s birthday privilege day where services remain operational; and to include references to Shared Parental Leave. NOMS/HMPPS encourages staff and their managers to apply good practice when applying for, and granting, annual leave.

Full-time staff who work a non-standard working pattern (i.e. compressed hours, or less than an average of 5 days per week) must have their entitlement to annual leave and public and privilege holidays calculated and recorded in hours rather than days, and added to their annual leave entitlement. All Operational Support Grades and those Prison Officers appointed on or after the 1st March 1996 who are categorised as shift workers must have their annual leave entitlement calculated and recorded in hours rather than days.
In general employees are entitled to 8 public holidays and privilege holidays, which are in addition to annual leave entitlement (there is 1 privilege day for the Queen’s birthday with certain exceptions). Staff in Prison Officer closed grades, Senior Officer (excluding promotees from PO2), Principal Officer (closed), OSGs, Night Patrols and certain ex-prison governor grades are entitled to 3 days in addition to their annual leave and public holiday allowance. Staff on NHS pay and related conditions of service are entitled to a total of 2 days in addition to their annual leave and public holiday allowance.

NOMS/HMPPS says it recognises good practice guidance prescribed in the Working Time Regulations where notice of leave requested must be twice as long as the period of leave requested. As an example, employees requesting one week’s annual leave need to give two weeks’ notice. A manager who is not able to honour a request for annual leave will, wherever possible, give notice at least as long as the leave requested of their decision. For example, for a request of one week’s annual leave, the manager will give one week’s notice.

The POA has been working to address the issue of additional leave for additional hours worked (paid) and managed to secure a court ruling that employees who work additional hours are entitled to have these hours taken into consideration when they take their four statutory weeks annual leave as defined by the Working Time Directive (it provided for 2 years’ back pay). The union was expecting HMPPS to amend the current leave policy and Pay Manual accordingly.

Additional Attendance Guidance (see 8.7) states that an employee can take annual leave during a period of sickness absence: there are occasions where a holiday during a period of long term absence may be beneficial and staff would like to request a period of annual leave, for example, a holiday in the sun might help an employee who is absent due to stress. Where a member of staff requests ad-hoc annual leave this should be considered in line with the usual arrangements for this type of leave (i.e. there must be ad-hoc leave available), but there should be no suggestion, or pressure applied, that staff should take annual leave as an alternative to sick.

6.4 Leave for working parents
Parental and related leave entitlements are broadly in line with general statutory provision, but in some respects more flexible.

Entitlements to leave and pay are defined in a succession of Prison Service Instructions including PSI 06/2017 (shared parental leave) which emphasises flexibility. It allows working parents to take short periods of leave in minimum one-week blocks or longer blocks of leave (up to a maximum of three blocks of leave per employee). This enables them to intersperse periods of work with periods of leave and to take leave jointly if they choose to: each employed parent agrees their pattern of leave with their employer; where a pattern of leave is requested, rather than a block of continuous leave, and this leave is refused, the SPL will revert to the default position of a single block of continuous leave amounting to the total amount of SPL that had been requested as a pattern.

Maternity/Shared Parental Leave: Prison Service maternity leave is compliant with employment legislation, allowing up to 52 weeks maternity leave which can be transferred to the mother’s partner, allowing the partner to take Shared Parental Leave. MoJ pays Occupational Maternity Pay to eligible employees who have one year’s continuous government service, either full or part time, as at the expected week of childbirth (EWC). It allows employees reasonable time off for antenatal care; and
meets its obligation under Health and Safety legislation by ensuring a new and expectant mother’s risk assessment is conducted, recommendations implemented and reviewed as required.

**Adoption leave/Shared Parental Leave**: Prison service adoption policy\(^{100}\) is compliant with employment legislation. It allows eligible employees to take up to 52 weeks adoption leave which can be transferred to the adopter’s partner, allow the partner to take Shared Parental Leave. MoJ will pay Occupational Adoption Pay to eligible employees who have one year’s continuous government service. MoJ will allow the main adopter, if eligible, to take paid time off for up to five adoption appointments/pre-assessment interviews. The secondary adopter will be entitled to take unpaid time off for up to two appointments. Where MoJ employs both adopters, only one of them will be entitled to take adoption leave. Employees adopting more than one child in the same placement are only entitled to one period of adoption leave of up to a maximum of 52 weeks.

**Paternity/maternity support leave**: Paternity/Maternity Support leave\(^{101}\) is totally separate from, and cannot be taken in addition to, maternity or adoption leave. Paternity/Maternity Support leave (P/MSL) is either one or two consecutive weeks leave, paid at full contractual pay if certain qualifying conditions are met. MoJ will provide reduced hours employees with a pro rata amount of leave in accordance with hours worked and based on the two weeks maximum (P/MSL). Where MoJ employs both parents, only one of them will be entitled to take Paternity/Maternity Support Leave.

### 6.5 Equality

**HMPPS says considerations of equality will be factored into the start of any policy, protocol, procedure or project and any aspect of service design, and will continue throughout.**

The Employment Act 2010 (in particular Section 149, Public Sector Equality Duty) consolidated a range of equality rights in general employment law and that was reflected in prison service rules (PSI 33/2010 Equality of treatment for employees). Within that policy, routine completion of an Equality Analysis (PSI 20/2016) is expected to protect NOMS from legal and reputational challenge. It should take place whenever a new policy, protocol, procedure, or project is developed\(^{102}\).

HMPPS says inappropriate behaviour will not be tolerated. All allegations will be treated seriously and confidentially. Management information on equalities issues in regard to staff should be analysed, and a local equality action plan should be produced and published. Responsibility for actions on the plan must be clear and managers and staff must be held to account for progress through relevant management checks. Progress must be tracked and an update report must be submitted regularly for discussion by the Senior Management Team. Equality impact assessments provide a systematic way of ensuring that our policies are formulated and implemented in a fair way in accordance with our legal obligations, and should apply to national HR policies.

Disabled employees are encouraged to disclose their status to their line manager and/or to the Shared Service Centre (as an employer using the disability symbol (annex B) NOMS has made commitments regarding recruitment, training, retention, consultation and disability awareness). However, this presupposes that local managers recognise and accept such disclosures (anecdotal examples suggest that they may not). The policy addresses employees who propose to undergo, are undergoing or have undergone a process reassigning their sex by changing physiological or other attributes of sex. Employers are permitted to take positive action measures to improve equality for people who share a protected characteristic. Positive action is not positive discrimination which is
unlawful except in specific circumstances. Disability is addressed in newly-negotiated absence procedures (see 8.7).

6.6 Redundancy
The prison service has detailed policies on restructuring and re-deployment but when the Conservative government decided to curtail civil service redundancy terms unions were forced to resort to the courts.

The service has high level policy on appointments, re-deployment and redundancy reflecting UK and EU employment and anti-discrimination law as well as Civil Service Commission Recruitment Principles, decisions of the HMPPS Board, and Cabinet Office requirements, including the Cabinet Office and Council of Civil Service Unions Efficiency & Relocation Support Programme.

The formal position is that, in cases of restructuring and redeployment, the service undertakes to inform those affected at the earliest opportunity, and keep them fully informed, ensuring that the Career Transition Service is advised and the relevant trade unions fully consulted. It requires recruiting managers to discuss with the Career Transition Service, and consider members of staff declared surplus, and suitable for the post, before advertising, and must appoint a surplus member of staff if s/he meets the requirements of the post, or could be developed to meet them within a reasonable period.

Where someone is unable to continue with their present work as a result of a disability, as defined by the Equality Act, managers must take reasonable steps to adjust that work in a way which would enable that person to continue in employment. These might include offering an alternative post for which the individual meets the relevant competencies.

In addition, staff facing serious difficulties in relation to their domestic circumstances caused by the need to care for relatives or some other personal problem that may be relieved by a change in location or pattern of work can (must, in the first instance) approach their line manager, who with the support of their Deputy Director or Head of Group has a number of immediate options open to them. In exceptional circumstances where a permanent move is authorised the individual will in most cases be managed into a suitable vacancy without the need for interview.

When the prison service wanted to reduce staff following its 2012 Benchmarking initiative the redundancy scheme was “oversubscribed”. The terms of the CSCS civil service compensation scheme (redundancy) introduced in 2010 were described by a Conservative government minister as “fair, affordable and sustainable; they offer protection to the lowest paid and those nearing retirement, and put a cap on the total amount which can be paid out to any one individual”.

However, in November 2016 (following a consultation which was opposed by three of the unions with prison service membership, PCS, POA and Unite) it imposed changes, including:

- the way redundancy payments were calculated to be cut from four to three weeks’ pay for every year of service
- cutting the cap on voluntary exit and redundancy payments from 21 months’ salary to 18
- cutting the compulsory redundancy cap from 12 to nine months
• cutting access to early payment of pension, with the age at which this can be taken rising to 55 and tracking behind state pension age

A legal challenge was mounted and in July 2017 the High Court ruled that the government had failed to consult PCS with a view to reaching an agreement as required by law, and last September the 2010 scheme was reinstated. POA pointed out that reverting to the 2010 model meant that compensation payments due to medical inefficiency still give a maximum pay-out of 24 months’ pay. A further round of negotiations then began.

7. Prisoner issues/welfare/environment
Prisoner welfare is as much at risk as staff job quality, with deteriorating prison “regimes”, a poor living and working environment and the rise in self-harming, deaths and drug abuse.

It has been argued that the organisational structure and climate in prisons, rather than factors intrinsic to the job role, pose the greatest risk to wellbeing for staff. It certainly seems to be the case that prisoner issues and the prison environment are the sharpest concerns for the trade unions representing prison staff although pay and contract-related issues are never far below the surface. This is despite the formal policies that the prison service has in this area (such as provision for adult safeguarding in prison, PSI 16/2015).

7.1 Regime
The consequences of staff cuts can be seen in the inability of some prisons to maintain their “regime”, resulting in prisoners being locked up for long periods and other problems.

Benchmarking (see section 2.12) is supplemented by regime management planning (RMP) which is supposed to provide necessary guidance to management and local POA officials to enable the consistent delivery of safe and structured regimes, supported by safe systems of work, risk assessments and contingency plans (Gateodge Extra, May 2014).

An establishment RMP sets out the local core day, the range of prisoner activities that will be delivered and the level of staff resources normally required at all times, as well as how the regime will vary when staffing availability varies (both within normal operating parameters as well as when there are exceptionally severe and protracted shortfalls in staff availability).

Prisons are required have regimes that are safe, decent, secure, resilient and sustainable, with a locally developed and tailored regime management plan (RMP) to meet required outcomes of Risk Assessments (Prison Service Instruction PSI 07/2017). These arrangements do not remove the provisions of Bulletin 8 (part of the 1987 Fresh Start agreement). It says the minimum staffing level will normally be met by the use of conditioned or contract hours (“only where it is not possible to cover the need in this way should staff be asked to anticipate additional hours).

All RMPs should be agreed on the principle of matching planned delivery to the available resource but PSI 07/2017 accepts that prisons “will from time to time have to make difficult decisions on how they deploy limited staff resources to best facilitate activities and services”. The regime plan must be produced “in consultation with stakeholders including service providers and unions”, and it requires local management and POA officials to engage meaningfully (in the event of a dispute the local disputes process must be followed).
RMPs must include:

- ‘Prison Activity and Services Information’ that provides a clear overview of the activities and services on offer.
- ‘Prisoner Supervision and Unlocking Operating Procedures’ that will outline the required staff resource and communicate controls resulting from H&S risk assessments as stipulated within the Health and Safety at Work act 1974.
- ‘Prison Regime Operating Procedures’ that provide an overview of delivery within each operating state and descriptions of the underpinning process used to manage regimes; it will also provide specific instruction for the management and planning of daily regime delivery.
- Minimum staffing levels set by the Governor in consultation with the Prison Group Director (PGD) after discussion with the local branch of the POA.

In October 2017 HM Inspector of Prisons published a ‘thematic report’, Life in prison: Living conditions A findings paper\(^{105}\). It painted a grim picture: while not every prison holds its prisoners in poor conditions (on the whole, high security prisons, women’s prisons and open prisons provide decent conditions and some good facilities), in many of the local prisons and training prisons, the picture is bleak, depending on:

- time unlocked and out of cell
- physical condition of cells and cell facilities
- possessions and activities in the cell
- sharing a cell
- perception of in-cell safety

**Chart 3: Hours locked up**

**Figure 3: Percentage of survey respondents who reported that they spent 10 or more hours or less than two hours a day out of cell (N=7,202)**

Source: HM Inspector of Prisons October 2017
In the inspectors’ surveys, only 14% of adult prisoners reported spending more than ten hours out of cell and 21% reported spending less than two hours out on weekdays. The Inspector found that in local prisons 31% of prisoners reported being locked in their cells for at least 22 hours a day, rising to 37% at young adult prisons (holding prisoners aged 18–21). It found large numbers of prisoners at some jails who were locked up for more than 22 hours a day, or throughout the working day.

### 7.1.1 Restricted regimes

Ranges of delivery and resource are defined as ‘regime operating states’: Green (Full delivery); Green - Amber (Majority of activities and services delivered); Amber - Red (Reduced but sustainable delivery of activities and services); Red - (Delivery of basic activities and services not sustainable beyond short term); and Patrol / Night State. The POA has complained about governors signing off RMPs and leaving themselves in an amber-red regime.

