

# Submission to the Commission on Justice in Wales

by Her Majesty's Chief Inspector of Prisons

## Introduction

1. We welcome the opportunity to submit a response to the call for evidence for the Commission on Justice in Wales. 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 Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), and secure training centres with Ofsted. When inspecting prisons in Wales we work with Estyn, and liaise closely with the Health Inspectorate Wales (HIW). The Chief Inspector of Prisons also meets the responsible Welsh Government Cabinet Secretary, Her Majesty's Prisons and Probation Service (HMPPS) Wales and key Welsh Government officials yearly to discuss HMI Prison's findings and key policy issues.
2. Our response is based on inspection evidence. All inspections are carried out against our *Expectations*<sup>1</sup>; independent criteria underpinned by relevant international human rights standards and norms. Our response provides information that we hope may assist the Commission in its examination of questions 1, 5, 6, 7 and 13 in the call for evidence (What is working well in the justice system? What is not working well? Are there examples of innovation and good practice, both in and beyond Wales which should be adopted and shared? What impact has devolution had on the justice system in Wales? Could local authority services in relation to justice be better organised and co-ordinated with prisons? Are there changes that should be made to the capabilities and effectiveness of the ways in which the police and prisons approach their tasks? What is the current provision for the Welsh language within the justice system?).
3. This submission provides an overview of our inspection findings for the Welsh prison, police and court custody estates. Within this submission, we have also addressed specific issues from inspections which we believe require particular attention. The submission provides:
  - An overview of our healthy prisons test scores and relevant key inspection findings across the Welsh adult and children's prison estate;
  - An examination of provision for Welsh female prisoners, Welsh prison healthcare and substance misuse services and Welsh language provision in prison;
  - A summary of inspection findings for Welsh police custody facilities;
  - A summary of inspection findings for Welsh court custody facilities.
4. For a more detailed understanding of our findings from recent inspections of Welsh prisons, police and court cells we would refer you to our website and published reports.<sup>2</sup>

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<sup>1</sup> See <http://www.justiceinspectorates.gov.uk/hmiprison/our-expectations/prison-expectations/>

<sup>2</sup> See <https://www.justiceinspectorates.gov.uk/hmiprison/inspections/>

# Inspection of Welsh prisons

5. HMI Prisons has inspected all Welsh prisons since January 2016. Our inspection findings have shown that outcomes for prisoners in Wales are varied, with prisons performing differently dependent on the establishment. Each of our prison inspections culminates in four judgements, one for each of our healthy prison tests (safety, respect, purposeful activity and rehabilitation and release planning). Our scores and key inspection findings for each area of the healthy prison test for prisons in Wales are summarised below.<sup>3</sup>

Prison	Security Category	Operational capacity (at most recent inspection)	Date of Inspection	Population at Inspection	Safety Score	Respect Score	Purposeful Activity Score	Rehabilitation and Release Planning Score
HMP Cardiff/ Caerdydd	B	820	Jul-16	770	Not sufficiently good	Not sufficiently good	Reasonably good	Reasonably good
HMP Swansea/ Abertawe	B	503	Aug-17	458	Not sufficiently good	Not sufficiently good	Poor	Not sufficiently good
HMP Parc (adult)	B	1,723	Jan-16	1,659	Not sufficiently good	Reasonably good	Good	Good
HMP Usk	C	276	Oct-17	274	Good	Good	Reasonably good	Reasonably good
HMP/YOI Prescoed	D	260	Oct-17	252	Good	Good	Reasonably good	Good
HMYOI Parc Juvenile unit	-	60	Oct-17	43	Reasonably good	Reasonably good	Reasonably good	Reasonably good

