

Submission to the Justice Committee inquiry on Prison Population 2022: Planning for the future

by Her Majesty's Chief Inspector of Prisons

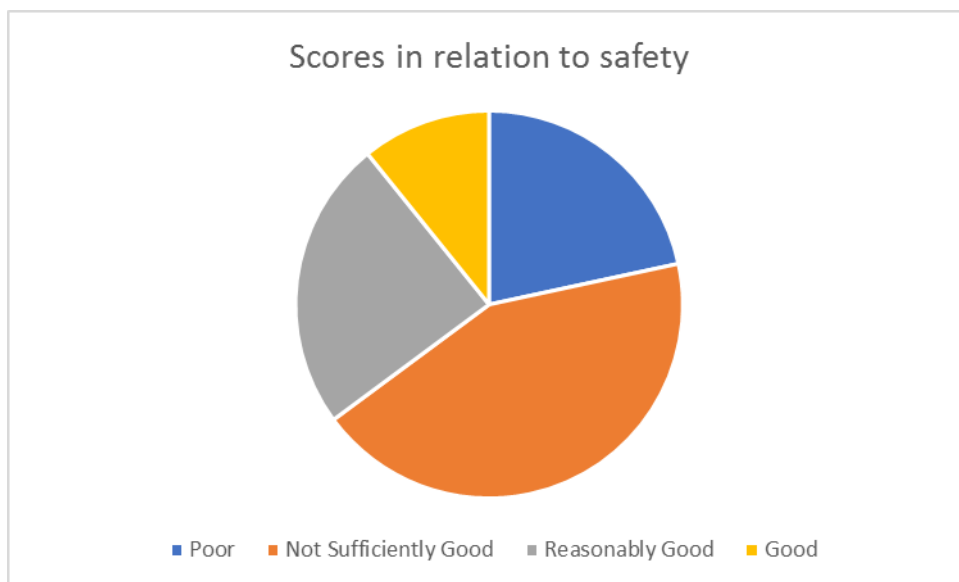
Introduction

1. We welcome the opportunity to submit a response to the Justice Committee's inquiry on Prison Population 2022: Planning for the future.
2. Her Majesty's Inspectorate of Prisons (HMI Prisons) is an independent inspectorate whose duties are primarily set out in section 5A of the Prison Act 1952. HMI Prisons has a statutory duty to report on conditions for and treatment of those in prisons, young offender institutions (YOIs) and immigration detention facilities. HMI Prisons also inspects court custody, police custody and customs custody (jointly with HM Inspectorate of Constabulary), and secure training centres (with Ofsted).
3. Our response provides information that we hope may assist the Committee in its examination of points 4, 5 and 7 in the inquiry terms of reference (What is the Ministry of Justice's existing strategy for managing safely and effectively the prison population? What are the implications of the likely rise in the population for the resources required to manage prisons safely and effectively? What is Her Majesty's Prison and Probation Service's current capacity to manage safely and effectively the prison population?).
4. Our response is based on evidence gathered during our inspections in the 2017 calendar year and evidence gathered as part of our October 2017 findings paper, *Life in prison: Living Conditions*.¹ It provides:
 - an overview of our findings from the 2017 year to highlight the extent of poor and not sufficiently good outcomes across the prison and youth offender institution (YOI) estate; and
 - detail about poor outcomes against expectations that can impact significantly on safety and day-to-day life and which may be exacerbated by crowded conditions and/or an increase the size of the prison population. These include poor physical conditions, unsafe cell sharing arrangements, slow responses to emergency cell call systems, prisoners spending far too little time out of cell, poor staff-detainee relationships and difficulties in maintaining family ties.

¹ <https://www.justiceinspectorates.gov.uk/hmiprison/inspections/life-in-prison-living-conditions/>.