All RMPs must deliver the core requirements of the applicable legal framework, which in this context includes the Prison Rules 1999, the Equality Act 2010, the Human Rights Act 1998, the Care Act 2014, and the Health and Safety at Work etc Act 1974. These legal requirements apply even when restricted operating states are in place within an establishment.

The POA says regimes have been the “first casualty” when prisons are in crisis due to shortages of frontline staff or overcrowding. As far back as November 2014 when staffing was at a low-point (see Section 2.8), 22 prisons were running restricted regimes according to the Chief Inspector and in one case a restricted regime had been in place for 14 months (Justice Committee).

In 2015 it was confirmed that “a significant number of prisons have been operating at staffing levels below what is necessary to maintain reasonable, safe and rehabilitative regimes”. The Ministry had not planned adequately for the risk of staffing shortages and failed to act sufficiently quickly to mitigate them. While NOMS believed that the situation would be stabilised by April 2015 the Justice Committee found “convincing evidence that more pressurised working conditions for staff are compounding the staffing problem”. It called for staffing benchmarks to be altered upwards.

Increased complaints from prisoners have included a 50% increase in complaints about regimes. The Prisons and Probation Ombudsman has said: “Where … statutory entitlements have been lost - access to fresh air, the library, the statutory gym – as part of a poorly implemented benchmarking process, clearly the real-life experience for prisoners on wings is suffering quite considerably, and that is percolating through to my office in terms of complaints”.

The PGA sees instability and indiscipline as linked to poor prison regimes, forcing governor grades to spend more and more time on landings bolstering numbers “so some kind of regime can be delivered”. Moving prisoners after an incident compromises the Families Pathway and destabilises the receiving prisons as they try to maintain order amongst disaffected displaced men: “This toxic mix does not have a quick fix and the future looks like more of the same”.

In a recent circular (09/03/2018) the POA said it was clear that in some instances the RMP is not being adhered to. There was an example from HMP Lindholme where staff where forced to protect their health and safety after a series of assaults. The union called on all committees to review their RMP to ensure it is fit for purpose (and should be allowed facility time to do so): “If you do not have
7.2 Prison estate and working environment

The dire state of some of the prison service physical estate, particularly some of the older prisons, has been well documented, and is part and parcel of the current crisis.

The Chief Inspector’s report on HM Prison Liverpool (discussed in the House of Lords, 24 January 2018) reported on unacceptable conditions in the prison. The prison had hundreds of broken windows, with cockroach infestation, piles of rubbish, and over 2,000 maintenance tasks outstanding.

In response the government said that the governor, deputy governor and the director of health services of Liverpool prison had been replaced and a full review of all cell accommodation was under way. A programme of window replacement has been approved and in the region of £100,000 worth of toilets and sinks have been ordered for installation.

But if formal policy counted for more than budget cuts or other systemic problems this would never have happened. Prison establishments are supposed to be maintained to a standard that provides “a safe and decent environment for staff and prisoners to live and work in, and for all others who interact with establishments. Prison buildings must be secure, effective, fit for purpose and compliant with all current legislation”\textsuperscript{106}.

But those standards have clearly slipped, in many different ways. PCS points out, for example, that in the past every prison would have had a decent staff mess, now in many it’s microwaves. Prisons in general are a lot dirtier, maintenance has gone downhill especially once privatisation started (the service didn’t know how much work was really being done because it was not all recorded).

Prisoners locked up for long periods at a time inevitably become frustrated, angry or turn to drugs to ease the tedium. The cells in which prisoners are confined for these excessive periods of time vary greatly in their condition, but poor conditions are exacerbated by overcrowding. In terms of personal hygiene, most prisoners say they are able to have a shower every day, but this falls to 51% in those prisons holding young adults. There is a mixed picture for other issues that have an impact of the everyday lives of prisoners, with about two-thirds saying they can get clean sheets each week, and access to telephones is obviously dependent upon prisoners having enough time out of their cells to be able to queue and make a call.

Overcrowding problems (see 2.7) are compounded by the fact that cells often have an unscreened or inadequately screened lavatory, frequently without a lid, or sometimes with a makeshift lid made of cardboard, pillowcases or food trays. In these same cells, prisoners are frequently required to eat all their meals – in what are obviously insanitary, unhygienic and degrading conditions. The risks to health inherent in flushing open lavatories in confined spaces which have to serve as a bedroom and dining room (and sometimes as a kitchen) are described in this report and deserve close attention. The accounts from prisoners of what it feels like to eat and sleep in what is, in effect, a shared lavatory make for compelling reading. To compound all of this, surveys suggest that in only around half of prisons are prisoners able to get cleaning materials for their cells every week, and ventilation of too many cells is poor.
7.3 Prisoner training, work and education

Prisoner training and work is seen as a key part of the government’s rehabilitation aims, but it too has suffered in the current crisis.

Government policy is to reduce re-offending through effective rehabilitation, partly by developing vocational and employment skills. There are over 300 prison workshops with up to 10,000 work places (just over 10% of those in prison). Their activity has changed in recent years either to reflect the commercial market or to offer discreet training opportunities.

Former Secretary of State Lynn Truss explained: “Too many prisoners are either getting no job training or spending time doing things like making mailbags. Instead prisons should train offenders on the inside for the job vacancies on the outside” (citing a scheme by a construction company to train offenders at HMP Brixton for 20 vacancies for scaffolders). There would also be a new prisoner apprentice programme.

Sam Gyimah, former prisons minister, added that alongside work to boost staffing numbers, education reforms would help offenders turn their lives around. The government had already “stripped out unnecessary rules and governance” from its education contracts “to allow governors more oversight and control of existing services”.

Further steps would make governors fully responsible for education provision in their prisons once existing contracts ended, commissioning the services they think are most appropriate for their individual prisons (while following a core common curriculum set nationally which would focus on maths and English). To support this prisons would create a personalized learning plan based on assessment of need on reception.

Problems with prison education have been described above (see section 2.18) but the workshops have their own problems too. Employed prisoners often spend over seven hours out of their cells a day; part-time prisoners spend less, and unemployed prisoners sometimes spend as little as one hour a day out of their cell. Prisoners on the basic level of the Incentives and Earned Privileges (IEP) scheme had fewer hours out of cell; those on the enhanced level had more.

PCS which represents prison instructors says recent trends in public sector prisons include having workshops and activities which are primarily focussed on having as many prisoners out of cell as possible; providing work and training which is limited in true opportunities for prisoners to gain skills, knowledge, attitudes and habits which will prepare them for release; providing in-house certificates of achievements that have no value for offenders on release; and procuring mundane work based on the need for prison industries to make a profit in the commercial sector sense (such as scratching CDs to make them unsaleable before recycling).

The union wants a cohesive, comprehensive, high standard work system. It is easy to see how the lack of that might rebound on staff, with prisoners “often sent to workshops where they will spend all day with nothing to do” (newspapers, books and other recreational pursuits are banned). Its report An alternative vision for prisons focuses mainly on what the prison regime could or should provide for prisoners to aid rehabilitation, including offender motivation.
7.4 Drugs, self-harming and prison deaths

The crisis in Britain’s prisons is often discussed in terms of drug abuse, self-harming and deaths including suicides – these are the daily realities which are such a challenge for staff.

**Drug abuse:** The problem of drug abuse is clearly having a major impact on the quality of prison employment. According to researchers at Bedfordshire University, drugs like Spice have become the currency of the prison and prison staff can find themselves becoming exposed. The government says\(^{111}\) it is continuing to take steps to reduce the harmful impact of new psychoactive compounds (NPS, which are less likely to be detected), along with use of illicit mobile phones. The 2016 *White Paper* confirmed that NPS have played a big part in the recent rise in violence.

The level of drug abuse is measured by the **Random Mandatory Drug Testing** programme (RMDT) aimed at a random sample of 5% or 10% of prisoners each month (depending on prison capacity). In 2016/17 there were 5,113 positive results recorded (9.3% of the 54,811 tests administered). This was the highest level since 2005/06, predominantly driven by more prevalent cannabis use\(^{112}\), and followed the reversal of a previous decline. The Chief Inspector’s report on HM Prison Liverpool earlier this year found that 37% were drug-positive. The *Psychoactive Substances Act 2016* introduced a blanket ban on the production, supply, possession with the intent to supply, and import and export, of psychoactive substances, and contained specific provisions on prisons.

HMPPS’ response to the NPS/drugs problem involves new national and regional intelligence units (investing £3 million to create an HMPPS Serious Organised Crime Unit), over 300 trained sniffer dogs, and new technology to strengthen searching and security and counter drone technology; it says it is the first jurisdiction in the world to develop tests for psychoactive substances.

The advent of New Psychoactive Substances (NPS), synthetic such as Spice and Mamber (known as ‘Mambalance’ because of the frequency with which its use\(^{113}\) is associated with a hospital visit) has been “devastating” not only for prisoners but also staff. The *2017 Prisons Handbook* cites a report on Substance Misuse in Prisons by the Chief Inspector of Prisons in December 2015 which described NPS as the most serious threat to the safety and security of prisons.

According to the president of the Prison Governors Association psychoactive substances remain a constant threat to stability, reducing already depleted and sometimes critical staffing levels further as prisoners are taken to A & E suffering from the effects: “Scotland, who have not suffered from the same level of staffing cuts, have not had the same level of violence and deaths associated with this substance. I firmly believe that staffing reductions and shortages in England and Wales coupled with a high levels of inexperienced staff have prevented us from containing NPS in our prisons”. Recent reports from the inspectorate have found that overcrowding and a shortage of prison officers means that intelligence-led drugs tests are, sadly, a rarity. “The best and most effective way of reducing the demand for drugs is to ensure a full and purposeful programme for all prisoners so that their time in prison is occupied.”

**Self-harming:** In the 12 months to June 2017 there were over 41,000 self-harm incidents (committed by almost 11,000 individuals). The figures marked a 77% increase compared to the 12 months to June 2007 and 12% compared to the 12 months to June 2016 and this has become a particular problem among male inmates (over 80% of incidents occurred in male establishments, whereas 12 years earlier in 2006 incident numbers between men and women were almost identical at 11,534
Between 2007 and 2017 the number of individual males self-harming increased threefold while the number of individual women self-harming has decreased by almost a third (32%). Around 56% of self-harmers in the year ending December 2016 were under 30 years old. There were over 41,103 self-harm incidents in the 12 months to September 2017. This was an increase of 77% compared to the 12 months to June 2007 and an increase of 12% compared to the 12 months to June 2016.

Deaths in custody: In 2016 there were 354 deaths of prisoners in custody, a 38% increase on the previous year. Around 55% of the deaths were through natural causes but 34% were self-inflicted (10% were classed as ‘other’ including those awaiting further information on the cause of death) while some (less than 1%) were the result of homicide (later data suggested a slight decrease).

Compared with the prison population the rate of self-inflicted deaths per 1,000 prisoners was relatively stable in the early 1980s at around 0.6 but rose to a peak of 1.4 in 1999. Recent figures have been close to the 1999 peak.

The 2015 Harris review into self-inflicted deaths in custody of 18-24 year olds suggested that identifying and managing vulnerable prisoners requires the building of staff-prisoner relationships, “knowing the prisoners and understanding what makes them tick”. However, according to prison staff, that had been adversely affected by the need to deliver budgetary savings. The Prisons and Probation Ombudsman warned that resources and staffing in prisons are undeniably stretched, but even after accepting recommendations, prisons struggle to sustain the improvement called for. At its 2017 conference the POA mandated its National Executive to pursue an increase in night staffing levels in the light of the unacceptable number of deaths in custody. Following the introduction of greater freedoms for Governors, a number of establishments have done this.

8. Staff wellbeing and stress

The toll on staff has not been as well reported as the drug taking, self-harming and suicides but research among prison officers tells its own story of stress and a low sense of wellbeing.

Pension changes, threatening to raise retirement age eventually to 68, prompted the POA to commission a survey of POA members, which was carried out by Dr Gail Kinman, Dr Andrew Clements and Jacqui Hart at the University of Bedfordshire. The focus of most previous studies had been on prisoners themselves; being a prison officer seemed to be perceived as ‘dirty work’ that no-one wanted to talk about, until the events of 2016 including the Birmingham Prison riot in December drew it to the public eye and forced the government to respond by putting staff back into the service.

POA members reported lower levels of wellbeing than average for all seven of the HSE’s work stressor categories: “The biggest ‘wellbeing gaps’ related to work demands, job control, support from managers, change management and relationships”.

They know it can be a difficult, dangerous, and sometimes unpleasant job but that often isn’t the problem, Kinman says: it’s lack of managerial support and feedback; and lack of control over how, what, when and where they spend their time; and also a lack of feeling that their wellbeing matters.
There is a lack of support for wellbeing, although the service now seems to have recognised that and is making more use of external care teams (the union has also made its own arrangements with the Fire Fighters Charity). In the past, care teams were used almost exclusively, but there were some major concerns about confidentiality which has discouraged their use by some officers.

A smaller-scale study by the Howard League for Penal Reform and the Community trade union documented similar problems in the private sector prisons to those in the Kinman study.

