

JUSTICE COMMITTEE INQUIRY INTO OLDER PRISONERS

SUBMISSION BY HM CHIEF INSPECTOR OF PRISONS

SUMMARY

- HMI Prisons is an independent inspectorate and every prison inspection assesses whether older prisoners are treated equitably according to their individual needs. HMI Prisons has found that the needs of older prisoners are too often neglected. Our submission is based on individual inspections and two thematic inspections on the treatment and conditions of older prisoners.
- Our inspection evidence suggests that because older prisoners are a largely compliant population, their specific needs may be overlooked in a system geared towards managing the much larger proportion of younger men. This remains a central issue today.
- The needs of older prisoners and a supporting framework to meet these needs have not been clearly defined by a national NOMS strategy. This has resulted in significant variation across the prison estate in service provision for older prisoners.
- A national NOMS strategy on older prisoners should set out a clear framework for delivery, define the responsibilities of the prisons and other agencies involved and include a common system for assessing the needs of older prisoners.

1. We welcome the opportunity to submit information to the Justice Committee's inquiry into older prisoners. The needs of older prisoners are neglected too often and the lack of a clear strategy and defined responsibilities mean their treatment and conditions are frequently inadequate.
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 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. HMI Prisons is one of the organisations that deliver the UK government's obligations arising from its status as a party to the UN Optional Protocol to the Convention Against Torture. OPCAT requires state parties to implement a system of independent, preventative inspection of all place of detention.
4. All inspections are carried out against independent criteria based on relevant international human rights standards and norms which are known as Expectations. Expectations are brigaded under four healthy prison tests: *Safety, Respect, Purposeful Activity and Resettlement*. Our Expectation for older

prisoners is that they are 'treated equitably and according to their individual needs'¹.

5. In addition to individual inspections, we carry out thematic inspections into cross-cutting themes. We have carried out two thematic inspections into the treatment and conditions of older prisoners. The first, '*No problems - old and quiet*' was published in 2004² and a follow up inspection which assessed progress was published in 2008³. Our evidence is primarily based on individual establishment and thematic inspection findings.

Background

6. As of 30 September 2012, there were 9,913 prisoners aged 50 or over in England and Wales. This number included 3,333 aged 60 and over. Prisoners aged over 50 make up 11% of the prison population and this has risen from 7% in 2002. Prisoners aged 60 and over have almost doubled since 2002⁴ and are the fastest growing age group in the prison estate.
7. The title of our 2004 thematic report '*No problems – old and quiet*' came from an entry into a prisoner's wing file. It reflected the reality that because older prisoners are a largely compliant population, their specific needs may be overlooked in a system geared towards managing the much larger proportion of younger men. This remains a central issue today. Now as then, older prisoners are not to be stereotyped. We find many that are active and determined to be as independent as possible. However, our inspection findings support the conclusions of much other research. In general:
 - older prisoners are more likely to have health problems than the rest of the population and may have restricted mobility;
 - the effects of crime and victimisation against them are more serious because of the frailties that may be associated with their age; and
 - they are unlikely to be in work and training, have less income and may be isolated from friends and family.
8. For the purposes of inspection we consider older prisoners to be those aged fifty and above. This is because research⁵ suggests that using 50 years of age as a cut-off recognises that people age quicker while in prison; by up to 10 years more than their biological age.

¹ <http://www.justice.gov.uk/downloads/about/hmipris/adult-expectations-2012.pdf?type=Finjan-Download&slot=00000123&id=00000522&location=0A64420E>

² <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/hmp-thematic-older-04-rps.pdf?type=Finjan-Download&slot=0000012B&id=0000052A&location=0A64420E>

³ http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/older_prisoners_thematic-rps.pdf

⁴ Table A1.11, Ministry of Justice (2012) Offender Management Caseload Statistics 2011, London: Ministry of Justice

⁵ Wahidin, A. & Cain, M (Eds.) (2006) *Ageing, crime and society*. Willan Publishing: Devon.

