



Time out of cell

A short thematic review

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Introduction

The amount of time that prisoners are able to spend out of their cells is a key determinant of the overall health of a prison. It includes the amount of time that prisoners are able to engage in purposeful activity – such as education, work and offending behaviour programmes. But it also includes time spent in exercise, in association with other prisoners, and in basic tasks such as showering and using the phone. As well as being a crucial part of rehabilitation, these activities are all part of the ‘dynamic security’ of a prison, which depends as much on activities and relationships as it does on physical security. The amount of time spent outside cells is also critical to the mental health and wellbeing of prisoners.

For those reasons, the public sector Prison Service has a key performance target (KPT) of 10 hours a day during weekdays for time out of cell. There are even stronger incentives for contracted-out (private sector) prisons and public sector prisons who will be penalised financially if they fail to hit their contractual obligations for time spent out of cell. Both public and private sector prisons report that they comfortably meet these targets: averaging just over 10 hours for the public sector, and around 11½ for the private sector.

This report shows, however, that these figures, particularly for prisons run by the Prison Service, are a significant overestimate of what overcrowded prisons can and do actually achieve. In surveys of 6,500 prisoners in public sector prisons, only around 12% said that they were able to be out of their cells for 10 or more hours a day. Twice as many – but still only a quarter of prisoners – said they were able to do so in contracted-out prisons. To establish the reality behind these perceptions, we therefore carried out fieldwork in 17 prisons – 15 of them directly managed public sector prisons, one a public sector prison operating under a service level agreement (SLA), and one a privately managed prison.

Prisons vary greatly, within both public and private sectors. Some are local prisons, holding a transient population, with limited facilities, while others are set up as training prisons, to provide prisoners with skills and work. Prisoners, too, vary – from those who engage fully in the regime and achieve enhanced status, to those who are reluctant to participate. Given these variations, we established a ‘best’ and ‘worst’ case scenario for those prisoners who were employed and unemployed in each prison.

The headline finding is that only three of the 17 prisons, even in the best possible scenario for a prisoner in employment, could provide the mandated 10 hours a day out of cell. And, of those three prisons, one was a private prison, one a public sector SLA prison, and the other a public sector training prison. None of the 17 came near to the 10-hour day for unemployed prisoners – who were a significant proportion in some of them. In nine prisons, the best outcome for an unemployed prisoner amounted to less than four hours a day out of cell – and on a worst case could be less than an hour. Perhaps the most disappointing finding was the low figures for the four prisons holding young adults, who are perhaps those most in need of skills and activities. At best, employed young men could access eight hours out of their cells; at worst, the unemployed were barely out for two hours a day.

These figures make clear that it was impossible for the Prison Service to be providing the average of 10 hours out of cell it was claiming. This tallies with our experience on inspection. Official figures provided for time out of cell often make heroic assumptions – that every prisoner is out for all the time possible; that every workshop is filled to capacity; and in some cases that none are unemployed. Those figures are rarely challenged by more senior managers – and they should be. Prisons, in particular local prisons, understandably struggle

with transient populations and limited resources. It does no good to disguise that fact by over-reporting.

A second important finding, which highlights the importance of this issue, was that those prisoners claiming to receive 10 hours or more time out of cell reported significantly better experiences across many key areas of prison life – better relationships with staff, greater access to healthcare and telephones, and more engagement with prison activities. Crucially, they were more likely to believe that they had done something in prison that would make them less likely to reoffend in the future.

Private sector and SLA prisons do perform better on inspections in relation to time out of cell – though frequently not as well as they are reporting. Here the concerns are different. Financial penalties encourage the unlocking of prisoners; but there are no similar incentives to ensure that they are actively engaged during, sometimes, long periods of unlock. This can have implications for safety, particularly for younger prisoners. The task for the management of the private sector is, therefore, to rebalance time out of cell and purposeful activity, without reducing the former.

Both public and private sector prisons will, of course, face new challenges in the coming financial year. Efficiency savings will require nearly all public sector prisons to close down activities at lunchtime on Fridays. In most cases, this will reduce time out of cell, and in particular create long and purposeless weekends. Private sector prisons are likely to be subject to similar pressures. In that context, it is vitally important that there is an accurate measure of the actual, as opposed to the hoped-for, consequences of these moves. A more accurate reporting system, which the Prison Service is currently piloting, is essential to this, as is an awareness of the crucial association between time out of cell and the mental health of prisoners.

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May 2008

Section 1: Background

- 1.1 The Prison Service measure of 'time out of cell' is meant to record all the occasions when prisoners are unlocked from their cells. It is different from the measure of 'purposeful activity', which describes formal activities aimed at helping prisoners to gain skills – for example, through education, training, work and participation in offending behaviour programmes. Time out of cell includes, in addition to such activities, the other times when prisoners are out of their cells, for example, to associate with other prisoners, have exercise or meals, take showers or make telephone calls.
- 1.2 One of the Prison Service's key performance targets (KPTs) is that prisoners should have 10 hours a day out of their cells. The Service's corporate plan for 2007-08 aims 'to provide prisoners with a regime that gives them adequate time out of cell, with the chance to mix with others, enough access to visits, phone calls, letters and real opportunities for constructive occupation and self-improvement'.
- 1.3 The Inspectorate's published *Expectations* also include the expectation that:

Prisoners spend at least 10 hours out of their cells on weekdays, except in exceptional circumstances.¹
- 1.4 Time out of cell is crucial to the health and wellbeing of prisoners. One study² examining self-harm among women prisoners found they were particularly vulnerable when spending time in their cell. One woman stated:

'Too much time banged up on this wing – that's when my head goes. Anything to get out of the cell would help.'
- 1.5 Our own findings from fieldwork examining the mental health of prisoners found that activity and time out of cell also help those with identified mental health problems³. On interview they said that 'keeping busy' was one of the principal things that helped them to cope in prison, but 'having nothing to do' and 'time in cell' made them feel worse.
- 1.6 Time out of cell is particularly important for prisoners who are poorly equipped to distract themselves when locked up, including those with poor coping skills, those undergoing detoxification and those who are unable to read or write.
- 1.7 It is currently intended to curtail prison regimes in the next year by stopping Friday afternoon activities in order to meet required budgetary savings. In many prisons, this is likely to reduce prisoners' weekly time out of cell, and may also have an impact on the amount of purposeful activity available.
- 1.8 Official statistics are published for public sector prisons (those that are directly managed and the three public sector prisons run under service level agreements), and also for contracted-out prisons (those run by the private sector). They show (see Table 1) that the KPT for public

¹ See Appendix II for the full list of time out of cell expectations.