## Key inspection findings

### Adult prisons

6. At Cardiff, Swansea and Parc, we found that safety outcomes for prisoners were not sufficiently good. At Swansea, the provision of mental health care for men who were vulnerable to suicide and self-harm was inadequate. There had been four self-inflicted deaths in the period before the 2014 inspection and the Prisons and Probation Ombudsman (PPO) had made many significant recommendations as a result of those deaths. At the most recent inspection we found that there had been four more such deaths and that the PPO recommendations had not been implemented. Inspectors also learnt that in the previous six months there had been 134 incidents of self-harm – three times the rate that was recorded at the last inspection. Basic procedures designed to improve safety such as assessment, care in custody and teamwork (ACCT) documentation, were also poor.
7. The prevalence of drugs, particularly new psychoactive substances (NPS) and the associated violence, debt and bullying, was a key factor in the low safety scores at both Swansea and

<sup>3</sup> HMI Prisons have not yet inspected HMP Berwyn.

Cardiff. Of the prisoners who took our survey, 40% at Swansea and 49% at Cardiff said that it was either easy or very easy to get hold of illegal drugs in the prison. Unfortunately, inspectors found strategic approaches to substance misuse lacking at both prisons. At Swansea, there had only been two substance misuse strategy meetings in 2017 and at Cardiff, supply reduction work lacked rigour and coordination.

8. In relation to outcomes in respect, inspectors were critical of some poor physical conditions at both Cardiff and Swansea. At Cardiff, showers were poorly ventilated and many had little or no screening. Cells lacked basic facilities such as curtains, lockable cupboards and kettles. At Swansea, some cells were dirty and poorly ventilated, without enough furniture and with poorly screened toilets. Prisoners were also unable to access enough clean prison clothing and bedding.
9. Overcrowding was a significant issue at Swansea with 458 men being held in cells designed to hold only 268 (at the time of the inspection). Services that offered support to Welsh prisoners had struggled to keep pace with the increasing number of prisoners entering the system, meaning prisoners needs were not being adequately addressed. For example, inspectors found that health services were stretched at Swansea and provision was too reactive.
10. Staff-prisoner relationships remained strong in most Welsh prisons. At Cardiff, staff, together with peer advisers, did much to mitigate deficiencies in provision and relationships were maintained despite low staff morale. Both Usk and Prescoed had good staff-prisoner relationships and most men told inspectors that they had a member of staff who would help them if they had a problem.
11. In terms of our judgements for purposeful activity, inspectors were critical of the amount of time that prisoners could spend out of their cells in all prisons except Usk and Prescoed. At Parc (adult), we found up to 40% of the population locked in their cells during roll checks. We inspected Cardiff during a restricted regime and found that some prisoners could be locked up for over 27 hours on a weekday, only being let out briefly to collect their meals.
12. The devolution of learning and training work to the Welsh Government has shown positive outcomes in terms of the quality of interventions and tailored provision of education and training in prisons. For example, the range of activities at Usk took account of an older population and promoted healthy living. As well, at Prescoed, prisoners could develop their understanding of and gain qualifications in important aspects of health and well-being, such as substance misuse, emotional health and behaviour change. However, inspectors did note the lack of access to training and resettlement work at other prisons. For example, at Swansea, there were not enough activity places to occupy all prisoners purposefully during the day. At the time of the inspection 163 full-time activity placements were available, 86 part-time morning education places and 88 part-time afternoon education places. There were 456 prisoners, with about 106 unemployed or refusing activities.
13. Resettlement work varied across establishments. Inspectors reported good practice at Parc (adult), where the prison worked with families to ensure they were involved in the rehabilitation and resettlement of prisoners. The approach was radical and innovative and probably the best inspectors have seen in any prison. However, the devolution of housing to the Welsh Government and the subsequent removal of prisoners from the category of priority housing need remains of major concern to the Inspectorate. At Swansea, the percentage of men leaving with no sustainable accommodation had increased significantly since the last inspection to a high 49%. This increase in large part reflected the Welsh Assembly's decision on priority housing and has resulted in poorer outcomes for ex-offenders.