8.1 Stress

High job demands and low job control (see Section 2) can be expected to result in work-related stress, and in the prison service they certainly do.

Using Health and Safety Executive management standards, the 2015 Bedfordshire University survey showed that while job demands are high, control and support (particularly from managers) was low; bullying and harassment were commonplace; the management of change was poor; and violence and intimidation was having a serious effect on prison staff.

The measure of mental health used in the Bedfordshire University survey is a well-established questionnaire used in community samples and different employment sectors. It revealed that prison officers are very much worse off than most other people in terms of depression, anxiety, sleep difficulties and cognitive problems (such as lack of concentration). Almost six out of ten indicated that they felt stressed at least once a week, including 20% who felt that way every day. More than one in three reported that their doctor had diagnosed them with a stress-related illness since they had been working for the employing body, but at the same time there was a widespread feeling that most people would be unwilling to disclose this (except perhaps to their colleagues).

The General Health Questionnaire was used to assess the psychological health of POA members in the survey: The results suggested that “a high proportion ... require some degree of intervention to improve their wellbeing”. Almost three quarters were showing signs of emotional exhaustion, but feelings of depersonalisation/cynicism and feelings of personal accomplishment were more or less equally common. Similarly, the Howard League for Penal Reform report (published jointly with the Community trade union) found that:

“Prison officers are undervalued and their role has been neglected. Low staffing levels, a poorly defined job description, insufficient training and a feeling of a lack of decision-making power has left officers feeling ignored, ineffective and unable to achieve their aims. Staffing levels and patterns of working are dangerous. One officer said, ‘I work from 7.15am to 8pm and I might only speak to another officer a couple of times a day’”.

“The officers we spoke to felt unable to establish a fulfilling career in private sector prisons. Progression opportunities are almost non-existent in many prisons and officers find themselves on low or stagnant pay despite years of service”. Morale was very low amongst officers and few see a long-term future for themselves in the prison service: “Few of the officers we spoke to wanted to stay working in prisons in the medium or long term”.

Prison officers were described as enthusiastic for change and want to play a role in helping people turn their lives around: “All officers we spoke to described wanting to make a positive difference by
developing relationships with prisoners. They want systemic change so they are able to continue to develop their skills and receive the support they need to succeed in their roles”.

The prison service accepts as “reasonably foreseeable” that the duties of HMPPS employees working in operational areas of the business place them at a higher risk of exposure to serious and potentially traumatising incidents in the workplace than those of employees in most other organisations (Prison Service Instruction PSI 02/2018 Post Incident Care). The management and control of threats to staff from prisoners is dealt with under security and intelligence procedures but there is also a specific 2018 policy about the treatment, care and support for staff who may be significantly distressed and or traumatised by events in the workplace or arising from their work.

Response, care and support including observations of a colleague’s mood and behaviour is expected initially at team and line manager level. Trained Staff Care Teams are present in all public sector prisons to provide additional independent support and to signpost services that may be beneficial.

In addition to those based routinely in custodial environments, other groups of staff who are more likely than others to be either regularly, or occasionally, exposed directly or indirectly to highly traumatic or deeply disturbing events, accounts or material include those staff:

- Dealing with concerted indiscipline and major incident response e.g. NTRG, NTDSG
- Dealing with interventions, treatment, case and key work for high risk and particularly sexual and violent offenders
- Those managing major incidents remotely in command suites and operations
- Non-HMPPS staff (such as healthcare and education)

The policy says: “Violent attacks, threats, verbal abuse and other traumatic experiences can leave staff feeling isolated, shocked and confused. Common reactions to traumatic stress can include feelings such as anger, feeling sad or upset, being jumpy, tense or anxious. There may be problems with concentration, eating and sleeping. Such changes are normal in the aftermath of a traumatic event and should begin to improve a week or so afterwards. However, sometimes troublesome feelings do not go away or they start at a later date and additional support may be required to help the member of staff process these feelings and move forward”.

Governors and relevant managers have a wide range of mandatory duties under the policy. These include: ensuring that local systems and arrangements are in place to ensure that effective post-incident care is provided; all staff in operational environments must be given information on the potential effects of trauma on staff and how to access sources of support; ensure that their prison has a dedicated local Care Team, led by a local Care Team Leader, consisting of “a cross section of staff” who are respected, have the skills to offer peer support, can signpost staff to appropriate support resources and have received appropriate training/update training (they must also be able to access structured professional support) and they must ensure that Care Team members are allocated time to carry out their duties/are released to attend a regional Care Team meeting at least twice a year. Governors and Relevant Managers may from time to time need to directly contact an employee’s GP or emergency services in High Risk/Immediate High-Risk situations.

In its evidence to the pay review body the Prison Governors’ Association said members were suffering stress at higher levels than previously experienced and operational managers were having to work large amounts of additional, unpaid hours in order to sustain their responsibility to the
employer, the public and other stakeholders. The union noted the high level of absences relating to mental and behavioural disorders in 2015-16 and the consequent number of working days lost to the Service (PSRB 2017).

NOMS/HMPPS health and safety arrangements for the management of stress in staff are set out in Prison Service Instruction PSI 32/2015. It sets out high-level requirements to achieve “reasonably practicable prevention and control of the effects of stress” staff.

The quarterly “NORCET” HSF Risk Control Evaluation Tool includes a set of 10 questions allowing custodial establishments to evaluate and self-report the effectiveness of their delivery of measures to meet the stress standards. These results should be collated and analysed at regional level and collated and summarised for report to the NOMS NEMC Health, Safety, and Fire Sub-Committee. MoJ’s Independent Audit and Assurance (IAA) IAA undertake a “Governance and Order” audit of all PSPs including consideration of health, safety and fire on a 3 year cycle. IAA use the NORCET structure as a basis to audit on and will look specifically at priorities within HSF determined from current performance information.

OH Advisor Establishments, Directorates and NPS Divisions, via HRBPs and HS Advisors, should arrange via their OH Advisor to get regular feedback on relevant aspects of anonymised casework and trends relating to stress. Health, Safety and Fire Committee These committees provide a formal forum for the oversight of plans, the identification of concerns, deliberation and consultation on options for improvement and for making appropriate decisions or recommendations between managements, staff and unions. The management of stress should be regularly on its agenda HRBPs should monitor the effectiveness of LTI processes in gathering employee concerns re stress issues.

According to PSI 32/2015, stress related sickness absence accounts for at least 20% of all sickness absence in NOMS and staff under unreasonable levels of stress work less effectively and make less effective decisions. Compliance is monitored at three levels: Locally via a quarterly regular report to health and safety committees on inspection activity against inspection plan via the NORCET HSF monitoring tool; regionally via establishment assurance visits from regional HS teams or Divisionally via Cluster visits from Divisional HS teams; and nationally via NORCET monitoring reports and Independent Audit and Assurances Governance and Order Audits. Employers contracted to provide services to NOMS are not directly subject to these arrangements but the contract letting and monitoring process must ensure that suitable measures are in place and followed to ensure that the stress risk to the contractor’s staff is adequately managed.

NOMS subscribes to HSE’s Stress Management Standards (“the standards”). These define “states to be achieved” under each of six stressor categories; Demands, Control, Support, Role, Relationships and Change. All NOMS Directorates, NPS Divisions, groups, establishments / workplaces and teams must achieve these standards, through actions of the following kinds (as set out in more detail in the policy): They must ensure that a stress risk assessment is conducted, using appropriate measurement tools, data sources and personnel; develop an action plan; monitor the development of these plans; and respond by aligning activities where appropriate and engaging with preventative and remedial work.

Staff must be given the opportunity to express and report what concerns they have with regard to stress at work as part of the development and review of the risk assessment on a reasonably regular basis. Action plans must contain suitable structures and processes for identifying, considering and responding to these concerns. Established processes such as Listen to Improve must be considered as a means to achieve this. Staff are encouraged to discuss all concerns with their managers; however,
“staff who feel themselves to be under sustained, excessive pressure ... must report this to their line manager”. Where relationships with line management are perceived to make this problematic, staff must seek advice (options include the “confidential employee assistance program”) and “can of course seek advice from union or staff representatives at any time as well”.

Line managers must be both proactive and reactive in watching for and responding to signs of stress in their staff / teams. However, they are not expected to know of its existence without an outward expression of it by the member of staff. Where a member(s) of their staff appears to be suffering, or reports suffering, from significant or sustained stress, or, is returning to work following absence associated with stress, the line manager must undertake, or arrange to be undertaken, a risk assessment “identify the reasonably practicable measures that can be taken to prevent, control or mitigate that employee’s stress risk and agree a schedule and arrangements to monitor the effect of these measures”. This will involve discussion with the member of staff “and may result in action being required on the part of EITHER management or employee, or BOTH”.

8.2 Workload

Inability to manage workload is one of the many realities in the current prisons crisis for staff.

Most POA members in the Bedfordshire University survey often (40%) or sometimes (38%) find different groups demanding things that they find “hard to combine”; they often (25%) or sometimes (41%) have “unachievable deadlines”; they always (19%) or often (45%) have to work “very intensively”; and they always (13%) or often (38%) have to “neglect some tasks” because they have too much to do.

A large minority said they are always (8%) or often (27%) unable to take sufficient breaks. Similarly, a large minority are always (10%) or often (22%) “pressurised to work long hours”. Summing up, compared with the average score from other sectors (based on Health and Safety Executive data), POA members reported a considerably poorer level of wellbeing in relation to the demands made upon them.

8.3 Support

Evidence of a lack of support for staff highlights the gap between formal policy and the deeply disappointing practice indicated by much of the evidence highlighted in this report.

The Bedfordshire University research indicated that emotionally upsetting incidents are unlikely to be discussed especially with managers, and traditional social support channels (such as going to the pub together) may be less common than it was. There are elements of good practice, but under conditions of short staffing, overcrowding and drug abuse, it is an even harder job.

POA members rarely get support to help cope with emotional demands of the job: most said they seldom (42%) or never (21%) get supportive feedback on the work that they do; are seldom (39%) or never (25%) supported through emotionally demanding work. They were more evenly split on whether they could rely on their line manager to help them with a work problem; or can talk to their line manager about something that has upset them at work, but managerial encouragement at work seemed to be limited, or lacking altogether (21%).

So, the survey was hardly a strong endorsement for supportive management, but POA members were rather more upbeat about the help, support and respect they get from colleagues at work: but colleagues were not always willing to listen to their work-related problems, and most said
relationships were sometimes, often or always “strained” at work. The report summed this up as being a “slightly poorer level of wellbeing” on support from colleagues, when compared with HSE’s average score from other sectors and organisations. To put it another way, members feel more likely to get a hearing from colleagues than management, but nearly everyone is under strain.

8.4 Bullying

Most POA members in the Bedfordshire University survey said they are seldom or never bullied but for just over one in ten it happens often or always – policy does not seem to have caught up.

Back in 1999 the prison service developed an anti-bullying strategy (PSI 62/1999) and at around the same time the *Prison (Amendment) Rules 2000* amended the Prison Rules 1999 to include a number of new disciplinary offences relating to racist behaviour by prisoners. This topic was also addressed by PSO 1702, but neither of these policies appears to have been updated since then.

8.5 Sickness absence and attendance Management

Sickness absence levels in the prison service have been falling, as they have among the general working population (although the relative weight of mental and behavioural disorders and musculoskeletal problems appears to have become clearer). This could just be a sign of “presenteeism” but improved absence monitoring arrangements have been negotiated.

In the general British workforce sickness absence has been at its lowest level for 7 years, having decreased to an average of 6.3 days a year per employee, but with some familiar trends: higher absence levels in larger organisations (9.4 days lost for companies with over 5,000 employees) and among manual workers (who tended to have 2.1 days more absence than non-manual workers)\(^{118}\). Absence has also decreased in the prison service, and is not out of line with other large organisations and manual worker groups.

In the year to March 2018 operational Prison Service and YCS staff lost an average of 9.7 working days (down from 11.6% in 2010) with absence levels among Bands 2-4 roughly double the absence among higher grades. Among non-operational grades the latest average figure was 7.2 working days lost (down from 8.9 days, with more variation by grade than among operational staff). Staff working in the Fair and Sustainable Bands, introduced in April 2012 are aligned with the equivalent grade in the old structure. Sickness absence rates for prison officers were published for the first time in the NOMS workforce bulletin on 16 February 2017.

