

PRISON GOVERNORS ASSOCIATION 2018 ANNUAL CONFERENCE

Professor Nick Hardwick
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Thank you.

It is a pleasure to be back with the Prisons Governors Association. I am very grateful for the invitation.

The last time I spoke at the Prisoners Governors Association conference was when I was Chief Inspector in October 2012 – six year ago. In Buxton I think it was.

I dug out a copy of what I said then and I thought I would read a bit of that 2012 speech to you now. I said:

I think it is probably true to say that the inspectorate in pretty curmudgeonly with its assessments of prisons. Yet for some time now, year after year, what inspectors have found is that you have delivered successive improvements in prisoner outcomes.

I went on to set out how prisons were performing against the inspectorate's four healthy prison tests. I told you this and I quote:

Five years ago, in 2007/8 we said that 69% of the prisons we inspected achieved positive outcomes, good or reasonably good, under safety. Last year it was 82%. Up from 69% to 82%

Five years ago, we said 69% of prisons achieved positive outcomes under respect. Now it is 73%. Positive respect outcomes up from 69% to 73%.

Five years ago, we said only 65% of prisons, less than two thirds, achieved positive purposeful activity outcomes. Now it is 73%.

Positive activity outcomes up from 65% to 73%.

And lastly resettlement, where the proportion of prisons delivering positive outcomes has increased over the last five years from 75% to 84%.

With apologies for the gender stereotypes, I made a joke at that conference about the Bernard Shaw quote – 'the most anxious man in a prison is the governor'.

If you were not anxious then – you should have been.

You know what happened next. While I was Chief Inspector, I tracked overall inspection outcomes in my annual reports.

SLIDE 2

This chart that shows inspection outcomes from 2005/06 to 2014/15, the last annual report I produced. When I last spoke to you it was at the top of the curve – at a time when prisons were at the end of a period of steady improvement.

Shortly afterwards a period of very rapid decline began. The safety data and other indicators tell a similar story.

My successor does not track outcomes in exactly the same but with the exception of a recent welcome reduction in self-inflicted deaths, the deterioration has continued.

So why did this happen and how can it be put right?

Generally speaking, I feel asking who is to blame is not a terribly useful question. But in this case it is worth asking who is NOT to blame.

And the answer is you.

Prison governors and staff are not to blame for what has happened in our prisons.

Of course, I accept that there are occasions where individuals could and should have done better.

I don't think there is ever an excuse for a filthy prison and I found some.

There were occasions when the leadership in a prison seemed overwhelmed and to have given up – and prisoners or staff filled the vacuum left behind.

I don't apologise for calling this out.

On the other hand, there were just as many occasions when governors defied the odds and produce amazing outcomes despite the challenges they faced.

But these extremes were exceptions

The overall picture is clear.

Deaths per thousand are a pretty good indicator of the conditions in prisons.

Watch what happens:

The blue bars are the numbers of total operational staff in the prison service of England and Wales. The red bars are the numbers with three or more years' service and the black line is deaths per thousand

SLIDE 3

As staff numbers begin to fall the death rate is pretty level but as the cuts begin to bite the death rate goes sharply up – and sure enough as new staff arrive in recent months, the death rate starts to fall.

You simply can't explain that by somehow prison governors and staff all simultaneously going into some poor performance spasm in mid 2012. And then by some co-incidence remembering how to do the job again just as new staff arrived,

If you are Chief Inspector of Prisons you get a completely unique view of what is happening in prisons.

You don't have the experience or in depth knowledge of people who have worked for years in the system but no one else does what you do – going to a different prison pretty much every week, of all types and in all locations, getting an expert briefing on what going on, having keys and then spending a day walking round, observing and listening.

And I saw week by week what was happening.

A lethal (and I use that word advisedly) combination of staff cuts, population pressures and misguided short-term policy changes.

You saw it in the male estate first as benchmarking was rolled out there. For a while women's prison were improving while men's declined – then benchmarking was applied to women's prisons and they declined too.

I know the PGA warned about what was happening. Others did too. I confronted Ministers about it. They can't say they were not warned.

Let me quote to you from some of the inspectorate Annual Reports:

2010/11: Things had improved over the previous five years but the first signs of slippage were there.

'The assessments we have made over the last five years have steadily improved' I wrote but noted 'there are some signs of slippage in 2010/11'.