Whether responsibilities for the mental and physical health and social care of older prisoners are clearly defined

9. The needs of older prisoners and a supporting framework to meet these needs have not been clearly defined by a national NOMS strategy. This has resulted in significant variation across the prison estate in service provision for older prisoners. Strategy appears to be developing at a local level, but there is no direction or coordination. During our most recent inspection of HMP Wandsworth⁶ we found that although there was an extremely diverse population, there was no strategy to ensure that the various needs of prisoners with protected characteristics were being identified and met. As a consequence for example, we found older prisoners who had not been able to access a shower for some weeks. In comparison, our most recent inspection of HMP Kirklevington Grange⁷ found a whole-prison needs assessment had been carried out within the previous 12 months and there was an effective single equality scheme with good promotion of each diversity area. Older men could request to be placed on quieter wings and there were designated activities such as gym sessions.
10. The needs of older prisoners not only encompass mental, physical, spiritual and social care needs but also wider practical, social and resettlement needs. Currently, prison responsibility appears shared between healthcare departments and equalities officers but the approach is often unsystematic and disjointed.
11. Service provision to address the health and social care requirements of older adults has been defined in the National Service Framework for Older People (DoH, 2001) (NSF)⁸. It highlights the importance of good liaison between prison healthcare staff and their colleagues in health and social care organisations in the community, to ensure that prisoners who are being released are assessed for and receive services which meet their continuing health and social care needs. However, adoption of the framework in prisons has been patchy.
12. Safeguarding has been included within HMIP expectations since January 2012. The expectation specifically states that:
 - *Prisoners, particularly adults at risk, are provided with a safe and secure environment which protects them from harm and neglect. They receive safe and effective care and support.*
13. Safeguarding is an area which the prison service is beginning to address. However, our inspections have found little evidence that prisons are meeting their obligations in this regard. For example, in our most recent inspections of HMP

⁶ <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/wandsworth/wandsworth-2011.pdf?type=Finjan-Download&slot=0000012D&id=0000092C&location=0A644211>

⁷ <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/kirklevington-grange/sept-2011-kirklevington-grange.pdf>

⁸ http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4071283.pdf

Gloucester⁹ and HMP Bullingdon¹⁰, there were no formal safeguarding procedures or strategy for prisoners at risk.

Whether the treatment of older prisoners complies with equality and human rights legislation

14. HMI Prisons Expectations are based on international human rights standards and norms. Each expectation is underpinned by a set of indicators that inspectors would expect to find if the expectation has been met.

15. The Expectation and indicators for older prisoners are as follows:

Expectation

*Older prisoners are treated equitably and according to their individual needs.*¹¹

Indicators

- *Following initial assessment on arrival, older prisoners have a care plan that involves the required range of staff and is reviewed regularly.*
- *Any special accommodation for older prisoners has been designed based on advice from the NHS, social services and relevant voluntary agencies.*
- *All staff working with older prisoners know how to recognise the signs of mental health problems and the onset of dementia.*
- *Older prisoners who are retired or unfit to work are unlocked during the day and provided with access to appropriate and sufficient regime activities.*
- *Minimum retirement pay is set at a level that is sufficient for those who do not have another source of income.*
- *Prisoners over retirement age do not have to pay for their TV.*

⁹ <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/gloucester/gloucester-2012.pdf>

¹⁰ <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/bullingdon/bullingdon-2012.pdf>

¹¹ Relevant human rights standards from HMIP Expectations: Criteria for assessing the treatment of prisoners and conditions in prisons:

- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle number 5)
- Basic Principles for the Treatment of Prisoners (principal number 2)
- Recommendation Rec (2006) 2 of the Committee of Ministers to member states on the European Prison Rules (principle numbers 13, 15.1, 16, 25, 74 and 81.3)
- United Nations Principles for Older Persons (principle numbers 4, 5, 11, 12, 14 and 17)
- Standard Minimum Rules for the Treatment of Prisoners (principle numbers 6, 24, 25 and 69)