## Young Offender Institutions

14. We inspect YOIs on a yearly basis. During our visit to the Parc children's unit in 2016 we were concerned that outcomes in both safety and respect had deteriorated. This was particularly disappointing as in previous years the Parc unit had been leading the way in terms of how it managed its population. We re-inspected the unit in October 2017 and found a much-improved picture with stronger leadership and better relationships between staff and boys. However, more work was needed to further reduce levels of violence. The systems to manage perpetrators of violence and support victims were applied inconsistently and were not sufficiently accountable.

## Key issues

### Women in prison

15. HMI Prisons notes with concern the lack of facilities for women in Wales and the effect that this has on maintaining contact with family and outcomes for resettlement. The absence of a women's prison in Wales means that women are held in prisons in England, mostly at Eastwood Park in Gloucestershire, with significant numbers at Styal in Cheshire and Drake Hall in Staffordshire.
16. During our latest inspection of Eastwood Park, we found that over a quarter of women had not received a visit. The location of the prison and the often difficult journeys for families were a significant factor in this. Distance from home further affected the prison's ability to set up meaningful community support pre and post release. Around a quarter of women left Eastwood Park with no suitable identified accommodation.
17. However, inspectors did note some effective partnership working between the prison and partners in Wales. Two Prison Advice and Care Trust (PACT) workers specifically supported women from South Wales. The Visiting Mum project saw professionals or trained volunteers provide transport to bring families from South Wales to the prison for supervised children's visits. A dedicated worker provided women from Wales on the offender personality disorder pathway with resettlement support and a consultant psychiatrist from South Wales provided a monthly clinic for women from Wales.
18. The mother and baby unit (MBU) at Eastwood Park was closed when we visited in 2016 and remains closed. This means that women with babies in prisons had to transfer to either Bronzefield in Surrey or Styal, which often took them even further from their home area.

### Health and substance misuse services

19. In Wales, healthcare services in prison and the regulation of prison healthcare are devolved issues. Responsibility for prison health services in public sector prisons rests with the relevant local Health Board. The Health Boards organise Peer Reviews (PR) to identify medical needs, however these reviews have been inconsistent in the past, meaning commissioners cannot be assured that they are providing the right services. In addition, Wales is the only country in the UK where the health regulator is not required by statute to regulate health provision in prison settings. This means that the Welsh Government cannot be assured that care is compliant with the relevant regulations and that patient outcomes are protected. HIW elect to join HMI Prisons on inspections to examine clinical provision and gather evidence, however HIW are not mandated to report directly on their findings.
20. In Wales, there is no equivalent of the integrated drug treatment support (IDTS) which is funded in England. The IDTS principle is reflected in the National Institute for Health and

Care Excellence (NICE) Drug Misuse and Dependence UK guidelines on clinical management 2017. Unlike their counterparts in English prisons, prisoners in Wales who are dependent on illicit opiates do not receive first night opiate substitution treatment. Instead, they are generally offered symptom relief only, which increases the risk of physical and mental distress in prison and of accidental overdose on release if they return to illicit drug use. However, in our inspections of Welsh prisons, we have found that those who arrive in prison on confirmed prescribing of opiate substitution treatment in the community will have this prescribing continued in prison. Nevertheless, the length of time for which the prescribing will be continued and the level of psychosocial support available varies between the prisons. This lack of consistent, coordinated, evidence-based treatment, including access to opiate substitution prescribing on arrival, has led to poorer outcomes for some prisoners.

21. For example, at Swansea, we found that all newly arrived prisoners received prompt psychosocial substance misuse assessments and harm reduction advice. However, clinical treatment for newly arrived prisoners withdrawing from opiates was inadequate and contributed to a high demand for illicit drugs. We therefore recommended to the prison that all prisoners withdrawing from drugs and alcohol should receive comprehensive monitoring and prescribing according to the NICE Drug Misuse and Dependence UK Guidelines on Clinical Management 2017.
22. Many Welsh prisoners are held in English prisons and receive IDTS treatment which would not be available if they moved to Welsh prisons. We consider that the drug treatment system in prisons should be the same across the estate and equivalent to that in the community.<sup>4</sup>
23. We also found that demand for mental health services outstripped the commissioned services at Parc, Swansea and Cardiff. At Cardiff, the mental health team responded to complex, serious and enduring mental health problems, but capacity to assist prisoners with emotional and mild to moderate problems was inadequate. Up to a third of prisoners had ongoing unmet needs. At Parc (adult), there was a high demand for mental health support, but primary mental health provision was inadequate. Prisoners with mild to moderate mental health needs were not assessed promptly, and primary and secondary mental health support was too limited.