Overview of HMI Prisons 2017 findings

5. HMI Prisons inspects all prisons against our four healthy prisons tests: safety; respect, purposeful activity; and rehabilitation and release planning.² Within each of these tests is a number of expectations that detail outcomes for prisoners that we expect prisons to achieve. A score of good, reasonably good, not sufficiently good or poor is determined for each of the four tests.
6. Inspection reports have been published in relation to thirty-seven of the prisons and YOIs inspected during the 2017 calendar year (this thirty-seven counts the Keppel Unit within HMYOI Wetherby as a separate establishment as it receives separate scores).
7. In the area of safety, four of the 37 received a score of good, nine of reasonably good, 16 of not sufficiently good and eight of poor. Overall, as can be seen in the diagram below, close to two-thirds of this estate was not holding prisoners sufficiently safely.



8. Looking at outcomes across all four healthy prison areas:
 - no establishment received a score of poor in all four healthy prison areas;
 - seven establishments had scores of poor or not sufficiently good in all four healthy prison areas (19%);
 - 11 had three scores of poor or not sufficiently good (30%);
 - three had two scores of poor or not sufficiently good (8%);
 - 11 had one score of poor or not sufficiently good (30%); and
 - five had no scores of poor or not sufficiently good (scoring reasonably good or good in all four healthy prison tests) (14%).
9. Her Majesty's Prison and Probation Service (HMPPS) sets out the minimum standards for certification of prisoner accommodation in PSI 17/2012, including standards for when accommodation is considered crowded, which occurs when the number of prisoners held exceeds the certified normal accommodation levels (CNA). A cell's CNA is determined by prisons group directors and noted on cell certificates. PSI 17/2012 states that "CNA represents the good, decent standard of accommodation that the Service aspires to provide

² See, for example Men's prison Expectations, <http://www.justiceinspectorates.gov.uk/hmiprison/our-expectations/prison-expectations/>.

all prisoners.”³ Prisons also record operational capacity, which is “the total number of prisoners that an establishment can hold without serious risk to good order, security and the proper running of the planned regime. It is determined and approved by DDCs using operational judgement and their knowledge of establishment regime and infrastructure.” PSI 17/2012 notes that “operational capacity will normally be set equal to, or greater than, baseline CNA. It may be set greater than CNA, particularly at local prisons, to allow for an agreed, safe level of overcrowding.”

10. A number of the 37 establishments inspected had operational capacities that were set significantly above their CNA. Some examples (based on figures provided by the establishment at the time of inspection) are included in the table below. Increases in operational capacity do not usually lead to corresponding increases in infrastructure, for example, the size of a gym, library or healthcare facilities does not usually increase with an increased operational capacity.

Establishment	Inspection Commenced	Type of inspection	Prison type	CNA	Operational Capacity	Population
Swansea	07/08/2017	Unannounced	Local	268	503	458
Preston	06/03/2017	Unannounced	Local	433	811	720
Doncaster	10/07/2017	Announced	Local	738	1145	1115
Pentonville	09/01/2017	Announced	Local	906	1250	1230
Thameside	02/05/2017	Unannounced	Local	932	1232	1217
Bullingdon	24/04/2017	Unannounced	Local	869	1114	1109
Holme House	03/07/2017	Unannounced	Local	1034	1210	1197

11. Of the five establishments that scored good or reasonably good in all four healthy prison tests, all had a population below in-use CNA at the time of inspection.⁴ However, we stress that outcomes for prisoners and healthy prison scores are attributable to a range of differing factors, which may but will not necessarily include the size of the prison population and whether the prison is crowded.

Physical conditions

12. PSI 17/2012 does not provide minimum cell measurements (although it does provide guidance as to what a typical cell might look like). In December 2015, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published minimum standards for living space per prisoner.⁵ Although HMI Prisons does not normally measure cell size, we did so for our report, *Life in prison: Living Conditions*, examining whether cells in five establishments met the CPT minimum requirements.⁶ Although the majority of single-occupancy cells met the required minimum, we found that the majority of multi-occupancy cells did not. In addition, fewer cells met the desirable standards set by CPT for multi-occupancy cells.

³ PSI 17/2012 Certified Prisoner Accommodation. Available at: <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2012/psi-17-2012-certified-prisoner-accommodation.doc> [accessed 09/12/17].