16. Age is a protected characteristic under the Equality Act and the prison service has issued PSI 32/2011 which describes the duties that prison staff have under the Act. Despite this, there is no guidance to staff about working with older people in their care.
17. Since October 2004, prisons have been subject to the Disability Discrimination Act which requires them to take all reasonable steps to ensure that prisoners with disabilities can access services. Prison Service Order 2855, Prisoners with Physical, Sensory and Mental Disabilities, contained a chapter on older prisoners, but it was largely focused on their health and mobility needs in the prison environment, rather than their general welfare. However, this PSO has now been replaced by PSI 32/2011, which does not refer to older prisoners.
18. With regard to female offenders, PSO 4800 contains a section which details how to work with older, female prisoners. It addresses the fact that older women will have different needs to that of other female prisoners, and that these needs should be addressed.
19. The lack of clearly defined responsibilities means that these fundamental rights are not consistently met. At its most basic level, too many older prisoners tell us they do not feel safe and are not treated with respect. In 2011/12 our inspections found:
- About two out of five older prisoners report¹² that they had felt unsafe in the prison at some time and 15% stated they felt unsafe at the time of the inspection.
 - One in five older prisoners state they have been victimised by other prisoners.
 - 85% of older prisoners state that staff treat them with respect and 84% state they have a member of staff they can turn to with a problem.
 - We have found examples of older prisoners with mobility problems unable to use the showers and being required to access top bunk beds with associated risks to their health and safety. In some cases, prisoners had been unable to shower for some months and relied on other prisoners for assistance, exposing them to bullying. Some prisons have a formal system of using prisoners acting as carers for older prisoners who have difficulty in caring for all their own needs and provided carers are properly trained and supervised we welcome this.

The effectiveness with which the particular needs of older prisoners including health and social care, are met; and examples of good practice

20. The NSF recommended that a senior nurse has responsibility for older persons care within each area. However, within prison healthcare few establishments have a lead nurse for older prisoners in place. Most prisons have special clinics for older prisoners, but the service provided varies significantly concerning: quality; the age of prisoners targeted; the assessment tools used; and the support services available.

¹² Survey results from prison inspections 2011/12

21. There are few discrete services for older prisoners with complex needs who require greater supervision and support. This is compounded by restrictions that are placed on prisoners with mobility issues through, unsuitable prison environments and a reduction in prison inpatient beds.
22. Older prisoners are disadvantaged by limited access to community screening programmes including bowel and Abdominal Aortic Aneurysm (AAA) screening. This is despite the fact that AAA is more likely to be found in males over the age of 65 and bowel screening in the community is specifically offered to those people over the age of 60.
23. Since our original thematic report on older prisoners, we have found that palliative care has generally improved. However, we endorse the concerns raised by the Prison and Probation Ombudsman Annual Report 2011/2012 about the use of restraints on seriously ill, older prisoners, in hospital and his view that they should be able to 'die with dignity'.
24. 70% of older prisoners report that they are taking medication compared with 44% of the prison population as a whole. Prescribing and medicines administration practice is often weak and this may make older prisoners a target for bullying.
25. Our 2012 annual report noted that although older prisoners in some establishments may be unlocked during the day, there was often little activity available for them. Some prisons provide day centres but this is not typical.
26. Older prisoners may receive retirement 'pay' of £2.50 a week. They will often have to pay 50p/week for a television and this leaves very little for other necessities.
27. Although some prison gyms provide sessions for older prisoners, overall older prisoners are significantly less likely to use the gym or take other healthy exercise than other prisoners.
28. Examples of good practice we have found include HMP Leyhill, an open prison holding men serving long sentences, included:
 - 'The Lobster Pot', a day care centre run by the Resettlement and Care for Older Ex-offenders and Prisoners for the over 50s population, which was an excellent resource. The various activities on offer, which attracted approximately two thirds of over 50s, included training and allowed staff to conduct a dynamic assessment of needs. As a result, the provision was evolving accordingly.
 - Many, but not all, older men were located on B wing, and some benefited from the prisoner carers who worked there. There was a shortage of trained and paid prisoner carers, and a number of men helped out on a volunteer basis.
 - Retirement pay was £8 a week in contrast with a working wage of around £12.50, so this was comparatively low, but better than we often see. Men over 65 could apply for a free television.

29. In our last inspection of HMP Kingston in 2010, older prisoners made up one third of the prisoner population. Many of these were men who had served long sentences. Work was progressing in this area. For example a popular wallet card system had been introduced for older prisoners, to remind them to attend healthcare appointments and the overarching policy document contained information on the prison's legal obligations for all strands of diversity, with sub-sections on disability, older prisoners and sexual orientation. The closure of HMP Kingston was announced in January 2013.

30. Other examples of good practice include:

- HMP Wakefield – excellent gym and activities available for older prisoners;
- HMP Northumberland – older prisoner meetings; and
- HMP Whatton – excellent palliative care and lead nurse in place.