² Borrill, J., Snow, L., Medicott, D., Teers, R. and Paton, J. (2005). Learning from 'near misses': interviews with women who survived an incident of severe self-harm in prison. *The Howard Journal* 44(1) pp.57-69.

³ HMI Prisons (2007), *The Mental Health of Prisoners*. <http://inspectors.homeoffice.gov.uk/hmiprison/>

sector prisons – that prisoners should have 10 hours out of cell each day – was achieved during the 2006-07 reporting period, and is on track to be achieved in the current year. The figures also suggest that contracted-out prisons performed better than public sector prisons.

Table 1: Official average unlock hours per prisoner per weekday for 2006-07 and June 2007.

	Average for 2006-07	Average time unlocked June 2007
Public sector prisons	10.06	10.08
Contracted-out prisons	11.46	11.30

- 1.9 The relatively stronger performance of contracted-out prisons reflects the time out of cell specified in their contracts, over which there is no flexibility without financial penalties being incurred. We consistently find on inspections that contracted-out (and occasionally SLA) prisons achieve *more* time out of cell, although this can be at the expense of feelings of safety among prisoners. However, we routinely report a substantial gap between reported time out of cell and what is actually delivered in directly managed prisons, and to a lesser extent in private and SLA prisons, and in response, the Prison Service is piloting a new methodology aimed at providing more accurate figures of time unlocked; it has not yet been implemented.
- 1.10 Our surveys of prisoners, although they support the superior performance of contracted-out prisons, do not validate the official figures. Between September 2006 and August 2007, only 16% of prisoners surveyed reported being unlocked for 10 or more hours on an average weekday; when open prisons were excluded, this dropped to 13% (all but two of the 33 prisons surveyed were directly managed public sector prisons). A separate analysis over a longer time period between November 2004 and June 2007 that provided a larger sample of respondents from contracted-out prisons⁴, indicates that 25% of those in private prisons said that they had more than 10 hours out of cell compared to 12% in public sector prisons.

The methodology for calculating average time unlocked

- 1.11 Each directly managed establishment is responsible for recording the daily average time out of cell for its population, according to the guidelines provided by Prison Service headquarters⁵ in conjunction with a Prison Service Order, PSO 7100⁶.
- 1.12 Prisons should enter on PSIMOn (Prison Service information for managers online) the average number of hours that prisoners are actually unlocked on weekdays and, separately, the number of hours unlocked on weekends. All categories of prisoner should be included.
- 1.13 PSO 7100 provides the following example for calculating time unlocked:

⁴ 1,125 respondents from contracted-out prisons, 6,270 from directly managed prisons and 303 from SLA prisons.

⁵ Key performance targets and additional measures. Sources and calculations guidance notes 2007-08.

⁶ PSO 7100. Regime Monitoring Guidance 2007.

Example for calculating weekday time unlocked

The prison has two wings, A and B. There are 110 prisoners in wing A of which 100 are unlocked and the average time unlocked is 12 hours. There are 60 prisoners in wing B of which 50 are unlocked and the average time unlocked is 10 hours.

To calculate the average time unlocked across the prison:

$$\frac{(\text{Prisoners unlocked in wing A} \times \text{hours unlocked wing A}) + (\text{Prisoners unlocked in wing B} \times \text{hours unlocked wing B})}{\text{Wing A prisoners} + \text{wing B prisoners}} = \text{Weighted average}$$

$$\frac{(100 \times 12) + (50 \times 10)}{110 + 60} = 10 \text{ hours}$$

Interruptions to time unlocked within the same session should be excluded from the total unlock hours.

- 1.14 Until 2007, the calculation in the above example excluded the 10 prisoners on both A and B wing who remained locked in their cells:

$$\frac{(100 \times 12) + (50 \times 10)}{100 + 50} = 11.33 \text{ hours}$$

Although the written guidance suggested all prisoners should be included, routine recording of time out of cell only for those who were unlocked resulted in a distortion in the figures. The guidance for 2007-08 finally addressed this ambiguity and provided clarification that all prisoners must be included in reported time unlocked figures.

- 1.15 In prisons operating a number of different regimes, an average time unlocked figure should be calculated. PSO 7100 guidance allows establishments to use subgroups, called 'sub-establishments', to capture different regimes, for example, prisoners on different incentives and earned privileges scheme (IEP) levels or on different wings, to provide a 'more sensitive picture of activity levels'. Prisoners in the segregation unit and in the healthcare wing should also be included. However, the decision about which subgroups to use, and whether to include the unemployed or those on the basic level of the IEP scheme, is left to the establishment's discretion.
- 1.16 In practice, the difficulty of capturing departures from the core day results in few attempts to do so. Often, the recorded average does not reflect actual attendance at activities, or any cancellations, and is based on what the core day allows for rather than what actually takes

place. Weekly time unlocked figures are produced that vary only according to the number of prisoners in the prison, by the number employed or unemployed, or by the number on each IEP level, and do not reflect prisoners' actual experiences.

- 1.17 More worryingly, during the course of inspections we have found recorded time unlocked figures that even exceed what can be provided in the core day. There have been distortions in recording, such as counting the total time taken to serve meals as time unlocked for each prisoner, or including a figure for medication collection for every prisoner. All these factors contribute to the gap between our inspection findings and the Prison Service's own recorded figure.

Scope of the review

- 1.18 This review examines the gap between official recorded figures for time out of cell and our inspection findings. It is based on estimates of the time out of cell prisoners actually received on weekdays in prisons and young offender institutions (YOIs) for 18-21 year olds inspected between September 2006 and August 2007, as reported in prisoner surveys and inspection findings.⁷
- 1.19 It is also informed by prisoner surveys from April 2003 to April 2007, which compare the experiences of those who reported receiving more than 10 hours out of cell on a weekday with those who reported receiving less than 10 hours, in a number of key aspects of prison life.⁸
- 1.20 Additional fieldwork was conducted between December 2005 and July 2007 during inspections of 17 establishments. Interviews with regime monitoring clerks were carried out to clarify how time out of cell was calculated and recorded, and employed and unemployed prisoners on different wings were interviewed. Open prisons and juvenile establishments were excluded from all analyses as by definition almost all prisoners are out of their cells for most of the day.

⁷ Survey findings for reports published between September 2006 and August 2007 have been used. This represents 1,343 respondents from local prisons, 1,246 from training prisons, 555 young adults, and 259 female respondents – a total of 3,403 respondents. Open prisons have been excluded due to their enhanced regime, and no high security establishments were surveyed in this period.