## Welsh Language Provision

24. HMI Prisons have reported improvements in Welsh language provision in some prisons in Wales. Since the last inspection of Usk and Prescoed the number of prisoners engaging in Welsh language and culture had improved. Prisoners who spoke Welsh as a first language used Welsh in all areas of the prison and a few non-Welsh speaking prisoners were developing an active interest in the language and culture of Wales through mentor-led classes. The prison had supported a bilingual mentor to develop a strategy to promote the Welsh language. Early indicators suggested this has stimulated some learners and staff to learn more about Welsh.
25. At Parc (adult), we also found that the prison's promotion of the Welsh language had improved. Prisoners who spoke Welsh were identified more clearly than at the previous inspection, and they were encouraged to use conversational Welsh on the wings. A Welsh-speakers' forum had improved the prison's ability to take account of the views of Welsh speakers. There were also more courses for prisoners who wished to learn Welsh.

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<sup>4</sup> See our thematic report 'Changing Patterns of Substance Misuse in Adult Prisons and Service Responses', section four 'Service Responses: Drug Misuse and Treatment in Wales' <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2015/12/Substance-misuse-web-2015.pdf>

## Inspection of police custody in Wales

26. Our first inspection of police custody facilities in Wales took place in North Wales in 2010. Since then we have undertaken a further seven inspections jointly with HMICFRS across the four forces in Wales.

### Key inspection findings

27. Across Wales, we found that detainees in police custody were generally well cared for and treated with respect. Police officers and staff had a good understanding of vulnerability and there was a commitment to ensuring that the most vulnerable, including those with acute mental ill health and children, were diverted from custody. For example, at South Wales police custody suites, there was a strategic focus on diversion, particularly for vulnerable adults and children. This was reflected at an operational level by a range of diversion referral schemes and during the inspection, staff demonstrated good awareness of these.
28. We have however found recurring areas of concern. In the most recent inspections of all four forces in Wales, there was inadequate governance and oversight of the use of force against detainees. We were not assured that all force used was proportionate to the risk or threat posed. We were particularly concerned by the frequency with which force was used to remove the clothing from some very vulnerable people in Dyfed-Powys.
29. Despite the commitment to diverting children from custody, we found too many children who remained in police custody when they were charged and refused bail. Local authorities generally did not effectively discharge their duties to find alternative accommodation for these children, who consequently spent far longer in custody than was necessary. For example, at Gwent police custody suites, force data showed that of the 43 children charged and refused bail in the year to 30 June 2017, 30 requests for accommodation were made, but only five were moved to alternative non-secure accommodation and none to secure accommodation.
30. We highlighted concerns in varying degrees surrounding non-compliance with aspects of Code C of the Police and Criminal Evidence Act (PACE) 1984 Codes of Practice, which govern the detention, questioning and treatment of people detained by the police.<sup>5</sup> At Gwent police custody suites, we observed that not all detainees were informed of their rights and entitlements and the written notices setting out those rights were incomplete.

## Inspection of court custody in Wales

31. HMI Prisons inspected all court custody facilities in Wales and the Newport Asylum and Immigration Tribunal (AIT) cells in a single inspection in July 2015.