2011/12: The risks were becoming more apparent.:

'In my view overall, our inspection findings suggest that there is a risk of undermining the progress that has been made in recent years and threatening the delivery of the government's rehabilitation revolution. If a rehabilitation revolution is to be delivered, with all the economic and social benefits that promises, there is a pretty clear choice for politicians and policy makers – reduce prison populations or increase prison budgets'.

2012/13: The cracks were beginning to show.

"All the establishments we inspected during the year were under pressure to do more with less and, in some, the cracks were beginning to show...Politicians and policy makers should be very careful not to put the valuable policy and savings gains they have already made at risk by ignoring those signs and piling on the pressure regardless'.

2013/14: Safety was in sharp decline.

'Increases in self-inflicted deaths, self-harm and violence cannot be attributed to a single cause. They reflect some deep-seated trends and affect prisons in both the public and private sectors.

Nevertheless, in my view, it is impossible to avoid the conclusion that the conjunction of resource, population and policy pressures, particularly in the second half of 2013–14 and particularly in adult male prisons, was a very significant factor in the rapid deterioration in safety and other outcomes we found as the year progressed and that were reflected in NOMS' own safety data.'

2014/15: Outcomes were the worst for ten years.

'Assessed outcomes in the prisons we reported on in 2014–15 fell sharply across all areas and, overall, the outcomes we reported on in 2014–15 were the worst for 10 years'.

I accept that the prison population itself has changed in that period and clearly the trade in synthetic drugs has had a significant impact.

But the greater availability of drugs is largely a consequence of the lack of stability in prisons rather than a cause of it.

A vicious circle has been created where reductions in the number of experienced staff beyond the level needed to maintain legitimate authority and order allowed the growth in the trade in drugs and that trade has now undermined efforts to restore authority. It is noteworthy that in Scotland, where officer numbers have not been reduced in the same way, Spice has arrived but not become overwhelming in the way it has in prisons only a few miles south.

There is good academic research to suggest that in prisons where there is an absence of staff authority and the opportunity for significant profitable trade in illegal drugs, some prisoners with links to organised crime will impose their own structures and rules or 'authority' to manage the trade. A means of collecting debt is necessary for instance, if trade is

to be profitable. It will be much more difficult to regain control than to have prevented its loss in the first place.

Prisons governors and staff were not to blame for what happened.

Nor in my view was Michael Spurr.

As you know I have had my own run ins with the MoJ. The two cases are very different and the implications of what happened to Michael are much more serious. I am happy to talk about what happened to me but because it is different, I will not get distracted by that now.

I had my differences with Michael. Like any of us doing a big public job for long enough, you will have things on the credit and on the debit side. You will gather opponents and well as friends. You can stay too long – as has been said, graveyards are full of indispensable people. I do think Michael stayed too long.

But I am quite sure the prison service would be in a much worse place overall but for his leadership. I have heard from senior sources in the MoJ that the key accusation against Michael is that he should have stood up to Chris Grayling more.

Well, I can tell you I saw close up how he put his neck on the line time and time again making sure a good proportion of Ministers' barmiest ideas never saw the light of day.

I was in the room with him and saw him do it.

All over the country there are senior public servants in prisons, the police, social services, probation who are driven by a sense of public duty, idealism if you like, to try and make a difference in the most difficult circumstances.

When there is not the money to do the job as you know it should be done.

When every day you have to make impossible choices and weigh impossible risks.

There is an argument that maybe there comes a point when you have to say I can't do this anymore without being compromised more than I can stand.

It's a point I expect many people in this room have come close too. Julian Le Vay has recently written a very good blog about this which you can find on line and I won't repeat here.

But whatever your views there is no justification for the way Michael Spurr was treated.

It is not acceptable for politicians to duck their responsibility for what happened by blaming officials. I saw one newspaper report that an anonymous source - "anonymous" – there's brave for you – said, quote, 'He's not been without his critics. A change of direction was needed.'

'A change of direction was needed'?

Change from what to what?

Are they saying Michael's error was following politicians' orders too closely - or not closely enough?

I was told by a national journalist that they were being briefed Spurr's departure was not a decision made by Ministers.

This is the government in which Chris Grayling wanted to control the costs of prison haircuts and the time lights went out in YOIs.

Does anyone in this room seriously believe that the head of the prison service would be sacked if the Permanent Secretary was not completely sure that is what Ministers wanted?

So where do we go from here?