⁸ Analysis of all survey data collected at local prisons, training prisons, YOIs and women's prisons, including privately managed and SLA prisons, since April 2003. Responses from 1,406 respondents reporting receiving more than 10 hours of time out of cell, and 7,626 respondents reporting less than 10 hours out of cell on an average weekday.

Section 2: Findings

Actual time out of cell

- 2.1 Our principal finding was that the actual time out of cell experienced by prisoners was significantly less than the 10 hours a day required and reported. In practice, it depended on the status of the prisoner (employed/unemployed; enhanced/basic) and on the activity spaces and regime provided. There were variations between prisons of different functional types, but also variations between prisons within the same functional type. The low level of time out of cell in young offender institutions was particularly worrying – but even the best prisons, in relation to their most active prisoners, struggled to achieve over 10 hours out of cell.
- 2.2 The table below shows the amount of time out of cell prisoners reported receiving in closed prisons across functional types, taken from prisoner surveys conducted in the last year.

Table 2: Time out of cell by functional type, including two privately managed establishments (prisoner surveys, 2006-07)

Time out of cell	Local prisons N= 1,343	Training prisons N= 1,246	Young offender institutions N= 555	Women's prisons N= 259	Overall percentage N= 3,403
Less than two hours	30%	9%	21%	7%	20%
Two to four hours	18%	12%	17%	14%	16%
Four to six hours	15%	15%	19%	12%	15%
Six to eight hours	15%	23%	17%	17%	18%
Eight to 10 hours	8%	17%	9%	18%	12%
10 or more hours	9%	19%	7%	22%	13%
Don't know	6%	6%	10%	9%	6%

NB: Percentages are rounded up and may not add up to 100%

- 2.3 Only 13% of prisoners surveyed in the last year reported being unlocked for 10 or more hours on an average weekday. Women prisoners and men in training prisons reported that they received the most time out of cell, with 57% and 59% respectively reporting more than six hours, although only 22% and 19% respectively reported at least 10 hours. Regimes in local prisons and YOIs were more limited, with only a third of respondents reporting six or more hours out of cell and only 9% and 7% respectively reporting 10 or more hours.
- 2.4 Worryingly, 20% of prisoners overall reported receiving less than two hours of time out of cell, with half reporting under six hours. Put differently, almost a third of prisoners surveyed in local prisons and a fifth in YOIs reported being locked up for at least 22 hours on an average day in the last year.

Differential experiences of prison

- 2.5 A wider analysis of prisoner surveys from 2003 onwards showed that those receiving 10 or more hours out of cell on a weekday arrived at prison with fewer problems and also reported significantly better experiences across several key areas of prison life. They are also more likely to be on the enhanced level of the incentives and earned privileges scheme. This seems to indicate that the more stable prisoners are also those who are able to make the most of the prison regime and opportunities. Conversely, those arriving at prison with more problems are likely to be the more chaotic prisoners who are less well equipped to exploit the regime, and, ironically, probably also less well equipped to cope with the longer hours of lock up they experienced.
- 2.6 Those who reported receiving more than 10 hours out of cell also reported significantly better relationships with staff, greater access to telephones, showers and healthcare services, and were more engaged with prison activities. They were also significantly more likely to state that they had done something in prison that would make them less likely to offend in future.

Table 3: Access to prison services and staff support by those reporting more than and less than 10 hours out of cell (from 2003 to present)

	> 10 hours out of cell	< 10 hours out of cell
Did you have any problems when you first arrived?	56*	67
Are you normally able to have a shower every day?	92*	78
Have you had any problems getting access to the telephones?	20*	30
Is it very easy/easy to see the doctor?	42*	31
Is it very easy/easy to see the nurse?	65*	52
Do you have a member of staff in this prison who you can turn to for help if you have a problem?	79*	67
Do most staff in this prison treat you with respect?	82*	70
Do you feel your job will help you on release?	44*	28
Do you feel your vocational or skills training will help you on release?	43*	30
Do you feel your education (including basic skills) will help you on release?	54*	42
Do you feel your offending behaviour programmes will help you on release?	38*	27
Do you feel your drug or alcohol programmes will help you on release?	38*	28
Have you done anything, or has anything happened to you here, that you think will make you less likely to offend in the future?	57*	43

*statistically significant at $p < .05$

- 2.7 In addition to greater access to the prison's resources, those who reported receiving more than 10 hours out of cell also reported lower rates of victimisation by other prisoners and/or by staff, and fewer reported having ever felt unsafe in the establishment they were in at the time of the survey.

Table 4: Feelings of safety and victimisation by those reporting more than and less than 10 hours out of cell (from 2003 to 2007)

	> 10 hours out of cell	< 10 hours out of cell
Have you ever felt unsafe in this prison?	26*	34
Have you been victimised (insulted or assaulted) by another prisoner?	19*	21
Have you been victimised (insulted or assaulted) by a member of staff?	18*	23

*statistically significant at $p < .05$

- 2.8 Predictably, those reporting 10 or more hours out of cell were more likely to be on the enhanced level of IEP schemes, which often reward enhanced prisoners with more time out of cell. Of those prisoners surveyed in 2006-07, almost two-thirds of enhanced prisoners reported spending six or more hours out of their cell, compared to a third of prisoners on standard level and a fifth of those on basic level.
- 2.9 Enhanced prisoners are also usually employed, although this is not always the case: during fieldwork, we came across some enhanced prisoners who were temporarily unemployed and locked in their cells during activity hours. And, in our survey, a small proportion (5%) of basic level prisoners reported receiving 10 hours or more out of cell.
- 2.10 Enhanced prisoners also often receive more association each week, and on some enhanced units may not be locked in their cells at all. At the other end of the spectrum, prisoners on the basic level often receive limited association or none at all.

Employment status

- 2.11 Whether prisoners worked had a big impact on the amount of time they spent out of their cells. Those not attending work or education were usually locked in their cells during the day, and unlocked only for meals, association and exercise. Whether they were unlocked or not varied across prison types and sometimes across wings within a prison.
- 2.12 At one local prison, unemployed prisoners on the detoxification unit were unlocked for association during the day as it was appreciated that keeping busy was a key part of their treatment, although this practice was inconsistently applied across the other house blocks. At another, one wing ran an open door policy, which meant that unemployed prisoners still had an average of 6.5 hours out of cell each day. In contrast, on another wing where there was no open door policy, unemployed prisoners had an average of only 1.5 hours unlocked.

Variations in practice across prisons

At one local prison, there were insufficient activity places for the population, leaving a large proportion of prisoners unemployed. However, association took place in the morning, afternoon and evening, which meant that unemployed prisoners received only about an hour less time out of cell than employed prisoners.