Mental and behavioural disorders and problems with the musculoskeletal system both account for a higher percentage of known categories of sickness absence (29.9% and 29.2% respectively for prison officer bands 3-5) than they did in 2010, however in 2018 the “unknown” category accounted for a far higher number of working days lost in the 2018 figures than in 2010 (see Table 5). PCS highlights very high sickness absence rates and stress-related/mental health problems affecting instructional staff but also admin staff (who occasionally come into contact with prisoners but would be exposed to the details of individual cases).
Table 5: Main causes of sickness absence

<table>
<thead>
<tr>
<th>Category of sickness</th>
<th>Year to March 2010</th>
<th></th>
<th>Year to March 2018</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>W/Days lost</td>
<td>Percent of known</td>
<td>W/Days lost</td>
<td>Percent of known</td>
</tr>
<tr>
<td>Mental and Behavioural Disorders</td>
<td>60,697</td>
<td>21.0</td>
<td>47,769</td>
<td>29.9</td>
</tr>
<tr>
<td>Musculoskeletal System</td>
<td>60,649</td>
<td>21.0</td>
<td>46,625</td>
<td>29.2</td>
</tr>
<tr>
<td>Injury and Poisoning</td>
<td>27,802</td>
<td>9.6</td>
<td>16,092</td>
<td>10.1</td>
</tr>
<tr>
<td>Digestive System</td>
<td>18,924</td>
<td>6.5</td>
<td>14,615</td>
<td>9.1</td>
</tr>
<tr>
<td>Respiratory System</td>
<td>22,553</td>
<td>7.8</td>
<td>12,916</td>
<td>8.1</td>
</tr>
<tr>
<td>Others&lt;sup&gt;3&lt;/sup&gt;</td>
<td>45,157</td>
<td>15.6</td>
<td>21,452</td>
<td>13.4</td>
</tr>
<tr>
<td>Symptoms Ill-Defined</td>
<td>53,474</td>
<td>18.5</td>
<td>360</td>
<td>0.2</td>
</tr>
<tr>
<td>Unknown&lt;sup&gt;3&lt;/sup&gt;</td>
<td>13,013</td>
<td></td>
<td>36,696</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>302,269</td>
<td></td>
<td>196,525</td>
<td></td>
</tr>
</tbody>
</table>

The POA says assaults take a toll on mental health but officers fear that if they are on a sick note and are sent to see Occupational Health it adds to the stress because they feel like they are one step away from being dismissed. Staff had no confidence in the “EmployAssist” service and the POA therefore arranged for respite at convalescent homes through the FireFighters Charity. Absenteeism linked to stress, illness and mental health breakdown can be associated with tiredness, fatigue, a poor immune system or substance abuse (in the latter case, disclosure can be a difficult issue).

However, the Bedfordshire study argues that **presenteeism** (turning up for work when unwell<sup>119</sup>) is a much bigger problem: There are not enough staff, yet it is a highly interdependent job: prison staff have to rely on each other, which requires mutual trust, and support and camaraderie with colleagues is very important. That can lead on to prison staff thinking: ‘If I’m off sick my colleagues are in danger and may end up having to work double shifts’. Kinman points out that this is a key cause of presenteeism as relationship with colleagues is the strongest source of job satisfaction.

That problem is accentuated by what is perceived to be a punitive management style, where officers commonly feel a high level of pressure not to go off sick or to return to work too soon (e.g. a morning call along the lines of ‘when are you coming back, we need you’. There is an added pressure, Kinman points out, in that managers are expected to be role models for expected behaviour, and they themselves feel under pressure to work through sickness in order to set an example to their staff.

Officers work while sick because of feelings of duty and professionalism, but those who have been off are commonly sent off to an external verification service, about which some have reservations (in recent years this has been carried out by a company called ATOS and officers refer to the experience as being “ATOS’d”. Prison service managers may well be aware that the procedures they are trying to put in place are difficult; these are safety-critical jobs where good mental and physical health and a high level of vigilance by officers is needed in order to avoid putting their wellbeing and that of
colleagues and prisoners at risk. Managing absence in this way is a short term solution, but prisons may feel they don't have the luxury of taking a longer term, strategic view to absence management.

Attendance management policy was updated in 2017\(^{120}\) (and was subsequently supplemented by Additional Attendance Guidance, see below). Referring to the Civil Service Employee Policy (CSEP) and procedure, the new policy is designed to encourage line managers and employees to take action when health and well-being are at risk and to support managers in managing attendance effectively by placing a greater emphasis on the line manager and employee working together”.

It sees them working to remove barriers to attendance at work, encouraging open and honest discussion between the line manager and employee about their attendance, promoting early intervention when health issues arise, prompting action when health and well-being are at risk or when absence levels are unsatisfactory, providing a clear understanding of individual roles and responsibilities and ensuring attendance is managed in a way which is fair and transparent”.

It makes it clear that NOMS/HMPPS understands that people will occasionally be unwell and respects that employees may need to be absent when they are not well enough to work, but adds that high levels of sickness absence make it difficult to deliver services and meet business priorities. It takes a “work-focused” approach to help minimise the impact of ill-health on an employee’s attendance, with a Wellbeing Strategy in place to support employee’s mental and physical wellbeing: “Being ill or injured does not always prevent an employee from getting to, or undertaking some, work”. This involves:

- early intervention, including obtaining medical advice, to enable any help and support to be identified;
- a greater emphasis on the line manager and employee working together to remove barriers to work;
- implement reasonable adjustments

With violence a significant source of concern, HMPPS worked with the POA National Executive to produce Additional Attendance Guidance\(^{121}\) for when an employee’s ill health is clearly a direct consequence of assault.

It is important that regular contact is maintained between the member of staff and local line management to ensure that members of staff who are absent from work for significant periods are kept fully informed of developments and opportunities at their local work place and nationally about current vacancies, training opportunities and other major developments within the Service. The objective is to ensure that staff maintain contact with the Service to assist with their eventual return to work. Keeping in touch is important in supporting and managing staff who are absent.

Managers should consider any concerns raised by the employee and take account of the way they wish contact to be made, however, employees cannot unreasonably refuse contact from their employer. Home visits are welcomed by a lot of staff but alternatives should be considered if the employee does not want this to take place. There are also situations where staff are not mobile (e.g. a broken leg) and where it is more supportive to them to visit them at home, rather than require them to travel to another venue. If a manager feels there is a benefit to a home visit this must be agreed with the member of staff before the visit is conducted. It may be beneficial for the employee to have a trade union representative or work colleague in attendance for home visits.
In certain circumstances (e.g. a member of staff is having chemotherapy), the home visit enables the manager to also make contact in an informal setting with family members who are a vital part of the individual’s all-round support and care. Any contact between a member of staff needs to be conducted in a professional, supporting and caring way and taking into account the employees wishes with regard to contact and visits. Further information on maintaining contact with employees is available in the How to keep in touch with employees on sickness absence how to guide.

The guidance highlights the scope for managers to use their discretion to decide not to issue a warning when an employee reaches or exceeds their trigger point. Line managers should consider the circumstances of the absence and the employee’s absence history. If they decide not to issue a warning, they should record their decision and the reasons for it, as it is important that employees are aware of the decision not to give a warning. If there are any further sickness absences for the same or a different reason, the line manager may make a different decision.

Staff can apply for Sick Leave Excusal (SLE) if they have contracted a disease or have been injured or assaulted whilst on duty. If the employee is absent for a significant period of time the line manager can apply for SLE on their behalf. For SLE for injury or disease, a maximum of up to six months (182 calendar days) sick absence is removed from the individual’s sick leave record for sick pay purposes, and excluded from consideration under the Unsatisfactory Attendance procedures. For SLE for assaults, sick absence is removed from the individual’s sick leave record for sick pay purposes, and excluded from consideration under the Unsatisfactory Attendance Procedures for the entire duration of their assault related absence while they remain in Service.

Where staff trigger a warning under the Unsatisfactory Attendance procedures, Managers must ensure that any absences for a disability related condition are identified, and in discussion with the employee, managers should agree to reasonable adjustments to cater for disabilities which may include extending trigger points or using their discretion. Disability leave may be offered as a reasonable adjustment under the Equality Act 2010. Employees with a disability can apply for disability leave if they need time to attend appointments for treatment, rehabilitation or assessment relating to their disability but are not necessarily absent from work.

8.6 Drugs, alcohol and prison staff

Prison staff not only are exposed to drugs being used by prisoners but may also be driven to substance or alcohol abuse by problems in their working lives.

Prison staff are directly exposed to the growing level of drug abuse. Nurses and health care assistants are often first on the scene when patients need emergency care and current guidance suggests they are expected to enter cells before the smoke has cleared. The effects can last for hours, leaving staff unable to administer medicine or drive home after shifts. The POA has requested that any incidents where staff are adversely affected by second hand inhalation of NPS should be included in the daily report as a serious reportable incident.

Ann Norman, RCN professional lead for criminal justice, has said: “The dangers posed by spice, both to prison health care staff and the patients they care for, cannot be overstated – these drugs kill. Nursing staff have passed out or been left unable to drive after inhaling fumes in smoke-filled cells. This is unacceptable”.

The prison service agreed to update its guidance so it reflects the reality of clinical staff dealing with unpredictable and dangerous psychoactive substances. However, that may not directly help POA members suffering from chronic health problems including anxiety, depression and post-traumatic
stress disorder, as well as physical ill health. 18% of members in the Bedfordshire University study reported problems of that kind.

Staff Alcohol policy was updated to “With Cause Breathalyser Testing” across NOMS but the provider (Atos Healthcare working in partnership with Synergy Health Laboratory Services) has also been linked to absence control (see 8.7).

The aim of the policy is to support the maintenance of a safe working environment for staff, prisoners and visitors, and it requires all staff to ensure that they are “fit for duty” which includes not being under the influence of alcohol whilst at work. It is supposed to be preventative rather than punitive by setting clear standards. Where problems relating to alcohol do occur, it encourages members of staff to notify their manager as soon as possible, and requires managers to offer appropriate support (failure by staff to meet the standards set out in the policy may constitute a breach of the Code of Conduct and may lead to disciplinary procedures/dismissal).

8.7 Staff turnover
As the prison service tries to repair some of the damage done by earlier cuts it badly needs to stabilise and reduce staff turnover.

Prison service establishments had 6,047 joiners in the year to March 2018 (including 4,213 Band 3-4 Prison Officers and specialists), almost twice the number in the year to March 2017 (3,135). Joining levels built up steadily after 2012-2014 when annual joining rates dropped to a low point of around 500. Numbers leaving have been around 3,000 per year (3,174 in the year to March 2018, including 1,757 Band 3-4 Prison Officers), having peaked at just over 5,000 in the year to March 2014 (movements due to machinery of Government changes or staff transferring to or from the private sector as a result of changes in the management of establishments are not included in these figures).

HMPPS evidence to the review body indicated that the annual leaving rate for officers within the first year of service had increased to 13.5% in 2015-16, from 8.8% in 2014-15 for officers recruited in 2013-14. However, that seemed more in line with turnover rates seen in earlier years and suggests that the 2014-15 rate was unusually low (2013-14 was the year in which the majority of the voluntary redundancy schemes were used to bring establishments to “benchmark” staffing levels).

In the year to March 2018, 1,839 staff in prison service establishments left by resigning, while 231 were dismissed for “unsatisfactory attendance/medical inefficiency”. In 2010, 1,191 resigned while 225 were dismissed for “unsatisfactory attendance/medical inefficiency”. HMPPS is well aware that it needs maintain operational stability, recognising that operational staff continue to face challenging working conditions: “This year, we believe it is particularly important to maintain experience and capability whilst aiming to reduce attrition, and these are the key drivers of our approach for 2018/19”.

Other employer statistics show that a reduced proportion of Bands 3-5 Prison Officers now have 5 or more years of service (59% compared with 78% in 0000) with a big drop at the 5-9 years’ service level (from 22% to 8%) and a big increase at less than one year (from 1% to 21%). Those figures would be consistent with the successes of the recent recruitment drive being offset by more of the more seasoned staff leaving.
In the year to March 2018, 639 Band 3-5 officers left with less than one year’s service, having jumped from under 50 per year in 2012-2014 to around 300 per year in 2016/17. The overall leaving rate in the year to March 2018 was 10% for Prison and Youth Custody Service Operational grades (11.1% for Band 3-4 Prison Officers), having accelerated steadily from 4% to 5% a year before 2014-15. Among Band 3-5 Officers leaving rates in 2017-18 were highest in the South West, London and Thames Valley, the East and Yorkshire.

Turnover seems to be a particular issue amongst those in Bands 2 to 5, the support staff and officers. The Prison Service Pay Review Body has noted that vacancies for officer grades continue to be addressed by the use of Payment Plus whilst time off in lieu (TOIL) remains at high levels. Numbers on temporary cover increased from 590 at the end of March in 2015 to 852 in 2016, suggesting that vacancies have increased in grades more senior than those to which staff are recruited, and these are being covered by more junior staff with knock-on effects (PSPRB 2017 report).

Concerns about recruitment and retention were aired in the Justice Committee’s May 2016 Prison Safety report (cited in Prison Safety in England and Wales CBP07467). Staff retention difficulties meant there had been a net gain of only 440 prison officers in 2015 following the recruitment of 2,250. It recommended an action plan for improving prison safety, addressing the factors underlying the rises in violence, self-harm and suicide.

**8.8 Job satisfaction and morale**

Sickness absence may be declining but morale problems are proving to be more stubborn.

In the Bedfordshire University survey, the overall level of job satisfaction was found to be low: 23% expressed moderate dissatisfaction, 23% were very dissatisfied and 15% were extremely dissatisfied. High levels of staff turnover mentioned elsewhere in this report may be linked to that. In its evidence to the pay review body PCS said staff had suffered unprecedented wage cuts for nearly a decade and their total reward package continued to be eroded.

The union commented that, with huge reductions in staff and the introduction of new streamlined ways of working, it was hardly surprising that people felt demotivated when these additional demands had not delivered improvements in rewards or pay. It pointed out that in the NOMS Monthly Pulse Survey (from May 2016) only 31% of staff said they were motivated to achieve the Service’s objectives, only 21% would recommend the Service as a great place to work, and less than half (48%) felt safe in their working environment.