⁴ As PSI 17/2012 explains, “In-use CNA is baseline CNA less those places not available for immediate use, for example: damaged cells, cells affected by building works, and cells taken out of use due to staff shortages.”

⁵ European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2015). *Living*

space per prisoner in prison establishments: CPT standards. CPT/Inf (2015) 44.

⁶ Cell measurements were taken in HMP Pentonville, HMP Birmingham, HMP Garth, HMP Brixton and HMP Lincoln. Measurements were carried out manually and so may not be as precise as they would be if carried out technically.

13. During 2017, we often found that cells designed to hold one prisoner are being used to hold two (for example, HMP Pentonville; HMP Garth; HMP Lincoln; HMP Swansea) and found many cells and communal areas to be in poor condition (both their state of cleanliness and repair). Poor cell conditions exacerbate the impact of being locked up for long periods of time. In HMP Birmingham:

Many cells were overcrowded and housed more prisoners than they had been designed for. In some cases, cells were unacceptably cramped, some housing four or six prisoners with no lockers or proper in-cell toilet screening. Too many cells were in a poor state of repair with broken windows, missing or damaged furniture, poor flooring and ventilation and inadequately screened toilets. There was significant and sometimes offensive graffiti in cells and the offensive displays policy was not universally enforced.

14. The recently published report on HMP Liverpool found:

The prison environment was extremely poor and many prisoners lived in squalid conditions. A large number of cells had broken observation panels and windows, with dangerous jagged glass jutting out. Many occupied cells had lights that did not work and, in one case, a light that did not switch off. Some cells had damp walls, filthy toilets and toilets that were blocked or leaking. Many cells did not have adequate furniture and held more prisoners than they were designed for. Communal areas were dirty and gullies around exercise yards were strewn with litter, discarded food and clothing. Graffiti was widespread. Litter had accumulated in some areas, particularly on the ground floor, where cockroaches could be seen during the day and rats were a significant problem. Most wings had recreation areas, but some equipment was broken or too dirty to use.

15. The report on HMP Swansea highlights a problem that the inspectors see regularly – prisoners eating in cells next to unscreened toilets without lids:

Most cells held two prisoners, and a few double cells accommodated three. There were a few single cells. While many cells were in reasonable condition, some were dirty and inadequately furnished or had graffiti. Most were poorly ventilated. Prisoners usually had to eat their meals next to their toilets, which did not always have seats or lids.

16. In HMP Pentonville, despite very good efforts to keep cells clean, the age of the building and many years of underinvestment meant the living conditions for men were still poor:

The prison remained overcrowded, and the Victorian fabric had suffered from years of underinvestment and neglect, but the overall standard of residential areas had improved. Cells and communal areas were clean and most had been painted. Rubbish, both inside and out, was regularly cleared, and there was little graffiti. However, overall, living conditions remained stark due to poor furniture, the dilapidated fabric of the building, crumbling window frames and lack of repairs. Too many men still shared cells designed for one, and privacy screening was inadequate.

Cell sharing assessments and experiences

17. Cell sharing is a potential risk to the safety of each prisoner as they are in a confined space together for extended periods of time. In addition to prisoners being doubled up in cells designed for one, recent inspections have found examples of prisoners inappropriately sharing cells. In HMP Holme House, we found two examples of young prisoners (18-21) sharing a cell with an older prisoner, with no risk assessment of these arrangements. In one case, two men convicted of sex offences, one aged 20 and the other 62 had been inappropriately located together. In HMP Bristol, we found there was no consideration of the potential risk to young adult prisoners sharing cells on the vulnerable prisoner's wing or

elsewhere, potentially resulting in some young people being put at risk of exploitation from adult prisoners.

18. Some prisoners do have positive experiences of cell-sharing, but this needs to be managed carefully to ensure that sharing does not adversely impact on outcomes for prisoners. As part of our *Life in prison: Living Conditions* paper we asked several prisoners for their views on sharing cells;

'It's torture for both people, stealing, disturbing, bullying, taking stuff. Everything in each other's company – washing and dressing. It only causes stress on top of stress.'