At another local prison, employed prisoners received up to 8.5 hours unlocked. For unemployed prisoners, there was a maximum of 2.5 hours a day. Both figures depended on outside exercise and all association times taking place. Most prisoners received evening association on alternate nights. This

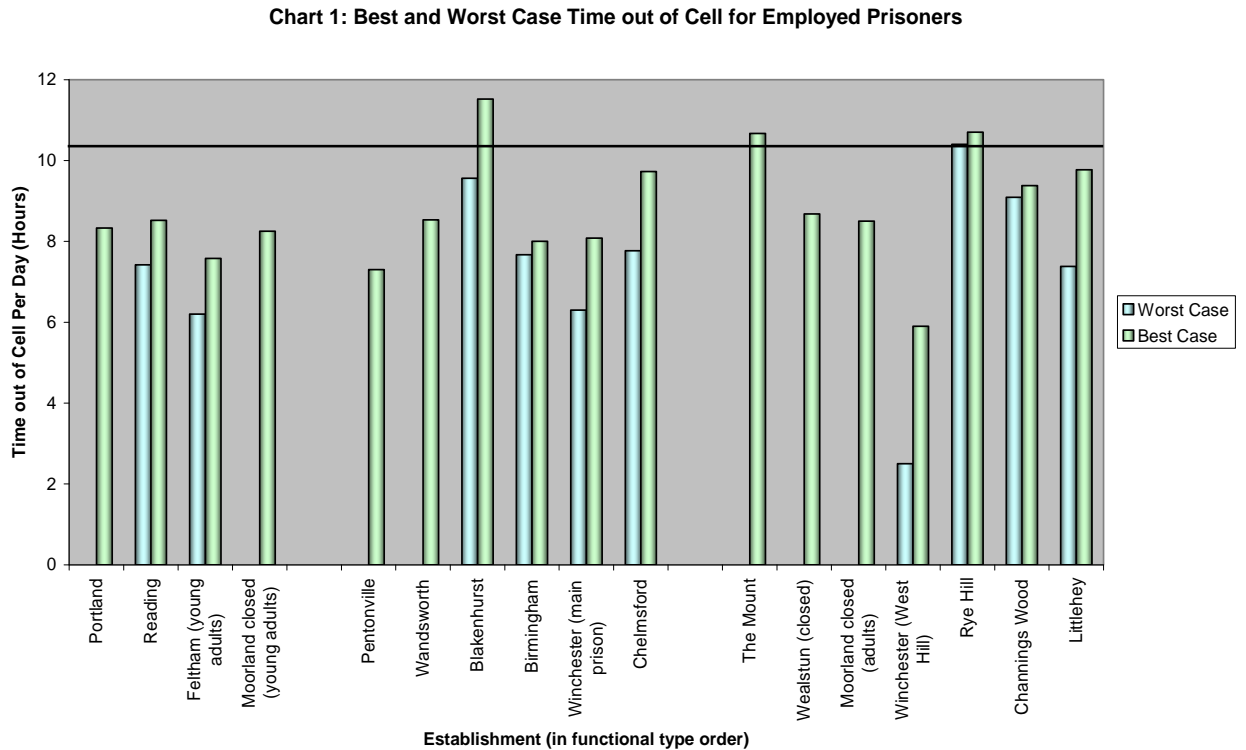
usually lasted an hour, but prisoners said there was not enough time to shower, make telephone calls and carry out domestic tasks.

- 2.13 At many establishments, part-time work or education was available on certain days of the week or in the morning or afternoon only. Interviews with prisoners in 17 prisons showed that a wide range of time out of cell on a weekday could be experienced within the same establishment.
- 2.14 As employment status was one of the main determinants, we collated the findings for full-time employed and unemployed prisoners separately, to identify a best and worst case scenario for prisoners in each prison, with the experiences of those working part-time falling somewhere between the two.
- The best case scenario represents a day in which prisoners were out of their cells for the maximum possible time: for example, the day in a rota system when they received association.
 - The worst case scenario represents a day in which prisoners spent the least time out of cell: for example, the day in a rota system when prisoners did not receive association.⁹

⁹ The 'best case' and 'worst case' methodology was introduced in order to reflect variation across weekdays in time out of cell. Establishments inspected before this, where 'worst case' data was not collected, show only 'best case' data.

Employed prisoners

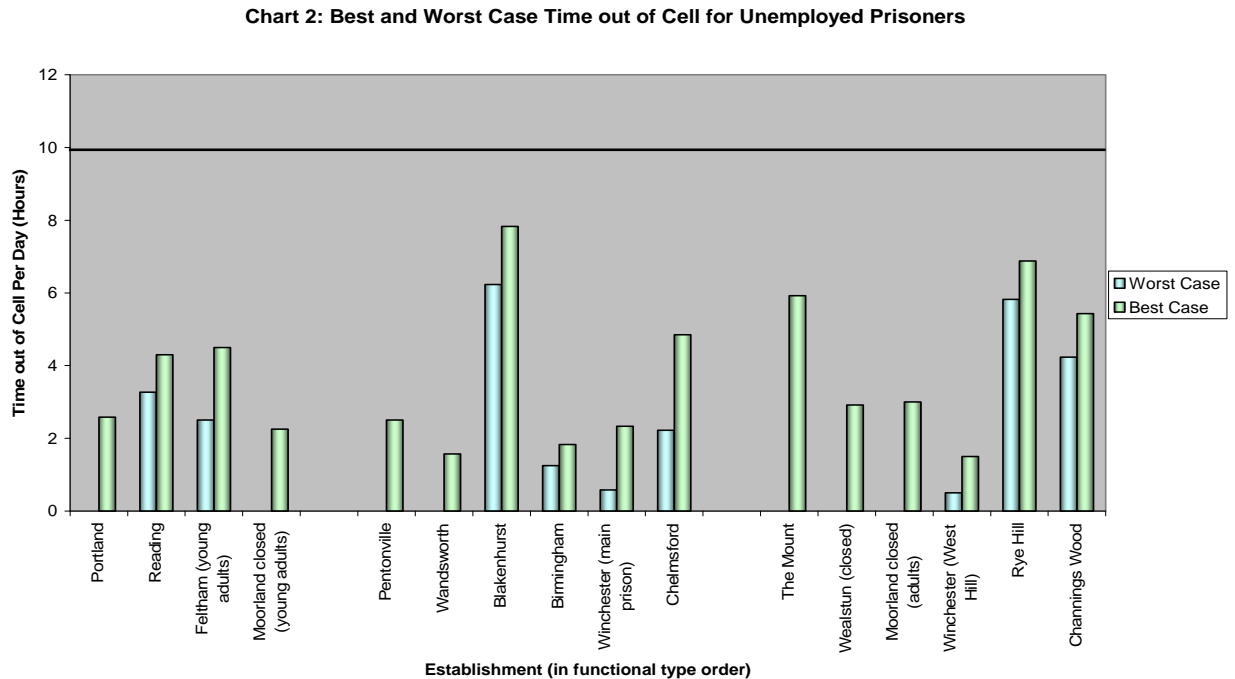
Figure 1: Best and worst case time out of cell for employed prisoners, with the bar indicating the 10 hours KPT.