**8.9 Private sector turnover**

Problems with low morale and high turnover are not unique to the public sector prisons.

According to the Community/Howard League report, morale is very low amongst officers and few see a long-term future for themselves in the prison service. Few of the officers interviewed wanted to stay working in prisons in the medium or long term. Several reported that new officers sometimes arrived without a full understanding of the realities of being a prison officer and as a result quickly left. The report says action is needed to reduce attrition, a full audit of the training and development opportunities available to officers in both the public and private sector should be taken, independently of the Ministry of Justice and fully resourced.
8.10 Grievances and discipline

It is apparently common for prison staff to find themselves on the receiving end of disciplinary complaints, or to have made a complaint themselves, but that doesn’t seem to be reflected in official statistics - perhaps an indication of hidden problems.

In the Bedfordshire University survey 52% of POA members said they had been the subject of a formal complaint, grievance or investigation at work (no timescale seems to have been mentioned). One third indicated that they themselves had personally lodged a formal complaint.

In contrast, according to the NOMS Annual Staff Equalities Report, only 2.9% of band 3-5 officers, 1.8% of OSGs and 1.5% of operational managers had raised a grievance through official processes. In 2016-17 3.2% of NOMS staff were subject to an investigation including 5.0% of Band 3-5 officers, 3.4% of OSGs and 2.9% of operational managers, and 1.3% of NOMS staff were facing conduct and discipline action (1.9% of Band 3 – 5 officers, 1.6% of OSGs and 0.7% of operational managers).

The big difference in scale between these two sources may point to grievances and complaints being dealt with informally. Conduct and discipline procedures were revised to coincide with the introduction of Fair and Sustainable terms and conditions. The policy says its primary objective is to encourage improvement in an individual rather than impose a disciplinary sanction; not every breach of the required standards will lead to formal disciplinary action.

8.11 Second jobs

There is little information on prison staff holding second jobs.

In the Bedfordshire University stress and wellbeing survey (in which 1,682 POA members participated), 95% of respondents did not have secondary employment.

8.12 Corruption

Corruption in the prison service is reported fairly regularly in the media the Ministry of Justice insists that the “vast majority of Prison Service staff” are honest, hard-working professionals.

Stories of staff corruption including sexual liaison with prisoners, or supplying drugs or phones, crop up regularly and first-hand accounts show how officers can come under pressure from manipulative inmates. Under current conditions in British prisons it would be surprising if the problem has not become more acute. However, official statistics from 2012 (before Benchmarking staff cuts, see 2.13) put the issue into a longer-term perspective. Central records held by the NOMS corruption prevention unit (CPU) indicate that between 1 January 2008 to 14 March 2012, 18 prison officers were convicted of offences relating to conveying drugs into prisons and 11 prison officers of other contraband.

The NOMS Professional Standards Statement outlines how staff-related intelligence must be processed, developed and managed in partnership with law enforcement agencies who are responsible for investigating crime. Each prison should have a designated Local Corruption Prevention Manager (LCPM) supported by a network of centrally-managed Regional Corruption Prevention Managers (RCPM).

The PSI sets clear expectations for all staff who work in prison establishments (public sector and contracted) and must also be applied to sessional and third-party workers, volunteers and official
visitors. It defines corruption as when a person in a position of authority or trust abuses their position for their or another person’s benefit or gain. It is associated with a wide range of other PSI instructions covering conduct and discipline, performance management, equality, extremist behaviour, young people, conveyance of prohibited items, reporting wrongdoing, staff alcohol policy, flexible working hours, grievances, and other policies including the Civil Service Code.

9. Health and safety

The decline in prison safety is one of the most glaring developments that coincides with staffing cuts and the impact of austerity – a link that even the Conservative government has itself made.

From 2012 there has been a decline in prison safety which the Justice Committee has described a rapid and ongoing deterioration. Various explanations have been offered for this including reductions in staffing and difficulties retaining staff, high levels of drug use and particularly new psychoactive substances (NPS), overcrowding and long-term shifts in the nature of the prison population. These trends are seen as being linked to disturbances that have taken place such as:

- a riot involving 230 prisoners in HMP Bedford on 6 November 2016
- a riot lasting 12 hours and initially involving 260 prisoners at HMP Birmingham on 16 December 2016
- a disturbance at HMP Long Lartin during which, it was reported, 81 prisoners forced staff to retreat from one wing in October 2017

Successive Chief Inspectors of Prisons have repeatedly flagged up safety concerns, in their annual reports, (particularly about adult male prisons) and in reports on individual prison visits (eg. HMP Pentonville and HMP Brixton, June 2017). Safety is one of the four tests of a healthy establishment, against which prisons are assessed during inspections.

The Chief Inspector’s 2016-17 report noted that:

- Safety had declined in 15 prisons inspected with just five prisons showing improvement.
- We continued to find gaps in the identification of risk for new prisoners at a time when they were at their most vulnerable.
- Levels of self-harm and the number of deaths in custody continued to rise at an alarming rate. Lack of activity, mental illness, illicit substances and growing debt all contributed to prisoner self-harm.
- Violence continued to escalate at an unacceptable rate, and significantly more prisoners than before told us that they felt unsafe.

The Prison Safety and Reform white paper, November 2016, acknowledged “a statistical correlation between the numbers of staff and the level of violent incidents” and concluded that more frontline staff were needed (see Section 1). Given that environment it is perhaps not surprising that in the Bedfordshire University survey almost half of POA members reported that they are “often” or “always” required to carry out tasks that are unsafe.

By a similar margin POA members felt they were being required to comply with unreasonable expectations (and performing tasks they believed should be done by someone else). But the
government seemed to be readying itself for more trouble, with an announcement (on 30 November 2017) of a new urgent notification process, to alert the Secretary of State and a team of specialists (to ensure immediate action is taken).

9.1 Assaults and violence
The graphic increase in violence has taken place despite prison service policy on this and related issues, and the existence of Safer Custody Teams.

In the 12 months to June 2017 there were just over 27,000 prisoner assault incidents within prisons, a 14% increase the figure to June 2016 and an 80% increase compared to June 2007. There were 7,437 assaults on prison staff (798 serious), a rise of 25% from the twelve months ending June 2016. Figures published by the Ministry of Justice are dramatic (see Chart 4).

In the Bedfordshire University survey violence and intimidation by prisoners was most frequently experienced as verbal threats, verbal abuse and intimidation. Members were also asked whether they had been physically assaulted by a prisoner at any time during their career: 30% had and for half of these (53%) that had taken place over the previous four years. Sexual assault and harassment were reported least frequently. Circumstances in the prison service seem to have created a culture that is untenable, leading to cynicism and poor public perceptions of the job (not helpful to recruitment), in an environment where asking for help can be a stigma.

The POA says staff are affected by assaults and the consequences of the abuse of psycho-active substances; prisons are overcrowded with not enough staff, and no will from the management side to protect employees. Safety stats for March show that assaults are at record levels, there is no leadership on this and staff are left to fend for themselves, being bullied. We are now seeing 24 officers and 48 prisoners assaulted every day; we have self-harming. Prisoners in custody for Violence against the person (VATP) offences accounted for the highest proportion of prisoners at the end of September 2017 (25%). Sexual, theft and drug offences each accounted for approximately 15% of the reason offenders were in prison.
The increased level of violence prompted the POA to pursue the use of extendable batons, on health and safety grounds (something that the prison service said it would keep under review, but approved for use within open prisons at night, subject to local risk assessments). The 2017 conference also agreed pursue (in conjunction with the employer) a comprehensive review of risk assessments and safe systems of work, the review “to accurately represent the reality of the workplace and ensure that members are afforded equal protection to that to which other workers are entitled”. That was achieved and, as part of that review, HMPPS Health and Safety Policy now includes wording on safety representatives’ facility time and the need to set up a health and safety committee at each custodial establishment in line with statutory regulation and HMPPS consultation arrangements.

PCS points out that, as civilians, non-operational staff such as the instructional staff tend to be treated differently by prisoners and have longer contact with them (eg up to 6 hours per day/30 hours per week) and can therefore build up relationships (violence in the workshops is usually prisoner-on-prisoner). The government points out that it has invested in 5,600 body-worn cameras across the prison estate, to support better relationships and give high-quality evidence to support prosecutions where assaults do take place.

Violence in prison is covered by Prison Service Instruction PSI 64/2011 Management of prisoners at risk of harm to self, to others and from others (Safer Custody), which replaced earlier violence/ant-bullying policy PSO 2650 and PSO 2700 on suicide, prevention and self-harm and PSO 2710 on follow-up to deaths in custody). It updated the Fair and Sustainable policy to narrow the focus onto prisoners presenting a “heightened or exceptional” risk of harm (while adding that there was “no intention to reduce overall costs in this area of work, although Governors/Directors may identify
more efficient ways of working in some instances”). NOMS, the predecessor of HMPPS, is said to be “fully committed to zero tolerance to violence in our prisons. Violence is not acceptable in any form. Everyone has the right to live, work and develop in a safe environment which is free from fear of abuse, harm or oppression”.

PSI 64/2011 notes that “the majority of prisoners have one or more mental illnesses” and some will also have a personality disorder and/or a learning disability. The PSI provides guidance on understanding mental health and mental illness including depression. It notes that these prisoners may present as having complex needs and exhibit challenging behaviour, listing the risk factors associated with violence, suicide and self-harm. PSI 09/2011 is also relevant to violence reduction.

Prisoners are more likely to commit suicide, self-harm and be involved in assault incidents during the early stages of custody although risk of involvement in assault incidents increases after the first 14 days of custody, once prisoners enter the general prison population. Younger prisoners tend to self-harm and be involved in assault incidents more often than older prisoners while suicide rates among prisoners tend to peak among those in their thirties.

Prisoners at risk or posing a risk are managed according to the level and type of risk they pose, up to and including constant supervision. PSI 64/2011 recognises that “risk may be mitigated by increasing time out of cell, access to employment and education and/or increased staff contact”. Some of the provisions of the PSI as they relate to staff include a requirement to be trained to at least Introduction to Safer Custody (which replaced ACCT Foundation in 2012, where ACCT stands for Assessment, Care in Custody and Teamwork) for all staff in contact with prisoners; Staff responsible for observing at-risk prisoners will need to ensure they are familiar with the requirements in that individual’s ACCT Plan and follow and record the required level of observations and conversations. Staff must actively engage with the prisoner, encouraging him/her to talk and participate in activities where appropriate.

Each prison must have a Safer Custody Team (SCT) who will have responsibility for the implementation and development of safer custody policy. Awareness that preservation of life is the first priority when managing at-risk prisoners, including in making “justifiable decisions on when to enter a cell where life is endangered, particularly at night”; and the requirement to carry a personal issue anti-ligature cut-down tool.

9.2 Occupational Health and Safety
With such significant health and safety problems the role of Occupational Health and Safety (OHSF, including “fire”) is even more important in prisons than it would be in other organisations, but it is viewed with scepticism by the POA.

Eight out of ten POA members in the Bedfordshire University survey felt able to access support from occupational health services (although they were less certain about the availability of stress-related services). However, the 2017 POA conference condemned existing OHS provision as unfit for purpose, mandating the union to negotiate a fit for purpose scheme that provides full and ongoing OHS services to officers with both physical and mental health injuries. A new occupational health contract was subsequently awarded.
NOMS Health and Safety Arrangements for Consultation on Matters of Occupational Health, Safety and Fire (OHSF) are set out in Prison Service Instruction PSI 10/2016. The specific functions of OHSF Committees can be summed up as:

- provide a focus for health and safety issues making recommendations to governors/SMTs
- instigate the development and implementation of measures to ensure the health and safety
- review any unsafe and unhealthy conditions/notifiable disease statistics, recommend action
- consider the results of periodic safety audits/undertake a rolling programme of checks
- consider reports and factual information by enforcement bodies, inspectorates, auditors
- consider reports submitted by Safety Reps or employees not represented by a union
- assist where appropriate, in the development of safety policies, rules, systems etc.
- address issues where Health & Safety risks require additional resources

Significantly, in light of plans for more governor autonomy the PSI notes that NOMS previously operated a policy in which the duty to produce arrangements for OHSF management was delegated to governors and heads of group and other managers: but “this results in both duplication of effort and inconsistency of approach within a single employer’s operations. Whilst there is a need to allow local flexibility this needs to be balanced with a need for nationally recognised and disseminated minimum standards of operation in the health and safety management system”.

10. Pay and conditions
The prolonged squeeze on public sector pay, with increases held below inflation for years, is compounded by a divided pay system and a pay setting mechanism (the Prison Service Pay Review Body) that has lost the confidence of the largest prison trade union (POA).

Discontent over pay is part and parcel of the current crisis in British prisons and includes both the mechanism by which pay is set, and the government’s policy of restricting public sector pay rises, a policy that is only just beginning to be eased.

10.1 How prison pay is set
Pay is not set by collective bargaining and, although unions have the opportunity to influence the outcome, it lacks full legitimacy and for 2018/19 has again resulted in a sub-inflation award.

