

Justice Committee

BY EMAIL

October 2023

Dear Justice Committee,

Prison population and capacity

I am grateful for the opportunity to provide comments on the future of the prison population and prison estate capacity.

My role

The Prisons and Probation Ombudsman (PPO) carries out investigations into deaths and complaints in custody in England and Wales. Our roles and responsibilities are set out in our Terms of Reference¹. Our remit includes:

- complaints made by prisoners, young people in detention, offenders under probation supervision and individuals detained under immigration powers.
- deaths of prisoners, young people in detention, residents in approved premises and individuals detained under immigration powers due to any cause.
- deaths of recently released prisoners that occur within 14 days of release from prison (except homicide).

The purpose of these investigations is to understand what happened, to correct injustices and to identify learning for the organisations whose actions we oversee, so that we can achieve tangible benefits for the safety and confidence of those in custody and under community supervision.

My submission to the inquiry

My submission focuses on the impact of the rise in the prison population on the resources required to manage prisons safely and effectively, and what that means for prisons and prisoners. It also outlines some of the issues the PPO see in relation to the ageing infrastructure.

¹ [PPO Terms of Reference](#)

What is the MoJ's current strategy for safely and effectively managing the prison population, and how effective is it?

The ability of the MoJ and HMPPS to safely and effectively manage the prison population is impacted by staffing pressures. An increasing prison population combined with staff shortages means that prisons are having to run reduced regimes, and important work, such as key work sessions are not being delivered as intended.

What are the implications of the rise in prison population for the resources required to manage prisons safely and effectively?

Throughout 2022/23 we found issues with the delivery of key work. We know that meaningful contact between staff and prisoners can be critical for prisoners who are at risk of suicide and self-harm, those who isolate from the regime and those who are struggling with sentence progression. We have found that some prisons do not have the staffing levels to provide key work sessions to their prison population, and as a result, they are having to prioritise prisoners they assess as the most vulnerable. However, in some cases, the criteria used to assess who to prioritise has been unclear. HMPPS needs to consider how staff can reasonably deliver a meaningful regime and key work in the context of an increasing prison population and staffing pressures.

The increasing prison population and capacity pressures are having an impact on prison transfers, which can impact on a prisoner's ability to maintain family contact, complete offending behaviour programmes, and prepare for release. Prisoners sometimes make requests for a transfer closer to their home so they can maintain family contact and receive visits. They may also request a transfer to an establishment where they can complete the required offending behaviour programmes to help them progress through their sentence. In a number of cases, such transfers are not possible due to population pressures and lack of capacity. In one case, the transfer was cancelled several times due to a lack of transport and because single escorts were not being prioritised.

It is not just the increase in the prison population that impacts on the ability of HMPPS to manage prisons safely. The demographic of the prison population is also very relevant. The complex health needs of an increasing elderly prison population can be challenging to meet in a prison setting, particularly if a prisoner requires 24-hour social care. This has an impact on the care the prisoner can receive, and on prison and healthcare staff. In a PPO investigation into a natural cause death of an elderly prisoner, staff were clearly moved and troubled by the prisoner's condition and the limitations on the care they could provide him in prison.

What is the impact of the ageing infrastructure?

Between 1 January 2020 and 6 October 2023, the PPO received 338 complaints about prison accommodation. 146 of these complaints were eligible for investigation. A number of these complaints were about poor infrastructure that at times was not fit for purpose. We have seen complaints about ageing boilers and plumbing systems that result in a lack of hot water or heating issues such as no heating or overheating. This impacts on the living conditions of those in the prison and the working conditions for staff.

We have investigated an issue at one prison where due to failing boilers the radiators had to be left on during very hot summer months. They were unable to turn the radiators off without the losing access to hot water. This led to some cells overheating and an uncomfortable living environment.

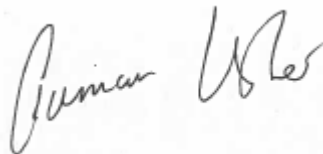
One significant issue we have seen is at HMP Pentonville. Pentonville's heating system is old and in urgent need of replacement. The PPO has investigated several complaints from prisoners at Pentonville about periods where there is no hot water or heating. The IMB also reported intolerable temperatures during hot summer months.²

Following a progress review in April 2023, HMI Prisons reported that Pentonville was "severely overcrowded and it could not decently or safely care for the number of prisoners it was currently required to hold".³ There are concerns from scrutiny bodies about living conditions with some cells being cramped and too small to be holding two prisoners.

This year we upheld a complaint about no in-cell sanitation at one of the sites at HMP Isle of Wight. They use an electronically managed night sanitation system which allows prisoners to be released from their cell for a few minutes to use the communal toilets. Following an inspection in 2022, HMI Prisons reported that the night sanitation system "worked reliably overall". They also noted that prisoners could have a portable toilet in their cell when queues for the sanitation system were long, but "staff had also allowed the use of plastic buckets, which was disrespectful, and they did not have access to a sink so they could wash their hands."⁴ Whilst we upheld the complaint we investigated, we were limited in our ability to reach a resolution as the solution would require a significant amount of funding and the closure of wings to enable the work to be carried out. Neither of which the Ombudsman can enforce. With an increasing prison population, it is becoming more difficult for HMPPS to carry out maintenance works that involve taking cells out of use.

I hope that this is helpful. Please contact me if you require additional information.

Yours faithfully,



ADRIAN USHER

Prisons and Probation Ombudsman

² [Pentonville-IMB-2022-23-annual-report.pdf \(cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com\)](https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/Pentonville-IMB-2022-23-annual-report.pdf)

³ Report on an independent review of progress at HMP Pentonville by HM Chief Inspector of Prisons 11-13 April 2023 (justiceinspectorates.gov.uk)

⁴ Report on an unannounced inspection of HMP Isle of Wight by HM Chief Inspector of Prisons 20 September - 7 October 2022 (justiceinspectorates.gov.uk)