- 2.15 Employed prisoners or those in education spent much more time out of their cells. Time out of cell for employed prisoners ranged from 2.5 to just under 12 hours a weekday. However, even in the best case average, only three establishments, including one SLA and one private prison (Blakenhurst and Rye Hill, together with The Mount), met the Prison Service KPT of at least 10 hours time out of cell, although an additional three prisons (Chelmsford, Channings Wood and Littlehey) had best case averages of over nine hours.
- 2.16 Time out of cell also varied with the day of the week, and at some establishments there were gaps of up to two hours between the worst case and best case averages. In most cases, these gaps reflected whether or not prisoners were given association in addition to their hours of work.

Unemployed prisoners

- 2.17 Figure 2: Best and worst case time out of cell for unemployed prisoners, with the bar indicating the 10 hours KPT.



- 2.18 No unemployed prisoners interviewed were unlocked for the Prison Service target time of 10 hours a day, although Blakenhurst and Rye Hill performed the best. Average time out of cell for those without employment or education ranged from an average of just half an hour to seven hours and 50 minutes. Prisoners were unemployed for a variety of reasons: they may have refused to work, be retired or medically unfit, or be unable to access employment or education due to limited spaces. The number of unemployed prisoners varied by establishment, but was larger in local prisons.
- 2.19 At Birmingham, a local prison, we found that half (556) the prisoners were registered as unemployed, with those interviewed reporting that they received less than two hours out of cell. In contrast, at Littlehey, a training prison, most were involved in education or employment, and the few who were not were either classed as medically unfit to work or had retired. At other establishments, there were waiting lists for limited work places, or prisoners had to wait until security checks were conducted.
- 2.20 Being able to work or attend education had a direct effect on prisoners' time out of cell as well as on their progression through their sentence, and those who were unemployed through no fault of their own experienced an unfair jeopardy, given the detrimental effects of confinement.

Outside exercise and association

- 2.21 Regardless of regime level, we expect that prisoners are given the opportunity for at least one hour of exercise in the open air every day, and at least one hour of association. However, in our surveys, only 52% of prisoners reported receiving association more than five times a week, and 41% reported receiving outside exercise at least three times a week. Women prisoners and adult men in training prisons reported the greatest access to association, with almost three-quarters saying that they went on association more than five times a week. Prisoners in local prisons and YOIs reported the least access, with young adults reporting the lowest levels of both exercise and association.
- 2.22 Findings from inspections and our young adult thematic¹⁰ show that access to association and exercise for young adults is particularly poor in YOIs for 18-21 year olds. Sufficient activity is rare and many young adults are locked in their cells with nothing to do. Time out of cell and regular exercise are particularly important for this age group to protect against self-harm and to enhance the safety of an often volatile population.

- 2.23 Survey comments from young adults included:

'We only have association once a week and we don't get to know people. I think that if we got to know people better it would result in fewer fights.'

'We only get exercise in the afternoon when it does not rain, but if it does then we are locked up all day. The only time we are out of our cell is two minutes to get our food.'

Table 5: Exercise and association survey findings by functional type, from 2006-07 survey findings

	Local prisons %	Training prisons %	YOIs %	Women's prisons %	Overall %
On average, do you go outside for <u>exercise</u> three or more times a week?	38	50	19	30	41
On average, do you go on <u>association</u> more than five times each week?	38	72	34	73	52
Do staff normally speak to you at least most of the time during association time? (most/all of the time)	15	18	21	32	17

- 2.24 We also expect that prisoners should be given weatherproof clothing to enable them to exercise in all conditions. However, we found that access to exercise was often weather-dependent.

¹⁰ HMI Prisons (2006). *Young adult male prisoners: a short thematic report*.

- 2.25 At some prisons, exercise periods coincided with prisoners' working hours, or did not give prisoners sufficient time to return from work before exercise began. Moreover, prisoners did not always receive a full hour of exercise even where the core day allowed for this.
- 2.26 Access to association depended on what rota system was in place at an establishment and what IEP level prisoners were on; prisoners on the basic level often received less association because of their status. Daily association was uncommon, although more likely for those on the enhanced level, and this was a concern in prisons where access to showers or telephones was allowed during association times only. In one YOI, all young adults who were not on the enhanced units had association only four times a week and this was their only chance to shower or use the telephones.
- 2.27 Association facilities on wings varied little across establishments and were unimaginative. Pool tables, table tennis, table football, chess and board games were the norm. However, there were enough of these for only a small number of prisoners on each wing and many said they were bored during association. In one local prison, where association facilities were not easily accessible, prisoners claimed that the resulting boredom led to fights. However, in another local prison and a category C prison, prisoners had access to small gym rooms on units during association.
- 2.28 Some establishments provided evening classes such as art, music, and IT. However, spaces were limited and in some places uptake was poor because of the clash with evening association.
- 2.29 When asked whether staff encouraged them to participate in activities outside their cell, the response from prisoners was mixed. Some prisoners said that staff encouraged them, but others said staff left them to it, or left them to decide. Encouragement seemed to reflect the general level of interaction between staff and prisoners within an establishment. At Feltham, 60% of young adults interviewed stated that staff encouraged them, but at one category C prison no prisoners did.
- 2.30 Comments from prisoners included:
- 'If you don't want to come out of your cell, if you don't respond to them – they just shut the door again. There is no asking why.'*
- 'Needs to be more activities available and more interaction.'*
- 'Staff don't take much notice, even if you miss meals.'*
- 2.31 Monitoring of prisoners who did not take part in association or outside exercise was informal at best, and it was not always clear that staff could identify these prisoners.
- 2.32 Table 5 suggests that interaction between prisoners and staff during association was limited, with only 17% of prisoners overall reporting that staff spoke to them most or all of the time. This ranged from 15% at local prisons to 32% at women's prisons.
- 2.33 At most establishments, the majority of prisoners interviewed said there were enough staff on duty during association for them to feel safe. However, at Rye Hill several prisoners said they felt unsafe because it was their perception that staff remained in the office and/or that there were not enough staff should an incident occur.