Pay for operational staff in public sector prisons in England and Wales – and in reality for non-operational staff too - is determined by the government. It does so on the basis of recommendations made by the Prison Service Pay Review Body (PSPRB) set up by regulation in 2001. Its “remit group” is Bands 7 to 11 / Operational managers, Bands 3 to 5 / Prison officer grades, and Band 2 / Support grades but in practice the vast majority of non-operational/semi-operational HMPPS staff (about 95%, excluding those the National Probation Service) have their pay “indirectly determined by the Review Body” as a result of either:

- a historical equal pay settlement that links pay awards for closed grade prison officers to those for non-operational staff with similarly weighted roles; or
- common pay and grading structures (Fair and Sustainable or the closed Managerial structures)
PCS says that although separate pay meetings are held with NOMS/HMPPS covering non-operational managers, only around 15% of its members are not directly linked to the PSPRB outcome, and in reality these pay discussions can only have one outcome; the PRB award.

In reaching its decisions the review body is expected to take into account the need to recruit, retain and motivate suitably able and qualified staff taking into account the specific needs of the prison service; regional/local variations in labour markets and their effects on the recruitment and retention; relevant legal obligations including anti-discrimination legislation; government policies for improving the public services, including output targets; funds available/departmental expenditure limits; the government’s inflation target; and the competitiveness of the prison service with the private sector and any differences in terms and conditions of employment between the public and private sectors, taking account of the broad employment package including relative job security.

The regulations allow the Secretary of State to direct the review body. For the 2018/19 pay round the Chief Secretary to the Treasury wrote to explain that “pay discipline” was still necessary to ensure the affordability of public services, but recognising the need for flexibility (linked to productivity) in some parts of the public sector, particularly in areas of skill shortage. However the subsequent “activation letter” contained no further restrictions, leaving the PSPRB to make recommendations it thought “appropriate in light of all the evidence and in accordance with our standing terms of reference”.

The social partners get their chance to have an input. For 2018/19 the review body received pay proposals from HMPPS, the PGA and the Public and Commercial Services (PCS) union (which has recognition rights for operational managers, former governors). For the second year running the PSPRB did not receive evidence from the POA, although the union did write to comment on certain matters in the HMPPS written evidence. The POA said its membership had been extremely unhappy with its 2015 recommendations and had voted against giving evidence for future reports.

Despite all these inputs the government is not obliged to accept PSPRB recommendations and for 2018/19 it only did so in the “spirit”. With consumer price inflation running at 3.4% by the Retail Prices Index and 2.4% by the Consumer Prices Index the basic consolidated pay rise announced by the Secretary of State, David Gauke, was 2.0% with 0.75% non-consolidated. Only staff on the distinctive Fair and Sustainable terms and conditions (see below) were eligible to receive pay progression (additional payments within grade to reflect experience in the job).

The POA described it as another below inflation pay rise for hard pressed Prison Officers and support grades, which lagged behind private sector pay awards. In real terms Prison Officers had suffered a pay decrease of over 20% over the last 8 years: “This award could have been so much better if the Government had approved all the recommendations the Pay Review Body submitted including a consolidated 2.75% award and an increase in pay points for new starters by 5.25%”.

But at the same time the union encouraged the government to scrap the Pay Review Body and reinstate collective bargaining over pay in order to compensate the POA for the restrictions they face under the Criminal and Public Order Act 1994 (see 5.3): “It should also be noted that the International Labour Organisation approved the full recommendations of the Pay Review Body should be implemented unless there are compelling reasons not to do so. The POA see no exceptional circumstances and question why the Government have failed to abide by this ruling”.

10.2 Impact of pay restraint

From pay cap to pay discipline, the latest review body-based pay award has changed little, putting the POA’s attempt to negotiate a pay deal in the winter of 2016/17 into perspective.

In his Summer Budget on 8 July 2015, the Chancellor of the Exchequer announced that the Government would fund public sector workforces for a pay award of 1% for four years from 2016-17 onwards. That followed five previous years of explicit pay restraint (a two year pay freeze for public sector workers paid over £21,000 a year in 2011-12 and 2012-13, followed by three years when the Government sought awards of up to one per cent (2013-14, 2014-15 and 2015-16). How that has translated in prison service pay awards since 2012 is summarised in Table 5.

Table 5: Summary of main pay recommendations accepted by government (2012-2016)

- 2012, Fair and Sustainable pay Bands 2 and 3 were introduced, and a public sector pay freeze was applied for the second year to all staff earning more than £21,000.
- 2013, the remaining Fair and Sustainable pay Bands were formally introduced with PSPRB recommendations that pay maxima be adjusted so that it was possible for staff in some National Bands to receive a pay award of 1% or more when opting in (this did not cover prison officers or senior officers). It was recommended that closed grade prison officers at the top of the pay scale and senior officers be awarded a non-consolidated payment of £250.
- 2014, the PSPRB recommended 1% consolidated pay increase for all officers and support staff on all pay structures and changed some Fair and Sustainable National Band 7 to 11 pay structures to provide 2% to staff who opted in.
- 2015, it recommended an increase of 1.8% to the maxima of the Fair and Sustainable National Bands, but did not provide pay awards for those on closed grades. The Government then provided non-consolidated retention bonus payments (£300 for prison officers and support staff, £325 for senior officers and £350 for principal officers) shortly after the publication of our 2015 report.
- 2016, it recommended an increase of 1.0 per cent to the maxima of the Fair and Sustainable National Bands and provided non-consolidated awards of £300 for prison officers and support staff, £325 for senior officers and £350 for principal officers.

The 2017 award included a £400 consolidated increase to Fair and Sustainable (F&S) National Bands 2-5 and their closed grade equivalents; and progression pay by one pay point for all eligible staff in F&S Bands 2-5 (unless placed on formal poor performance management procedures). Pay awards for prison staff not covered by the review body differ in their detail even though they are influenced by the review body. In 2017, for example, the negotiated award included a £575 increase to the Band 1 National single pay point to ensure it is set above the National Living Wage; a £400 increase to the Band 2 National maximum (with the mid-point removed and the minimum increased to 5% below the maximum); and a £400 increase to all Band 3-5 National pay points.

10.3 Attempts to negotiate

Both the Prison Officers Association and the Prison Governors’ Association have recently attempted to find a new negotiated solution to their pay and other problems, but so far without a successful conclusion.

Against the background of pay restraint, and despite turbulent times in Birmingham and elsewhere the POA set out in the winter of 2016/17 to negotiate a deal on pay, pensions and prison reform.
The offer was voted down by 65.7% of members taking part, while a parallel to the PGA was voted down at a PGA special delegates conference. The POA offer was for:

- a reduction in the pension age to 65 years for those staff with a State Pension Age of 68 years. The offer to existing staff would be fully funded by the employer.
- a three year pay deal for Fair and Sustainable staff in Bands 2 to 5 of consolidated pay awards in each of the three years of between 0.5 and 1.0 per cent dependent upon the terms and conditions staff were on. This was in addition to the performance-related progression in Fair and Sustainable.
- a 0.5% non-consolidated, non-pensionable payment in the first year for closed grade prison officers and support grades.
- A non-consolidated, non-pensionable payment of £500 for Fair and Sustainable Bands 2 to 5 and closed grade equivalents in 2017 and 2018.
- Introduction of a new local and national dispute procedure with independent binding arbitration.

10.4 Divided pay: “Fair & Sustainable”
Distinctive and lower-paid F&S grades for new, promoted or opted-in staff with different terms and conditions are still only occupied by just over half of the operational workforce, five years after their introduction, signifying a continuing split in the workforce.

As a result of changes agreed in 2012, the prison workforce is almost equally divided between “Fair and Sustainable” (F&S) grades and older, closed pay scales and spot rates (see Table 6). F&S pay bands were intended to allow public sector prisons to compete with private sector prison providers when market tested, and ultimately to cover all staff. In the F&S structure a number of ad-hoc allowances and payments were removed and job evaluation scheme determines the level of work.

F&S applies to new appointments and for those who opt in (which is an annual, one-way decision). Staff are deemed as having opted in under a variety of circumstances eg. promotions, transfers, moves to a lower Band as a result of unsatisfactory performance, reasonable adjustment on disability grounds under the Equality Act 2010, or disciplinary action; or accepting redeployment (but not a managed move).

Assimilation to F&S is likely to entail a move from a 39-hour week to a 37-hour week. Adjustments exist for varying hours of work but other differences between closed and F&S terms can still make it financially disadvantageous. Almost half of the PSPRB remit group including 45% of Prison officers were, in 2017, still on closed pay scales, even – in some cases - when they would financially benefit from opting in.

Neither the Pay Review Body nor HMPPS are content with this division, which results in a fragmented workforce and staff “being paid differently for doing essentially the same role” (PSPRB). But how and when the two pay structures come together remains unresolved. Fair and Sustainable was a collective agreement between NOMS and the POA and was supported by a ballot of POA members at that time. However, the POA argues now, and has done for some time, that...

The PSPRB recognises labour market conditions, the operational context for the service and other factors have changed from those prevailing when F&S was agreed. The service itself has made a
number of additions, such as the new market supplements (see above) that seem inconsistent with the principles of F&S. It also recognised that it is important for a pay system to command the confidence of staff, which is not the case with the current arrangements; and (in 2017) it called on HMPPS to comprehensively review its pay and allowance arrangements.

### Table 6: Operational staff on closed and F&S terms

<table>
<thead>
<tr>
<th>Staff Group</th>
<th>Number in Closed Grade</th>
<th>Number in F&amp;S</th>
<th>Total Number of Staff</th>
<th>% of Staff in F&amp;S</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSG</td>
<td>1,392</td>
<td>3,251</td>
<td>4,643</td>
<td>70.02%</td>
</tr>
<tr>
<td>Prison Officer</td>
<td>9,072*</td>
<td>7,453**</td>
<td>16,525</td>
<td>45.10%</td>
</tr>
<tr>
<td>Senior Officer</td>
<td>1,064</td>
<td>986</td>
<td>2,050</td>
<td>48.10%</td>
</tr>
<tr>
<td>Principal Officer/Custodial Manager</td>
<td>190</td>
<td>1,231</td>
<td>1,421</td>
<td>86.63%</td>
</tr>
<tr>
<td>Governors/Operational Managers</td>
<td>109</td>
<td>790</td>
<td>899</td>
<td>87.88%</td>
</tr>
<tr>
<td>Total</td>
<td>11,827</td>
<td>13,711</td>
<td>25,538</td>
<td>53.69%</td>
</tr>
</tbody>
</table>

*Number of Prison Officers in closed grade includes those who would map to F&S Band 4 as Prison Officer Specialists.

**Number of Prison Officers in F&S includes those who have mapped to Band 4 as Prison Officer Specialists.

### 10.5 Pay structure and pay additions

The F&S pay structure can encompass both operational and non-operational roles but treats locality-based payments differently (see section 10.6) while certain allowances are not available.

F&S has an 11 Band structure (see Table 7) capable of covering all prison service jobs (through job evaluation) and each has three “pay zone” levels designed to cater for different labour markets (national, outer London and Inner London).

#### Table 7: F&S Bands
- Band 1 Cleaner, Stoker
- Band 2 Operational Support Grade, Support Services Administrator, and Facilities and Services Support [support grade band 2, industrial grades 4 and 5]
- Band 3 Prison Officer, Business Administrator, Skilled Delivery Role, and Production Instructor [Prison Officer 2, Psychological Assistant, Industrial grade 2 and 3]
- Band 4 Supervising Officer, Specialist Officer, Specialist Administrator, Interventions Facilitator, Facilities and Services Supervisor, and Specialist Production Instructor [senior officer, psychological assistant, industrial grade 1, executive officer]
- Band 5 Custodial Manager, Chaplains, Hub Manager, Trainee Psychologist, Programme/Treatment Manager, and Facilities and Services Manager
• Band 6 Advisers, Site Manager, and Activities Unit Manager [manager G]
• Band 7 Head of Function in a standard prison, HR Business Partner, Head of Finance, Managing Chaplain, Head of Function (non-operational) and Head of Estates in a standard prison
• Band 8 Deputy Governor of a standard prison, Head of Function in a complex/large/diverse prison, Head of Corporate Services in a standard prison, Specialist Registered Psychologist, Head of Function (non-operational) and Head of Estates in a complex and diverse prison
• Band 9 Deputy Governor of a complex/large/diverse prison, Head of Corporate Service in a complex and diverse prison, Cluster Lead in Psychological Services, and Head of Psychology in High Security Prisons
• Band 10 Governor of standard prison, Regional Lead Psychologist and Clinical Director
• Band 11 Governor of a complex and diverse prison

The differing salary levels for F&S and closed grades are set out in Table 8, giving 2017 salary values, (prior to the application of the April 2018 pay award). It is not intended to show how the old grades “map” onto F&S Bands

Table 8: Open and closed grades in the PSPRB remit group (2017-18 salaries)