It is going to be much more difficult to reverse the damage than it would have been to prevent it happening in the first place.

And I am also concerned that the political and legislative agenda is going to continue to be blocked by Brexit issues long after March next year whatever happens.

So here are five suggestions I hope are realistic.

Inquiry

First, I would like to use the space we have now to do some longer term thinking for when the smoke of the Brexit battle does eventually clear.

In October 2016 the PGA called for a public inquiry into what has happened in our prisons.

I was not sure about that at the time, but I do now think it is an idea that needs to be revived.

As the issue of Michael Spurr shows, history is being rewritten and what really happened and who made what decision muddled.

Unless we understand what went wrong we won't understand what is necessary to put it right.

More importantly perhaps, I don't think there is a consensus about the way forward, how to balance punishment, safety and rehabilitation and how the system should be organised.

I am dubious about whether the Prison Estate Transformation Programme will ensure the right mix of security and functions for the prison population now and in the future. The landscape has changed. Crime has changed, the prison population has changed and technological advances, the growing credibility of PCCs, the problems with probation all change the environment in which prisons have to operate.

Stability

I hope such an inquiry might provide a consensus around a more stable strategic and policy environment in which prison can operate.

Since I became Chief Inspector in 2010, there have been six justice Secretaries.

Ken Clarke launched a rehabilitation revolution and we were going to have 'working prisons' - remember them?

With Chris Grayling we had 'Transforming Rehabilitation'

'My legacy in justice will be transforming ex-prisoners' rehabilitation' he said.

Well he did that all right some might say – but perhaps not in the way he intended.

Michael Gove announced 'the biggest shake up in prisons since Victorian times.'

Liz Truss announced 'Prison Safety and Reform' - more modestly, this was just going to be 'the biggest overhaul in a generation'.

David Liddington was not there long enough to announce much.

Now we have David Gauke.

And after being revolved and shaken up more times than a good Martini, what are we left with? The summit of ambition now is that prison should be 'clean, decent and ordered'.

And in a desperate attempt to regain the control that has been lost, I hear today staff are now going to be given pepper sprays.

What an admission of failure! I don't dispute that things have got so bad that this may be necessary. You can imagine rare incidents where its use might be a necessary and proportionate response – but it will solve very little.

I asked some police contacts what they thought and after much tutting they said:

- It doesn't work very well. It won't stop someone who is high or takes you by surprise
- Away from the scrutiny of a pilot, it will get much more use than you anticipate and these things subtly change relationships over time
- It will get most use by the least effective officers who lack the skills and confidence to use traditional methods – such as talking to people

- Used in a confined space in a significant incident it can prove as much a hindrance as a help, affecting those using it as much as those who it is used against
- Sooner or later it will be deliberately or inadvertently misused – and then there will be hell to pay.

Be very, very cautious about this. We should resist the idea that greater use of force is any kind of alternative to employing enough experienced staff to create the relationships on which safety and rehabilitation ultimately depend.

To be clear, some of the practical measures that are now being implemented, from phones in cells, to key workers, to revisions to the IEP scheme are welcome. I welcome the fact that as far as I can see Rory Stewart had admitted that the politicians got things wrong. But Ministers will change, and new Ministers will have different priorities.

You could be forgiven for being cautious about how far you get behind them.

Managing those swings in policy has been a huge distraction for governors from what should be their day to day priorities running their prison.

The prison system by its nature needs long term stability – it holds many men doing long sentences, it takes time for staff to develop experience and infrastructure development takes years.

There is a strong case for revamping the HPMMPs Board to put a buffer between operational decision making and short-term political interference.

In the past we have had Prison Commissioners or the prison service has had a more robust agency status. More recently, the Youth Justice Board might provide a good example of a better structure.

The current board of HMPPS has 16 people only five of whom are non-executives. What responsibility does the Board and those non-Execs have for what happened?

If they were charity trustees or company directors they would be in deep trouble.

Can any of you name any of the non-executives?

I looked them up on the HMPPS website. Only one of the five non-execs provides any biographical details. The rest are completely anonymous.

A proper Board, not a fig-leaf, could provide some long term stability in strategy and policy, provide accountability and rigour before things hit the headline and avoid the risk of the system becoming over-dependent on one or a small number of individuals.

Staffing

We clearly need to improve staffing levels much further.

In March 2010 there were about 25,000 operational staff in post.