Cancellations to daily routines

- 2.34 The Inspectorate expects daily routines to be published on each unit so that prisoners are aware of the regime and can plan their time and phone calls accordingly. Across fieldwork sites, this varied by establishment and in some cases across units within an establishment. For example, at a YOI, prisoners told us that the timetable had been taken down from display in wings as it did not reflect the actual regime, and at a local prison, staff commented that it was not possible to adhere to a published regime as procedures were subject to so many variables.
- 2.35 Prisoners interviewed across our fieldwork sites reported that when association was cancelled this was due to either staff shortages or an incident on the wing, but that the reasons were inconsistently provided.

Section 3: Diversity

Unsentenced prisoners

- 3.1 Unsentenced prisoners are held in local prisons where prisoners generally receive less time out of cell than those in training prisons. They do not have to work unless they choose to, but this can lead to reduced time out of cell if they choose not to and are consequently locked up. In addition, work places may be prioritised for sentenced prisoners, leaving few, if any, places for those who are unsentenced.
- 3.2 In 2002, our *Unjust Deserts* thematic report recommended that unsentenced prisoners should be unlocked for a minimum of 10 hours each day so that they were able to undertake the full range of tasks consistent with their status. However, six years later, unsentenced prisoners consistently report less time out of cell than sentenced prisoners. Only 8% of remand prisoners reported more than 10 hours out of their cell. Over a third reported spending only two hours out of their cell.

Table 6: Time out of cell for unsentenced and sentenced prisoners, from 2006-07 prisoner surveys

Time out of cell ¹¹	Unsentenced prisoners	Sentenced prisoners
Less than two hours	37%	24%
Two to four hours	22%	16%
Four to six hours	11%	17%
Six to eight hours	10%	18%
Eight to 10 hours	5%	10%
10 or more hours	8%	10%
Don't know	7%	6%

- 3.3 The IEP scheme also influences the amount of time out of cell unsentenced prisoners receive. In our 2002 thematic report, unsentenced prisoners reported finding it difficult to gain enhanced status as they were not at a prison long enough to demonstrate sustained good behaviour. We recommended in *Unjust Deserts* that incentive schemes should be reviewed to ensure that unsentenced and sentenced prisoners had an equal chance of achieving enhanced status. However, in our survey, significantly fewer unsentenced prisoners (11%) than sentenced (28%) reported being on the enhanced level of the scheme.

Black and minority ethnic and foreign national prisoners

- 3.4 In our survey, fewer black and minority ethnic prisoners reported spending 10 hours or more out of cell than white prisoners. Black and minority ethnic prisoners were also significantly less likely to report being on the enhanced IEP level, going on association more than five times a week, or saying that staff spoke to them during association. However, significantly more reported going outside for exercise three or more times a week or going to the gym at least twice a week.

- 3.5 In our 2005 *Parallel Worlds* thematic report, accessing the regime and feeling respected by staff were the two key areas in which black and minority ethnic prisoners felt discriminated against. It is unclear to what extent these findings represented prisoner perception, different regime preferences or actual discrimination. It is possible that black and minority ethnic prisoners received less association and time out of cell because of their IEP level, or that general feelings of alienation distorted perceptions of what was happening to them – we find that fewer black and minority ethnic prisoners than white prisoners report being unlocked, even in establishments where unlock levels are high.

Table 7: 2006-07 survey findings for black and minority ethnic and white prisoners

	Black and minority ethnic prisoners	White prisoners
Are you on the enhanced level of the IEP scheme?	33%*	38%
On average, do you go to the gym at least twice a week?	52%*	42%
On average, do you go outside for exercise three or more times a week?	44%*	40%
On average, do you spend 10 or more hours out of your cell on a weekday?	12%*	14%
On average, do you go on association more than five times each week?	49%*	54%
Do staff normally speak to you at least most of the time during association? (most/all of the time)	15%*	18%

* indicates a statistically significant difference between the results for black and minority ethnic and white prisoners $p < 0.05$

- 3.6 Comparing foreign national prisoners' survey responses to those of British nationals gives a similar picture, with significantly fewer foreign national prisoners reporting being on the enhanced level of the IEP scheme or going on association more than five times each week, although significantly more foreign nationals than British nationals reported being able to exercise outside three or more times a week. However, there was no significant difference in the relative numbers who said they went to the gym at least twice a week, spent 10 or more hours out of their cell on a weekday, or said that staff spoke to them during association.

Table 8: Survey findings for foreign national and British national prisoners

	Foreign national prisoners	British national prisoners
Are you on the enhanced level of the IEP scheme?	34%*	37%
On average, do you go to the gym at least twice a week?	44%	46%
On average, do you go outside for exercise three or more times a week?	45%*	40%
On average, do you spend 10 or more hours out of your cell on a weekday?	14%	13%
On average, do you go on association more than five times each week?	44%*	54%
Do staff normally speak to you at least most of the time during association? (most/all of the time)	18%	17%

* indicates a statistically significant difference between the results for foreign national and British national prisoners, $p < 0.05$

Prisoners who consider themselves to have a disability

- 3.7 Our survey results revealed no significant difference between prisoners who considered themselves to have a disability and those who did not, in terms of spending 10 or more hours out of cell¹². However, the former were significantly less likely to report that they went to the gym more than twice a week, outside for exercise three or more times a week, or on association more than five times a week. Although this may be prisoners' own choice, it may also suggest a lack of reasonable adaptations to accommodate disabilities.

Table 9: 2006-07 survey findings for prisoners who consider themselves to have a disability and those who do not

	Prisoners who consider themselves to have a disability	Prisoners who do not consider themselves to have a disability
On average, do you go to the gym at least twice a week?	28%*	47%
On average, do you go outside for exercise three or more times a week?	32%*	38%
On average, do you spend 10 or more hours out of your cell on a weekday?	13%	15%
On average, do you go on association more than five times each week?	54%*	57%
Do staff normally speak to you at least most of the time during association? (most/all of the time)	19%	17%

* indicates a statistically significant difference between prisoners who consider themselves to have a disability and those who do not, $p < 0.05$

- 3.8 At fieldwork sites, prisoners identified by staff as having a disability told us that they received equal access to activities. However, staff acknowledged that in some prisons access to association rooms or exercise yards could be difficult for anyone who could not climb stairs, although they claimed this was taken into consideration when locating a prisoner.
- 3.9 Prisoners deemed unfit to work often received the same limited regime as other prisoners who chose not to work, which unfairly penalised them. However, some prisons had made an effort to meet prisoners' specific needs. At Winchester, for example, care plans incorporating daytime activities had been drawn up with the education department to help two prisoners diagnosed with Asperger's Syndrome with their specific needs. One prisoner was attending education classes and the other was working in the gardens.