<table>
<thead>
<tr>
<th>Open (F&amp;S)</th>
<th>National 37-hour salary</th>
<th>Closed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor Band 11</td>
<td>£63,627-76,352* (37hr)</td>
<td>Senior manager A (39hr)</td>
</tr>
<tr>
<td>Governor Band 10</td>
<td>£56,248-67,301* (37hr)</td>
<td>Senior manager B (39hr)</td>
</tr>
<tr>
<td>Deputy Governor Band 9</td>
<td>£51,098-61,317* (37hr)</td>
<td>Senior manager C (39hr)</td>
</tr>
<tr>
<td>Deputy governor/Head Band 8</td>
<td>£39,892-47,873* (37hr)</td>
<td>Senior manager D pre-09 inc</td>
</tr>
<tr>
<td>Head of function Band 7</td>
<td>£34,212-41,056* (37hr)</td>
<td>Manager E (39hr)</td>
</tr>
<tr>
<td>Operational graduate Custodial Manager Band 5</td>
<td>£29,150</td>
<td>Principal officer (39hr)</td>
</tr>
<tr>
<td>Custodial manager Band 5</td>
<td>£25,920-29,176 (37hr)</td>
<td>£(32,480-) 34,272</td>
</tr>
<tr>
<td>Supervising/Specialist officer Band 4</td>
<td>£23,040-25,625 (37hr)</td>
<td>£31,881</td>
</tr>
<tr>
<td>Op graduate prison officer Band 3</td>
<td>£26,850</td>
<td></td>
</tr>
<tr>
<td>Prison officer Band 3</td>
<td>£18,136-20,162 (37hr)</td>
<td>Prison officer (39hr)</td>
</tr>
<tr>
<td>OSG Band 2</td>
<td>£15,691-16,475 (37hr)</td>
<td>OSG (39hr)</td>
</tr>
</tbody>
</table>

Notes: * indicates that there are no fixed incremental points; figures in brackets (£) indicate unoccupied salary levels; Op operational; CM custodial manager

Certain pay additions are available both for F&S and closed grades (2017 values)

• Care and maintenance of dogs (£1,526pa for 1, £1,908pa for 2)
• Tornado £19.86 per hour (officers), £14.00 per hour (OSG)
• Payment Plus £17.00 per hour
Dirty Protest £10 per day (4 hours or less), £20 per day (over 4 hours)
On-call home £9.00 per period of more than 12 hours (higher rates at weekends/PHs)

Certain pay additions are only available to closed grades

- Locality Pay Allowance (LPA) frozen at six levels, from £250 to £4,250pa
- Specialist allowance – healthcare officer (£1,296pa)
- Specialist allowance – caterers, dog handlers, librarians, physical education instructors, trade instructors, works officers (£1,200pa)
- On-call radio pager £5.67 per period of more than 12 hours (higher rates at weekends/PHs)
- On-call home £7.09 per period of more than 12 hours (higher rates at weekends/PHs)
- Stand by (office) £13.43 per period of more than 12 hours (higher rates at weekends/PHs)

10.6 Location pay and market supplements

Pay pressures forced the government to introduce new market supplements in selected prisons but it has not addressed general pay problems arising from years of pay restraint.

With the introduction of Fair and Sustainable, Locality Pay Additions (LPA) were replaced with three pay zones which set outer and inner London rates that, at that time, were £2,500 and £3,800 higher (respectively) than the National maxima – since then the relative values have increased a little (£2,530 and £3,860 for a prison officer Band 3 at the maximum of their scale, 2017). The “legacy” LPA rates still exist for staff on closed grades and can be worth more.

Market supplements were available to address recruitment and retention problems and, in early 2017, were applied to the main grades to which operational staff are externally recruited – Bands 3 and 2. These measures involved two basic elements: the recruitment of Band 3 staff at ‘red’ and ‘amber’ sites at the mid-point of the relevant Band 3 scale, and the payment of £5,000 or £3,000 to new recruits and also to existing staff at Band 3 with the commitment that this would remain in place for at least four years. These apply both to new staff and existing Fair and Sustainable Band 3 staff, and cover a significant proportion of the staff in our remit group. 31 prisons were included.

The unions were not impressed. The 2017 POA conference called for negotiations so that all closed grades would have their working hours reduced from 39 to 37 per week at no detriment to pay and conditions. “as a reward for their loyalty and continued service in extremely difficult circumstances”.

PCS was concerned about the impact on the staff that did not receive these, including what happened on promotion, and felt it was unrealistic to think that these supplements could be removed after four years. The PGA saw the new market supplements as effectively replacing the legacy LPA rates and saw the legacy approach as better.

10.7 Pay progression

During the period of public sector pay restraint the government has attempted to curb pay progression, but in the prison service context progression has been focussed on F&S bands.

For Bands 2 to 5 pay progression is normally to the next pay point in their Band. For Bands 6 to 11 (open pay ranges without pay points) it is usually based on a percentage increase to base pay. The system is covered by Prison Service Instruction PSI 25/2015. Progression is subject to the annual
appraisal markings. But as the pay review body has noted (2017) staff felt the system was ineffective and should not inform pay progression.

Officer and support grades on the closed scales below the maxima are entitled to contractual progression to the maxima but the majority of staff in the closed grades are now at the maximum and contractual progression effectively only applies to a few OSGs. In the 2018 pay award, staff on F&S grades received performance-related progression, allowing the Secretary of State to say that the award was worth on average £1,220 for staff on F&S contracts.

10.8 Pay and earnings levels
Basic pay levels are affected both by hours worked and location. In 2017 average weekly earnings for a full-time prison officer stood at £551 per week (equivalent to just over £28,652 per year) compared with £662.50 for all full-time employees. Female prison officers on median earnings earn £106.60 gross per week less than men.

The HMPS web site says Prison Officers could earn “up to £30,000” when they start, as well as a full range of benefits (“great training”, opportunities for career development, 25 days annual leave plus bank holidays (pro rata where applicable), civil service pension, work-life balance “options”, childcare voucher scheme, annual season ticket loan, and access to the Prison Service Sports Association). The illustrations (see Table 9) highlight the interaction between salaries (on an “up to” basis), location and the length of the contracted working week.

Table 9: 2017 pay levels and hours of work

<table>
<thead>
<tr>
<th>Location Description</th>
<th>If you’re contracted for 41 hours a week</th>
<th>If you’re contracted for 39 hours a week</th>
<th>If you’re contracted for 37 hours a week</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting in a London prison (HMP Brixton, Pentonville, Wandsworth or Wormwood Scrubs) you could earn up to</td>
<td>£32,486 (a base salary of £29,846 + an allowance of £3,000) with a pension and benefits</td>
<td>£31,014 (a base salary of £28,014 + an allowance of £3,000) with a pension and benefits</td>
<td>£29,453 (a base salary of £26,453 + an allowance of £3,000) with a pension and benefits</td>
</tr>
<tr>
<td>Starting in 17 prisons across the South and South-East (see individual job adverts for more info) you could earn up to</td>
<td>£27,688 (a base salary of £24,688 + an allowance of £3,000) with pension and benefits</td>
<td>£26,456 (a base salary of £23,456 + an allowance of £3,000) with pension and benefits</td>
<td>£25,224 (a base salary of £22,224 + an allowance of £3,000) with pension and benefits</td>
</tr>
<tr>
<td>In many locations across England and Wales, you could earn</td>
<td>£23,052 with pension and benefits</td>
<td>£21,902 with pension and benefits</td>
<td>£20,751 with pension and benefits</td>
</tr>
</tbody>
</table>

The most comprehensive information on average earnings in the UK is provided by the Annual Survey of Hours and Earnings (ASHE). It uses the Standard Occupational Classification to classify jobs but the published statistics are not specifically limited either to the public sector prison service or private sector prisons.

- code 3314 specifically applies to prison service officers (below Principal Officer) and would apply to prison auxiliaries and prison wardens
• code 1173 covers prison governors but also the fire, ambulance and other senior officers in protective services
• code 3563 covers prison instructors but also other vocational and industrial trainers

Full-time prison officers (below principal officer) earned an average of £551.10 per week in April 2017 while median earnings were slightly higher at £560.00 (slightly more than full-time employees in general). These figures (see Table 10) would include job titles like prison auxiliary and prison warden. The lowest-paid 10% of all these prison officers (including any part-timers) earned up to £367.60 per week while the middle half earned between £425.10 and £622.80.

Table 10: Gross weekly pay (£) Prison service officers (below principal officer)

<table>
<thead>
<tr>
<th>Description</th>
<th>Mean</th>
<th>Percentile:</th>
<th>10th</th>
<th>25th</th>
<th>Median</th>
<th>75th</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison Service Officer - all</td>
<td>538.70</td>
<td>367.60</td>
<td>425.10</td>
<td>543.90</td>
<td>622.80</td>
<td></td>
</tr>
<tr>
<td>Prison Service Officer – all male</td>
<td>565.10</td>
<td>379.00</td>
<td>443.50</td>
<td>560.60</td>
<td>651.40</td>
<td></td>
</tr>
<tr>
<td>Prison Service Officer – all female</td>
<td>476.60</td>
<td>340.10</td>
<td>378.20</td>
<td>454.00</td>
<td>560.30</td>
<td></td>
</tr>
<tr>
<td>Prison Service Officer – full-time</td>
<td>551.00</td>
<td>377.10</td>
<td>434.60</td>
<td>560.00</td>
<td>628.40</td>
<td></td>
</tr>
<tr>
<td>Prison Service Officer – ft male</td>
<td>570.50</td>
<td>385.30</td>
<td>449.60</td>
<td>564.80</td>
<td>656.60</td>
<td></td>
</tr>
<tr>
<td>Prison Service Officer –ft female</td>
<td>500.00</td>
<td>n/a</td>
<td>390.60</td>
<td>473.50</td>
<td>572.90</td>
<td></td>
</tr>
<tr>
<td>Employees - all</td>
<td>538.70</td>
<td>144.30</td>
<td>284.00</td>
<td>448.60</td>
<td>683.20</td>
<td></td>
</tr>
<tr>
<td>Employees – full-time</td>
<td>662.50</td>
<td>319.70</td>
<td>400.00</td>
<td>550.40</td>
<td>774.80</td>
<td></td>
</tr>
</tbody>
</table>

Source: Annual Survey of Hours and Earnings, provisional results for 2017 (figures in blue-shaded cells are lower-quality estimates)

Female prison officers on median earnings earn £106.60 gross per week less than men (£454.00 as against £560.60) according to provisional results from the 2017 Annual Survey of Hours and Earnings. These figures are not specific either to the public-sector prison service or the private prisons and do not distinguish between prison officers and OSGs (where there is gender segregation that would affect earnings, see above).

10.9 Pensions and retirement age

Changes to the civil service pension scheme involve an increase in pension age which has been deeply unpopular with the POA and its members – an increase they are still fighting to change.

Prison employees are automatically enrolled into a Civil Service Pension Scheme to which they may contribute an average of 5.45% of salary (depending on earnings) alongside an average 18% employer contribution. When the new scheme was introduced, with a planned increase in the normal pension age to 68 over time (aligned with the rising State Pension Age) the POA complained that the government had failed to identify them as a category of public servant who perform unique work that needed to be reflected in a normal pension age of 60.

The decision by the former Coalition Government to renege on their commitment to provide an independent review of the viability of a pension age of 68 was one of the main motivators for commissioning the University of Bedfordshire survey on work-related stress and wellbeing. In that survey 47% of those aged 60 or over said their age affected their job performance “moderately” and 8% “very much” (these results would exclude those who are dissatisfied/burned out and have
The Secretary of State was asked if she had made an assessment of the potential effect of the introduction of a higher normal pension age in the Alpha pension scheme on the life expectancy of prison officers after retirement, and said an Equalities Impact Assessment was available.

10.10 Pay in the contracted-out prisons

Evidence from the private prisons tends to highlight lack of pay/career progression as a bigger concern than actual salary levels.

Research by the Howard League for Penal Reform, carried out jointly with the Community trade union, found mixed views among private sector prison officers in England and Wales on pay. Some thought starting pay was reasonable in most areas of the country, but needed to rise as staff became more experienced and took on more responsibility. One officer said: “Starting salary is not the issue – lack of progression and support is the key issue around pay. There is no incentive to stay.”

However, others thought that the starting salary needed to be higher and commensurate with police officers and social workers in the area. One officer said: “You can go and work in Aldi for £18,000 a year without having to deal with the things we have to deal with. It’s nowhere near to what we should be paid for [what] we’re doing.”

The problem of “static” or unchanging pay was a major source of frustration. Experienced officers felt that their length of service and the skills they had acquired were not reflected in their pay packet. The majority thought that they would be better paid if they were working in public sector prisons.

The frustration was exacerbated by recent improvements to starting salaries and increments for new staff, but without any corresponding changes to more experienced officers pay or benefits. “There is no reward for service – this means that officers who started a long time ago have lost money since starting – this is unfair. You now only have to work three years to get to 25k. Older officers have had to work 15 years to get to 25k and have no further benefits,” said one officer.

While officers understood that both the private and public sector needed to try and make the job more attractive to new people, many felt that the recent changes to some starting salaries were unfair and short term. It was clear that different levels of prison officer grade, which allowed development and pay increases, were needed to both improve recruitment and retention as well as allow prison officers to professionalise.

Plans to create 2,000 new senior roles for experienced officers in the public sector, with additional specialist training and salaries of up to £30,000, along with pay rises above the public sector pay cap, showed that the public sector are starting to acknowledge the importance of workforce development and beginning to act to introduce better career paths and pay for officers: “If the companies running private sector prisons fail to act to ensure parity, this will widen the gap between conditions and career prospects in the two sectors further, exacerbating the staffing issues and outcomes in private prisons,” the Howard League said.