What environment and prison regime is most appropriate for older prisoners and what barriers there are to achieving this?

31. Older prisoners may have widely variable physical, mental and social needs. However, older prisoners require first what all prisoners require:

- Safety.
- To be treated with respect for their human dignity.
- To be able to be able to take part activity likely to benefit them.
- To be helped to resettle successfully and reduce the risk that they will reoffend.

32. Specifically, older prisoners should have:

- A care plan based on an individual assessment of their needs that is regularly reviewed;
- Reasonable adjustments to the prison's physical environment and regime so that they can access all services and facilities;
- Healthcare equivalent to that offered in the community;
- Activity tailored to their needs and interests – which may often be best provided, at least in part, by a day care facility;
- Income sufficient to maintain a reasonable standard of prison life;
- Access where required and wished to a support group and advocates;
- Help to resettle successfully after release and access relevant entitlements in the community;
- Reintegration support for older prisoners who are being released after long sentences; and
- Support from all staff who are aware of the needs of older prisoners and specialist support where required.

33. The barriers to achieving an effective regime and environment include the lack of a cohesive, national strategy which recognises the individual needs of older prisoners and clearly defines responsibility; a lack training to help staff understand and meet the needs of older prisoners; a limit in the number of appropriate activity

places for older prisoners; and a lack of resources in order to overcome environmental challenges.

The effectiveness of training given to prison staff to deal with the particular needs of older prisoners, including mental illness and palliative care

34. With regard to mental health, statistics suggest¹³ that over half of all elderly prisoners suffer from a mental disorder. Insufficient staff are being trained in mental health awareness and therefore few have the ability to identify the early onset of mental health problems, including dementia.
35. The Mental Health Foundation has recently published '*Losing track of time*'¹⁴ - research on dementia among the increasing number of older prisoners. This research concentrates on existing evidence as well as new research on managing and treating male offenders with cognitive impairment and dementia. It identifies the challenges and shares examples of good practice used in 14 prisons worldwide, including eight English prisons.
36. Although our inspections have found that palliative care has generally improved, this needs to be consolidated. There is no PSO or service provision relating to it. The study "Dying behind bars: an evaluation of end of life care in prisons in Cumbria and Lancashire"¹⁵ found many prison staff had little experience of caring for prisoners with palliative needs and many specialist community staff have little experience of prisons. The study identified a range of barriers to good end of life care.
37. Some prisoners who have served long sentences and for whom the prison is effectively their home, wish to die there. This requires greater co-ordination between health commissioners and prisons. At HMP Leyhill for instance, inspectors found in 2012 that an excellent palliative care suite had been developed – but the funds had not been identified to run it.

The effectiveness of arrangements for resettlement of older prisoners

38. There are challenges linked to post-release risk management needs, as the late identification of release addresses may hamper effective discharge planning.
39. In our 2008 follow-up report to the older prisoner thematic, we had grave concerns that the social care needs, in particular, of older and disabled prisoners were not planned or provided for, after release. Overall, we found that there was little in the way of specific resettlement help for the older population. We believe that this is still an issue.

¹³ HM Chief Inspector of Prisons for England and Wales (2008) Annual Report 2006-07, London: The Stationary Office

¹⁴ <http://www.mentalhealth.org.uk/content/site/publications/losing-track-of-time>

¹⁵ http://www.lancs.ac.uk/shm/research/ioelc/groups/media/mturner_150410.pdf

40. Many older prisoners will in turn have older visitors – an older spouse for instance. It is particularly important that older prisoners are held close to their homes and that visit facilities are accessible to visitors with mobility difficulties.

Whether a national strategy for the treatment of older prisoners should be established; and if so what it should contain

41. Within the 2008 follow up report to our older prisoners thematic¹⁶, we called for a NOMS national strategy for older prisoners. NOMS and the Department of Health are assessing the possibility of a national allocations strategy for people with significant care needs.

42. A national strategy should ensure that prisons are able and expected to meet the needs identified above and set out minimum standards.

43. It should set out a clear framework for delivery, define the responsibilities of the prisons and other agencies involved and include a common system for assessing the needs of older prisoners.

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¹⁶ http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/older_prisoners_thematic-rps.pdf