¹² This question was added to the survey in September 2006 in line with the publication of our new expectations. Responses are taken from 312 prisoners who considered themselves to have a disability and 1,823 prisoners who did not consider themselves to have a disability surveyed at YOIs and local, training and women's prisons.

Section 4: Summary and recommendations

- 4.1 Research findings support the view that time in cell is a vulnerable time for those at risk of self-harm or with poor mental health. The lack of social interaction and mental stimulation associated with confinement in cell can be detrimental for any prisoner. Time out of cell is, therefore, a key indicator of the health of an establishment.
- 4.2 Each prison records the average daily time unlocked according to PSO 7100 and in accordance with the additional guidelines. In June 2007, public sector prisons reported a daily average per prisoner of 10.08 hours unlocked, with private prisons reporting an average of 11.30 hours. These figures are in stark contrast to our survey and inspection findings. Due to the complexity of calculating time unlocked, prisons often report what the core day allows rather than what is actually delivered. Distortions in recording practices were also found.
- 4.3 Only 13% of prisoners surveyed in the last year¹³ claimed to be receiving 10 or more hours out of cell, with 20% reporting less than two hours out of cell on an average day. A wider analysis showed that private prisons performed twice as well, with 25% reporting more than 10 hours, against 12% in public sector prisons. Women prisoners and men in training prisons claimed to receive the most time out of cell, while prisoners in local prisons or YOIs reported the poorest regime. Those prisoners claiming to receive 10 or more hours out of cell reported significantly better experiences across many key areas of prison life, and the finding that these prisoners arrived with fewer problems highlights a process, mediated by IEP schemes, whereby the more robust experience the best outcomes and the more needy the poorest.
- 4.4 Employment, the prison's own regime, its function and capacity, together with the IEP scheme, all contribute to levels of time out of cell. In the worst case, unemployed prisoners are unlocked only for outside exercise and to collect meals. For those unemployed through no fault of their own, these restrictions are unacceptable. Our prisoner surveys also indicate that significantly more enhanced than standard or basic prisoners reported 10 or more hours unlocked on an average day.
- 4.5 In fieldwork, only three of 17 establishments met the Prison Service key performance target of 10 or more hours of time out of cell, even for employed prisoners who received the best regime. In these establishments, where we calculated time out of cell from interviews, unemployed prisoners were unlocked for between half an hour and just under eight hours, and employed prisoners between 2.5 hours and just under 12 hours in the best case.
- 4.6 Only 41% of prisoners in our survey reported going outside for exercise each week. Access was weather dependent. Not all establishments offered a full hour of outside exercise each day, even in good weather, and in some prisons exercise times were poorly scheduled, which reduced prisoners' opportunity to attend.
- 4.7 Only half the prisoners in our survey reported having association more than five times a week. In directly managed prisons, association was sometimes provided on a rota system and prisoners' access to showers, telephones or evening classes was curtailed.
- 4.8 Association facilities were generally unimaginative and insufficient for the numbers. Prisoners reported being bored during association, or feeling unsafe where staff numbers were low or

¹³ Excluding prisoners surveyed in open prisons. When open prisons are included, 16% of prisoners in the last year reported receiving 10 or more hours out of cell.

staff remained in the office. The participation of vulnerable prisoners in association was not monitored.

- 4.9 Unsentenced prisoners received less time out of cell than sentenced prisoners and were less likely to be on the enhanced level of the IEP scheme.
- 4.10 Black and minority ethnic prisoners in surveys were less likely to report being on the enhanced level of the IEP scheme, and fewer reported receiving 10 hours out of cell or having association than white prisoners. It is unclear whether this was due to prisoners' perceptions, different regime preferences or actual discrimination.
- 4.11 Similarly, fewer foreign national prisoners than British national prisoners reported being on the enhanced level of the IEP scheme, and fewer reported having association, although more reported exercising outside. There were no significant differences in the number who reported spending 10 hours or more out of cell on a weekday, or being spoken to by staff during association.
- 4.12 There were no significant differences in surveys between prisoners who considered themselves to have a disability and those who did not in terms of being able to spend 10 or more hours out of cell on a weekday. However, those who considered themselves disabled reported less use of the gym, less outside exercise and less association, which may reflect insufficient adaptations to promote participation. Prisoners unfit to attend work or education received limited regimes.

Recommendations

- 4.13 The Prison Service should ensure that prisoners are unlocked for a minimum of 10 hours each day.
- 4.14 Recorded time unlocked figures should accurately reflect prisoners' experience rather than the prison's core day or other theoretical figures. PSO guidance should provide a methodology that is fit for purpose, with clear practical guidance for staff.
- 4.15 All prisoners should have the option of in-cell activities, as well as television, to provide mental stimulation during time in cell. This is particularly important for those at risk of self-harm or with poor mental health.
- 4.16 A daytime regime should be provided for unemployed prisoners, retired prisoners and those unfit for work. At a minimum, this should include in-cell activities, a domestic period, outside exercise, and a period of association.
- 4.17 Daily outside exercise should be scheduled for an hour at an appropriate time to encourage attendance and give employed prisoners the opportunity to attend.
- 4.18 Association should be offered in place of outside exercise when the weather is poor.
- 4.19 A wider range of activities in association should be available to prisoners, with enough facilities, or a rota system, to enable fair access.
- 4.20 Time out of cell should be provided in a safe environment, with active supervision of all, including the most vulnerable.

- 4.21 Staff should be aware of prisoners, or groups of prisoners, who do not participate in association, discover the reasons, and take action as appropriate.
- 4.22 Prisoners should be informed of any cancellations or changes to the timetable and the reason for them.
- 4.23 Association and exercise facilities should be suitable and accessible for prisoners with a disability. Reasonable adaptations should be made to assist participation, if required.
- 4.24 Unsented prisoners should have access to, and be encouraged to take part in, a full regime.
- 4.25 Incentive schemes should be impact-assessed and adjustments made to ensure that the following minorities have the same chance of achieving enhanced status as prisoners from majority groups:
- unsented prisoners,
 - short sentenced prisoners
 - black and minority ethnic prisoners
 - prisoners with disabilities
 - prisoners with mental health problems
 - foreign national prisoners.

Appendix I

Methodology

A literature review of the importance of time out of cell was undertaken. Figures from the Prison Service and the relevant PSOs were collected.