From the date of the announced contract to the day of transfer to G4S on Oct 1st 2011, POA dealt with the employer through monthly meetings, attending to their agenda and presenting its own. The union engaged in pay discussions from January 2012, achieving awards each year based upon its business case and an agreed formula with G4S.
11. Voice in prison

The unions are able to take part in consultation through Whitley Council arrangements and have the opportunity to suggest changes (see 5.2) but rank and file POA members are sceptical about their ability to question management.

The Justice Committee recognises that without support from the people who are operating prisons, current reforms are unlikely to be effective. It recommended that the Government seek productive engagement with prison staff and governors through regular meetings, enabling their concerns and ideas to feed into the implementation of the reforms. The government responded by agreeing that productive engagement is a high priority for ministers who meet staff and governors regularly, with monthly forums with governors and trade union groups that allow effective consultation and feedback on implementing the reforms.

However, responses to the Bedfordshire University survey were not encouraging. Taking into account what POA members thought about their job role (see Section 4) it sounds like management are better at communicating what they want than filling in the bigger picture (or – see below – offering support). Typically, members “seldom” had enough opportunities to question managers about change at work; felt they’d been consulted about changes at work; or were clear about how these changes would work out in practice.

11.1 Prisoner complaints

The principle of having a voice, being able to complain effectively, is as important to prisoners as it is to staff, and although formal procedures exist this can be another instance where things are different in practice.

The Prisons & Probation Ombudsman has pointed out that when prisons fail to manage complaints effectively, it leads to frustration for prisoners, places additional burdens on staff and uses up my scarce resources, which could be better deployed on more serious or complex cases. The prison reform agenda needs to include a requirement on each prison to have a fully functioning complaints process. Prisons & Probation Ombudsman Annual Report 2016-17 “a prison system still in crisis”

The Prison and Young Offender Institution (Amendment) Rules 2011 (Paragraph 1 of Schedule 1) amended rule 11 of the 1999 Rules in relation to requests and complaints made by prisoners about their imprisonment. It emphasised that a prisoner may make a complaint about his or her imprisonment to the governor or independent monitoring board, and removed the requirement for requests and complaints to be heard daily by the governor (imposing a requirement for the governor to consider requests and complaints as soon as possible).

12. Views of the social partners on quality of employment in the prison system

Recognition for prison staff, better funding, less overcrowding, tackling the staffing shortfall/reducing the prisoner-staff ratio, addressing stress and staff worries about going off sick, getting broken things fixed; giving more time for rehabilitative activity, and providing better career paths were some of the issues flagged by those most closely involved.
12.1 HMPPS
The HMPS HR department was offered an opportunity to contribute to this report but did not. In its 2018/19 evidence to the pay review body, HMPPS said that for too long working in prisons has not had the recognition that it deserves: “Our ambition is to make staff working in prisons a first choice career option, with appropriate recognition for the valuable work that is done and a working environment that supports people to thrive in often challenging circumstances”.

HMPS hoped that its proposals would help to reverse the current higher rates of attrition amongst the most experienced staff; maintain operational stability; provide pay awards for all members of staff; and “refresh relationships with trade unions”.

However, despite government decisions to recruit more staff and pay extra at 31 prisons, and a more “flexible” approach to public sector pay announced last year, pay increase recommendations above a 1% award would be unfunded and would create significant affordability issues.

12.2 POA
Comments from the POA made it clear that it sees the prison service as a poor employer with no work-life balance, no part-time work, no scope for managers to incorporate partial retirement into shift patterns. Staff are affected by assaults and the consequences of the abuse of psycho-active substances.

Prisons are overcrowded with not enough staff, and no will from the management side to protect employees – it is not a job that you’d want to recommend. Assaults are at record levels, there is no leadership on this and staff are left to fend for themselves, being bullied. There is a management plan to allow reductions in the regime in prisons, to cater for the staff available.

Although was reported (earlier this year) that the service had recruited 2,800 staff, there was already a shortfall of 1,700, and 1,800 had left in the same period, so in the union’s eyes the figures were “fudged”. The service was using areas of the country with low employment to over-recruit but then sending recruits 200-300 miles away to prop up the regime in other prisons.

With 24 officers and 48 prisoners assaulted every day, and self-harming, it all takes a toll on mental health but officers fear that if they are on a sick note and are sent to see Occupational Health it adds to the stress because they feel like they are one step away from being dismissed. The employer has not been very good at putting HSE stress policy in place.

There is no disputes agreement in place that the union has any confidence in, it allows for arbitration but decisions are not binding and POA has experience of broken agreements. Conditions were so bad that the contractor at Holme House prison withdrew nursing staff but when POA members at Lindholme prison withdrew to a place of safety they lost a day’s pay.

The Prisons Minister had made “fantastic speeches” about prison officers in parliament, but it was not clear (then) if that would be reflected in the next pay review body statement; it felt like prison officers were a political football, with government initiatives seeming to change every 6 months.

12.3 PCS
PCS says the good intentions and work of prison staff have been undermined by the government’s austerity programme: it signed the 2014 New Way of Working agreement to enable a more
flexible workforce that can react quickly to changes in contracts, and its members were “ready for new challenges which reflect our view on how to address offending in prison and recidivism”, but staff need to have confidence in ministers, the Director General and the Prisons Board.

Asked what would improve the quality of employment, the union suggested getting prisons cleaned up/broken things fixed; reducing the ratio of prisoners to instructors, improving the quality of interaction and giving more time for rehabilitative activity; improving pensions - employee contributions have gone from zero to £116 per month for a typical band 4 non-operational employee, at a time of pay restrictions and rising NI contributions; pay (a specialist instructor is on about £25,600 - had pay kept pace with inflation it would be more like £30,000 now); career progression and higher quality/training requirements for the job.

Salary reductions (in real terms) have contributed to problem staffing levels although these also stem from the Benchmarking (see 2.12). Cost reductions, efficiency and the work-study process affects everything from the number of staff needed to walk visitors from the gates (assuming there are no incidents) to the number of prisoners a workshop can accommodate.

Market supplements (see 10.6) have not been introduced for non-operational staff in the way that they have for prison officers (or other measures like or starting OSGs half way up the pay scale). Given the equal value link that has been established between operational and non-operational prison staff this is an issue that PCS may be taking up with HMPPS, as it has done in Scotland138.

12.4 Howard League for Penal Reform/Community

In their joint report on private sector prisons the Howard League and Community said that private companies, ministers and officials needed to demonstrate that they value prison officers. They must recognise their staff as professionals, fulfil their potential and ensure officers are able to build rewarding careers through creating clear career paths that enable experienced and skilled officers to progress. Prisons must work to ensure that they have enough well-trained staff to allow prison officers to do their jobs. They must provide opportunities to develop new skills and specialisms that are met with promotions and pay increases. Officers must be given the autonomy, professional discretion and responsibility to make a positive impact.

There are choices to be made about the role of prison officers in public and private sector prisons, what they should be aiming for and the education and training that they need to achieve. Across Europe there are different models for the role, but England and Wales had chosen an uneasy hybrid that rests on requiring little education, delivering low level training with poor working conditions, whilst asking officers to deliver a complex and professional service to vulnerable and challenging inmates. Our men and women officers are required to be security guards, mentors, psychiatric nurses, wing managers, chefs and to respond to serious health and social issues. Despite this challenging model, most of the officers involved the research did not want to change it, but they did want major reform to make it work.
References

1. Arrangements in Scotland and Northern Ireland are separate and beyond the scope of this report.
4. Sam Gyimah, parliamentary response 14/12/17
5. Petherick cited a longitudinal three-year study by Alison Liebling and the Cambridge criminology department
6. Two or more prisoners act together in defiance of a lawful instruction or against the requirements of the regime of the establishment is a “concerted incident”
7. Instances cited by the PCS trade union
8. Parliamentary answer 4 April 2017
9. Sam Gyimah, Parliamentary Under-Secretary of State for Justice
10. POA annual report 2017
11. Parliamentary answer 9 March 2017
13. Daily Telegraph 20 July 2018
14. The HR department of HMPS was invited to contribute
15. Evidence to the Prison Service Pay Review Body January 2018
17. All children in England are required to be in education or training until their 18th birthday, but too often children in the youth justice system have been out of school for long periods of time through truancy or following exclusion. As a result, half of 15-17 year olds in YOIs have the literacy or numeracy levels expected of a 7-11 year old. Review of the Youth Justice System in England and Wales, Charlie Taylor, December 2016.
20. Parliamentary answer 2 March 2017
23. The 2017 Prison Handbook
25. Prison statistics Number CBP 8161, 6 December 2017
31. PGA evidence to the PSPRB, January 2018
32. HMPPS 2018/19 submission to the Prison Service Pay Review Body
33. https://www.gov.uk/government/organisations/lammy-review
34. Community/Howard League for Penal Reform
36. Key historical resources on Benchmarking and New Ways of Working include POA Circulars 126,147 and 166 from 2012 and POA Circulars 1, 11, 62, 91, 131, 154, 168 from 2013. For the Protocol of Engagement, see POA Circulars 97 and 120 of 2013. For the Memorandum of Understanding see POA Circulars 113, 114, 127 from 2013.
38. Prisons: planning and policies
40. HMPPS 2018/19 submission to the Prison Service Pay Review Body
41. Second Special Report of Session 2017–19
43. POA annual report 2017
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Health in prisons: A WHO guide to the essentials in prison health

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The 2017 Prison Handbook

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committee/prison-reform/oral/44534.html

PCS, An alternative vision for prisons

The MoJ service specification, Manage the Custodial & Post Release Periods was updated in 2015/16


POA circular 01 05/01/18

POA circular 16 30/01/18 NIGHT ORDERLY OFFICERS

HMPPS 2018/19 evidence to the Pay Review Body

By July 2018 probation privatisation was in a “mess” and the government agreed to end the private sector contracts two years early in 2020, with bailouts totalling at least £500m (Financial Times 6/8/18)

Writing in a foreword to the 2017 Prisons Handbook

Justice Committee Second Special Report of Session 2017–18


The 2017 Prisons Handbook

Parliamentary questions 7 and 9 January 2017

Approach to delivery of accredited programmes; Second Special Report of Session 2017–19

https://www.bbc.co.uk/news/uk

Simon Bastow, LSE Fellow, http://blogs.lse.ac.uk/management/2017/05/01/curtailing-the-market-for-
private-prisons-schism-or-blip/


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Parliamentary answer 10 January 2017.

http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-
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POA circular 01 05/01/18

POA circular 16 30/01/18 NIGHT ORDERLY OFFICERS

HMPPS 2018/19 evidence to the Pay Review Body
Quality of employment in prisons

82 NOMS Annual Staff Equalities Report
83 Bulletin 8 (part of the 1987 Fresh Start agreement) and schedule 3 of PSI 42/97
84 Seifert 2017
85 PCS: An alternative vision for prisons
86 The role of the prison officer https://community-tu.org/newprisonsreport/
87 PSI 11/2014 NOMS POLICY ON EMPLOYEE INDUCTION AND PROBATIONARY PERIODS (replaced earlier PSIs)
88 PSI 02/2014 - AI 08/2014 – NOMS Performance Management Policy
89 Parliamentary answer 21 February 2017
90 Parliamentary answer 5 April 2017
91 Ministry of Justice v The Prison Officers Association [2017] EWHC 1839
92 The 2017 Prison Handbook
94 POA annual report 2017
95 HR Sub Whitley Meeting Minutes Oct 17
96 HMPPS 2018/19 evidence to the Pay Review Body
97 Prison Service Instruction PSI 35/2015
98 POA circular 54 04/05/18 ANNUAL LEAVE POLICY BERRYMAN AND SECRETARY OF STATE FOR JUSTICE
99 PSI 18/2011
100 PSI 03/2011
101 PSI 61/2011
103 PSI 03/2017
106 Prison Service Order PSO 5901
107 PSI 06/12
108 The 2017 Prison Handbook
109 ibid
110 Parliamentary answer 14 March 2017
111 Justice Committee 20 October 2017
112 Annual NOMS Digest 2016/17 Official Statistics Bulletin
113 https://www.liverpoolecho.co.uk/news/call-mambalance-cons-coin-nickname-8455385
114 Parliamentary answer 7 April 2017
115 PRISON SAFETY E&W Number CBP07467, 5 December 2017
116 Ombudsman annual report for 2015-16
117 https://howardleague.org/publications/the-role-of-the-prison-officer/
120 PSI 01/2017 which replaced PSO 8404 Management of Attendance and PI 37/2014 Management of Attendance policies
121 POA circular 139 20/11/17
122 Whitley sub-committee, August 2017
123 PSI 34/2013
124 HMPPS 2018/19 evidence to the Prison Service Pay Review Body
125 PSI 06/2010 Conduct and Discipline (revised)
126 https://www.bbc.co.uk/news/uk-england-23242740
127 https://www.bbc.co.uk/programmes/b08hnpm
129 PSI 01/2016
130 PRISON SAFETY E&W Number CBP07467, 5 December 2017
131 HMPPS 2018/19 submission to the Prison Service Pay Review Body
133 http://www.civilservicepensionscheme.org.uk/
134 15 September 2016
136 The Second Special Report of Session 2017–19
https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/491/491.pdf
137 PCS: An alternative vision for prisons