Just over 300 of these, or 1.25%, had less than one year's service.

At the end of June 2018 there were about 21,600 operational staff in post.

A decrease of 13%.

But nearly 5,000 of these, or 22% had less than one year's service.

These reductions in staff as a whole and in experienced staff are not evenly spread across the system so in some places the reductions have been even more severe.

Over the same period from 2010 to 2018 the leavers rate for operational staff increased from just over 4% to almost 10%.

In the 12 months to June 2018, 5,344 operational staff were recruited - but over 1,000 new staff left before they had completed three years' service.

Recruitment needs to continue and go further in my view - but much greater priority needs to be given to retention.

There is a limit to how many new staff the system can absorb at once.

We have got to look at the recruitment process itself, the training and support new recruits receive, how we can encourage and support experienced staff to stay, and crucially the reward structure - to make sure the service is recruiting and retaining the right people.

Population

The recent fall in the prison population is welcome.

There are lots of good reasons for reducing the size of the prison population and the number of people serving short prison sentences. But I want to address the capacity of the system to cope.

Despite the recent fall, the latest prison population projections have it growing from 83,136 at the end of last week, to 85,800 in June 2022 and it might go even higher.

Although churn is a significant issue, reducing the number of short sentence prisoners will only have a minimal effect on the size of the population at any one time.

In June 2018 prisoners serving six months or less accounted for just over 4% of the prison population.

The growth in the prison population has been driven by the growth in longer sentences. Between 2011 and 2018 the population serving sentences of four years or more rose by over 40%.

That is something that is very difficult for politicians to deal with even if they were minded to do so.

Doing something to reduce future sentence lengths would take time to kick in and for politicians to curtail the sentence previously awarded by a court would raise big issues.

There is more scope to do something about recalls which have risen by over 11% in the same period.

In my view recalls should be authorised or in urgent cases, approved in retrospect by a court as they used to be and that would apply a necessary brake to the recall process.

However, it would be foolish to plan on the basis that the current projections will prove overly pessimistic.

Capacity is not just a matter of the physical space available but includes the staff and services necessary to support and manage the population held.

It would be a grave mistake for Ministers, as has happened before, to offer up prison service savings on the basis the population will fall, or not rise as fast has been predicted, only for the system to hit the rocks later when the population does not fall and there is not the capacity to deal with it.

Governors

Finally governors.

We need to provide governors with the means and space to get the job done. Some of that would be about the individual support you receive. I don't know any other country where governors move post so frequently with all the stress and family disruption that entails. I agree it would be sensible to look at the training and development you need to take up and progress in the role. And for all staff, I would like to see a much clearer commitment to implementing any future recommendations by the Prison Service Pay Review Board.

Beyond individual support, we should look at the role of governors as a whole. The so called 'new public management' model with centrally imposed targets, a focus on process compliance and market based outsourcing have simply not worked in prisons.

There needs to be a new contract with governors. The Ministry should offer a much better match between resources and population, a stable

strategic and policy framework, greater local control of resources and the services on which an individual prison depends

Then I think it is reasonable to expect in return that you meet some clear outcome based objectives around safety and rehabilitation and that there is effective accountability for your performance.

But it is a two way process – both sides of the bargain need to be in place.

Conclusion

In conclusion, the prison system is a pivotal moment. We can't go on like this. As a friend of the prison service and those who lead and work in it, I make these suggestions

1. We should reject the search for scapegoats but instead have an honest and independent process to understand what went wrong and develop a consensus around a long term view of the sort of prison service we want and how it should be organised.
2. We should bolster short and medium term stability by creating an effective and accountable Board or other governance arrangements to put a buffer between Ministers and the operational management of the system.
3. Staffing levels still need to increase but we should give much more attention to ensuring new staff stick and its worthwhile for experienced staff to stay.
4. I would like to see the prison population reduce but it will be difficult. There is scope to reduce the number of recalls. But it's crucial the MoJ

reduction in funding is not based on an over optimistic plans about how far and how quickly the population can be reduced.

5. All of these things are crucial to the role of governors. We need a new relationship with governors. Ministers – and indeed the public, your staff, victims and the public victims - are entitled to expect from you that you lead safe prisons that treat the men you hold decently and encourage rehabilitation.

But it's a two way street. Ministers have to give you the support, space and resources you need to deliver. And they have yet to do so .

I hope that is a useful contribution to your discussion . Thank you for the opportunity.