Fieldwork was conducted and surveys undertaken to compare the time out of cell prisoners were receiving with that recorded by prisons. Due to their enhanced regime, open prisons were excluded.

Survey data

As part of the inspection process, a team of researchers conducts a survey of a representative proportion of prisoners in order to give them a chance to comment on their treatment.

For this thematic report, survey results were used for three purposes:

- Survey data from September 2006 to August 2007 were used to analyse time out of cell across prison type, sentence status, ethnicity, nationality and disability status. This represented 1,343 respondents from local prisons, 1,246 from training prisons, 555 young adults, and 259 female respondents – a total of 3,403 respondents from 33 prisons, excluding open prisons.
- Survey data from April 2003 to April 2007 were used to compare the experiences of prisoners who reported receiving 10 or more hours against those who reported receiving less than 10 hours out of cell on a normal day. This represented 9,032 respondents from local prisons, training prisons, YOIs, and women's prisons. Separate analyses were also conducted for each prison type.
- Survey data from November 2004 to June 2007 were used to provide a sufficiently large sample to compare the experiences of prisoners in privately managed prisons with those from public sector prisons. This provided 1,125 respondents from private prisons and 6,573 from public sector prisons (6,270 from directly managed and 303 from public sector SLA prisons).

Please note that missing data have been excluded in all survey analyses.

Fieldwork

Fieldwork was split into two phases:

Phase one covered routine inspection input by the research team at eight establishments¹⁴. In addition to routine inspection methodology, fieldwork included:

¹⁴ Time out of cell analyses for two additional prisons were excluded from this overall analysis due to the different methodology applied.

- Prisoner interviews: these were conducted across all wings, with at least one interview with a full-time employed prisoner and an unemployed prisoner on each wing.

Phase two covered further research input into routine inspections, with the methodology refined for thematic purposes. Fieldwork was also conducted at Blakenhurst outside an inspection. Nine establishments were covered and fieldwork included:

- Prisoner interviews (see Appendix III): these were conducted across all wings, with at least one interview with a full-time employed prisoner and an unemployed prisoner on each wing.
- Wing checklists (see Appendix IV): these were conducted on each wing and covered other areas of our time out of cell expectations, such as whether the daily regime was on the unit, if there were any evening classes, and observing staff-prisoner interaction during association. Prisoners with disabilities and those not participating in association were spoken to.
- Interviews with the time out of cell clerk: one interview was conducted at each prison to clarify how recorded figures were calculated, what subgroups were accounted for (for example, different IEP levels), and the year's performance against the KPT.
- Looking at recorded figures: this allowed for direct comparison of recorded time unlocked against that reported by prisoners, and the published regime.

In total, over phases one and two, 17 establishments were visited between December 2005 and July 2007. This comprised four young adult sites, six local prisons and seven training prisons. Adhering to our inspection timetable meant that, coincidentally, these were all male establishments.

Additional information

- Information collected during inspections was used to provide greater detail about the regime for prisoners held in the healthcare centre or segregation units, the number of prisoners registered as unemployed, and staff-prisoner relationships.
- Inspection reports for the last year were analysed for an overview of findings and recommendations made.

Appendix II

HMI Prisons' *Expectations* – time out of cell

Prisoners spend at least 10 hours out of their cells on weekdays, except in exceptional circumstances.

Daily routines for prisoners, including association and exercise, are publicised on every wing, and adhered to consistently.

Out of cell activities, including association and exercise, are not cancelled unnecessarily. Reasons for cancellations are explained to prisoners.

Prisoners with physical, sensory, mental and learning disabilities as well as retired prisoners have the opportunity to participate in activities that meet their needs.

Prisoners are encouraged to take part in recreational education.

All prisoners are encouraged to engage in out of cell activities and a record is kept of prisoners' non-participation in out of cell activities.

Prisoners attending any out of cell activity are enabled to attend regularly and punctually.

Prisoners, including those in health services and segregation, are given the opportunity for at least one hour of exercise in the open air every day.

Prisoners are given the opportunity of at least one hour of association every day, except where in temporary segregation.

Out of cell activities, including association and exercise, are supervised effectively by staff, and prisoners feel safe, especially those who may be at risk of self-harm or bullying.

All prisoners have the use of properly equipped areas for association and exercise.

Staff actively engage with prisoners during association and exercise time, and contribute to the quality of prisoners' free time.

All prisoners are issued with enough warm, weatherproof clothing and shoes to go out in all weather conditions.

Appendix III

Time out of cell schedule

ESTABLISHMENT:

Date:

Wing	
Employment status	FT employed / PT employed / Unemployed
IEP status	Enhanced / Standard / Basic
Ethnicity	
Nationality	

1) Can you please outline your day (for day of roll check so can cross reference) and how much time you spent out of your cell?

Activity	Approximate time (i.e. 8:30 – 8:40)	Time spent out of cell in minutes (i.e. 10 minutes)	Is this usual? (any cancellations, variations across days?)
When are showers / access to phone calls?			
What days are: Association? Gym? Visits? Other activities? (religious services, evening classes etc.)			<i>Calculate best / worst case scenario for weekdays ONLY</i>
Totals:	Best case	Worst case	Day of roll check

2) Are you able to get to work/education/visits/other out of cell activities on time?

YES

NO If no, what are the reasons for delays?

3) Do staff encourage you to participate in activities outside your cell?

YES

NO

4) What can you do during association?

5) How easy is it to participate in education or to get employment?

V EASY EASY

NEITHER

DIFFICULT

V DIFFICULT

6) Is association or exercise ever cancelled? If so, how often for each?

7) Are reasons provided for cancellation?

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8) Are there enough staff on duty during association for you to feel safe?

YES

NO

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Appendix IV

Wing checklist

Wing:

1. Daily routine publicised on wing? Yes / No
2. Seems to be adhered to? Yes / No
(Observe whilst on wing/cross reference interviews to publicised daily routine)
3. Do prisoners with physical, sensory, mental and learning disabilities as well as retired prisoners have the opportunity to participate in activities that meet their needs? *(Speak to staff regarding available facilities, and prisoners where possible)*
Yes / No / No disabled prisoners on wing
4. Ask staff about use of evening classes:
5. Check wing records for any cancelled association/exercise in last month. Was correct authorisation made?
6. Speak to any prisoners not taking part in association as to why they are not:
7. What is available on the wing during association? Are facilities, including exercise yard, acceptable?
8. Comments regarding staff / prisoner interaction during association:
(Look at engagement, using Mr or first names, where are staff - in office/on landing)