### Key inspection findings

32. There are three agencies involved in the management of escort services and court custody facilities in England and Wales. HM Courts and Tribunal Service (HMCTS) is responsible for the administration of the courts, GEOAmey are contracted to run escort services and Prisoner Escort and Custody Services (PECS) predominately focus on the contractor's compliance with the terms of the contract. During our inspection of Welsh court custody,

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<sup>5</sup> See: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/592547/pace-code-c-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/592547/pace-code-c-2017.pdf)

HMI Prisons was concerned that no one organisation took sole responsibility for court custody facilities and care of detainees.<sup>6</sup>

33. Court custody facilities in Wales cover a large geographical area. During our inspection we found that the transfer of detainees to and from court custody facilities in South East Wales was easier to facilitate as there were two local prisons: HMP Cardiff and HMP Swansea. There were no prisons in Mid, West and North Wales which meant some detainees experienced longer journeys to court and on release. The periodic nature of some of the courts in Wales also meant that some detainees could travel some distance to attend their court appearance, depending on where in Wales the remand court sat. Our inspection showed that the geographical area also had an impact on the safe release of detainees. On release, detainees were provided with a travel warrant to the nearest town which did not always guarantee that detainees got home safely, particularly in rural areas. Staff also received no guidance on what action they should take if they were releasing a detainee about whom they had concerns.
34. Across the courts, practices relating to staff advising detainees about their rights were inconsistent. At Cardiff Magistrates' Court, a leaflet outlining detainees' rights was placed in every cell allocated to a detainee, but custody staff did not check if the detainee could read it or if they required it in a language other than English. At Mold and Newport Magistrates' Courts, however, we saw custody staff ask detainees if they knew their rights, offer them information and appropriately check whether they could read the document or required it in a foreign language. Elsewhere, detainees were informed of their rights in a variety of ways, none of which were likely to have ensured that staff were confident the detainee fully understood them.
35. Inspectors routinely observed many detainees spending too much time in court cells. There were a number of reasons for this: custody cases were not sufficiently prioritised; warrants, according to data collected by GEOAmev, were taking in some instances more than three hours to produce; and there were unacceptable delays in receiving probation licences and authority to release detainees. In addition, insufficient escort staff contributed to detainees remaining in court cells instead of being transferred.
36. Staff in court custody across Wales interacted well with detainees. Most were courteous, friendly and respectful and some demonstrated genuine compassion for those in their care. This was particularly exemplified at Mold and Caernarfon Magistrates' Courts where custody staff were patient and often took the time to communicate with detainees who appeared anxious. They used their strong interpersonal skills well to de-escalate some potentially volatile and challenging situations. A minority of interactions were, however, less positive. At the Crown and Magistrates' Courts in Cardiff, for example, we observed staff who were too focused on the process of getting detainees in cells and, at times, displayed dismissive attitudes. Nevertheless, most of the detainees we spoke to suggested they felt well treated.

## Conclusions

37. This submission has provided an overview of our inspection findings of the Welsh prison, police and courts custody estates. Inspections have shown that outcomes for prisoners in Wales remain varied and challenges with mental health care, drugs, overcrowding, access to work, training and education, distance from home and securing accommodation on release, require greater attention if outcomes are to improve. Notably, the poor picture of safety in

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<sup>6</sup> For further information see: <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2016/02/Wales-court-custody-web-2015.pdf>

some prisons is of particular concern to the Inspectorate, as this underpins many other poor outcomes in prisons.

38. This submission has highlighted some key issues for Welsh prisoners which we believe require specific attention. The lack of prison facilities for women in Wales remains problematic and has shown poor outcomes for family contact and resettlement on release. Further, the disparity in healthcare delivery between England and Wales and the lack of external prison healthcare regulation remains a concern.
39. HMI Prisons have seen improvements in Welsh language provision in prison and we hope that this work continues to develop.
40. In terms of outcomes for police custody in Wales, HMI Prisons recognise the commitment to diversion from custody. However, the unnecessary use of force, the lack of alternative accommodation and non-compliance with PACE remains problematic.
41. During our 2015 inspection of Welsh court custody, HMI Prisons found that in most cases staff treated detainees with respect. However, we were concerned that the large geographical area affected the safe release of detainees and that in some cases detainees spent too long in cells and were not properly informed of their rights.
42. 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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