'No matter how compatible people may appear, when they are in a confined space for a lot of time you get friction over the smallest things, plus you have the problem of one snoring, staying up later watching TV, bad habits or even how often somebody is using the toilet. Occasionally it is good for company but I myself far prefer my own space, it really does help to relieve my stress.'

'Being forced to share a single cell with strangers, whilst also having to use broken, uncurtained toilets; eat ones meals in this environment; and sometimes being locked up for over 20 hours a day is not respectful or humane.'

Emergency cell call system

19. We expect prisoners to be held safely in their cells, which includes requiring that emergency cell call systems be responded to within five minutes. PSI 17/2012 states that all prisoners must have the means to summon assistance when necessary and that cell call systems must provide both a visible and audible means of alert. We believe that the PSI should also specify a maximum response time to cell call bells in order to establish a clear requirement to answer call bells promptly (no response time is currently specified).
20. It is of significant concern for the safety of prisoners, particularly in light of current high levels of self-harm and violence in many prisons, that during our inspections this year we have found excessive delays (from 10 minutes to 50 minutes) in the answering of the cell call systems in many prisons (HMP Holme House, HMP Preston, HMP Bristol, HMP Brixton, HMP Swansea and HMP Leeds). The delays are not necessarily a result of staff shortages. At HMP Liverpool '[w]e pressed a cell emergency call bell during the inspection and, despite many staff walking past, it was 20 minutes before any responded.'
21. In addition, we have found that cell call systems are not always routinely monitored by managers and in some cases, are not working. At HMP Liverpool, we found two occupied cells in which the call bells did not work.

Time out of cell

22. When prisoners spend excessive periods locked in their cells they become bored, frustrated with staff and each other and may turn to illicit substances. They may suffer deteriorating mental and physical health. Out of their cells, prisoners are likely to engage in activities that improve their well-being such as education, training, work, exercise, visiting the library or socialising.
23. We expect prisoners to spend at least 10 hours out of their cells on weekdays, including some time in the evening for association. In several prisons we inspected during 2017, we found that this expectation was not being met. For example, at HMP Liverpool only 3% of respondents to our survey said they were out of their cells for 10 or more hours on weekdays, the percentage was the same at Feltham B. Significant numbers of prisoners also

reported that they were out of their cells for less than 2 hours on weekdays; 43% at Liverpool and 36% at Feltham B. At the latter, we noted that 'some of the many regime restrictions meant that too many prisoners were locked up for over 22 hours a day, which was unacceptable for this age group. Staffing shortages had led to 15 regime cancellations in the previous six weeks, further reducing opportunities for young adults to attend constructive activities.'

24. We have also found high numbers of prisoners locked in their cells during the working day including 35% at Holme House, 50% at HMP Bristol, 52% at HMP Swansea and 29% at Lincoln, where staff vacancies and sickness had considerably affected time out of cell. Figures were also unacceptably high in some training prisons, 23% at HMP Brixton, 30% at Northumberland, 27% at HMP Dovegate, and 23% at Erlestoke where, in addition, a number of those who were unlocked were not engaged in any purposeful activity.
25. We have also found a number of prisons with insufficient activity spaces to occupy prisoners purposefully during the day. HMP Swansea only had 163 full time places for 458 prisoners. HMP Dovegate, around 160 men were fully unemployed and another 133 were only occupied part-time (the population at inspection was 858).
26. For those who are unlocked and have activity places, it is not uncommon to find that staff do not challenge prisoners who fail to attend their designated activity.

Staff-detainee relationships

27. We expect staff to treat prisoners with respect and to encourage them to take responsibility for their own actions. The quality of staff-detainee relationships impacts on both staff and prisoners' day-to-day life and failures to challenge the disruptive behaviour of some prisoners can negatively impact on others. During our inspections, we have found poor staff-detainee relationships in a number of establishments including as a result of staff shortages, poor culture and management of staff, a lack of training and experience or a combination of a number of these factors. For example, at HMYOI Ayelsbury, while there were many staff engaging respectfully, 'there was also evidence of a smaller but significant group of staff who appeared disinterested and expressed low expectations of young prisoners, potentially reinforcing negative behaviours. Staffing levels on the units were often low. Some officers were dismissive or appeared too busy to fully engage with prisoners, and others seemed to lack confidence.' At HMP Liverpool, 55% of survey respondents said staff treated them with respect and we found that many staff had low expectations of prisoners and did not encourage them to attend activities or work. Some prisoners also reported staff using derogatory and belittling language.
28. It was particularly evident at Wormwood Scrubs that staff shortages were impacting relationships '[a]lthough chronic staffing shortages undermined any qualitative work that they might have hoped to do, staff, to their credit, seemed resilient, even stoic; however, they were too stretched to support prisoners properly, have meaningful conversations with them or address their frustrations'. In our survey, only 21% of prisoners said staff checked on their welfare and only 13% said staff spoke to them on association.
29. On the other hand, we have also seen examples where staff-detainee relationships have been positive despite challenges. For example, at Lincoln, over a third of prisoners surveyed said they arrived with mental health problems and a number of prisoners were from outside the area or arrived after disturbances at other prisons. Staff shortages had also impacted on the regime. Despite this, 74% of prisoners in our survey said staff treated them with respect and prisoners we spoke to said staff supported them well.

Family contact and visits

30. As part of the process of rehabilitation we expect prisons to encourage prisoners to re-establish or maintain relationships with their children and families where it is appropriate and to support them in doing so. In a significant number of our surveys, prisoners across establishments reported negatively on this. For example, 76% of prisoners HMP Bristol felt unsupported by staff to maintain contact with family and friends.
31. Poor estate facilities can also hinder prisoner's abilities to maintain family relationships. At HMP Swansea, 53% of prisoners reported having difficulty accessing telephones and at HMP Erlestoke, poor access to visits was a main prisoner concern. There were only four visit sessions available each week and the visits hall could accommodate only 27 visits at each session, which had to be shared between over 500 men. There was insufficient visits capacity for each prisoner to have even one visit a month.
32. We found a lack of strategic focus on maintaining family relationships across a number of establishments. This was particularly concerning in the YOIs that we inspected. At Feltham B there was no coordinated or strategic approach or a responsible manager. There were no parenting courses and the library did not run the Storybook Dads scheme or an equivalent to help young fathers build relationships with their children. Access to visits was reduced unless the prisoner was on the enhanced level of the incentives and earned privileges (IEP) scheme and young adults on the basic regime were not allowed to apply for family days, even though they might have a positive effect on their behaviour. Aylesbury YOI no longer facilitated the Storybook Dads recording project, and the lack of relationship education courses was a gap in a prison holding young prisoners serving long sentences.
33. Poor regimes across establishments meant that family visits were frequently delayed. At HMP Wormwood Scrubs we were told that it was not unusual to wait more than an hour for a visit to begin and at HMP Holme House and HMP Portland delays in roll checks meant that visits were up to 25 minutes late. At Aylesbury YOI the poor regime also prevented prisoners from phoning their families during the evening.

Conclusion

34. Outcomes for prisoners in the majority of establishments are simply not good enough, as has been the case for some time. This is true across all four of our healthy prison tests, but particularly concerning in relation to safety and areas that negatively impact on basic day-to-day decency. Poor day-to-day living conditions can also further negatively impact on safety due to the stress and frustration they can cause.
35. It is clear that poor outcomes are the result of several factors, not all of which are present in each establishment. Some of these factors, such as ageing buildings and staff shortages, require further resources to improve. However, it is also evident that poor outcomes are the result of failures in leadership and staff training and experience and could be improved through basic changes. The recommendations that HMI Prisons makes following an inspection aim to provide prisons with a road map to improve outcomes through such changes.
36. I hope that you find this information useful and should you require anything further, please do not hesitate to contact me.

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