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COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

Criminal Justice Inspection Report on Northern Ireland Prison Service Corporate Governance Arrangements

1 February 2011

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Mr Thomas Buchanan
Mr Paul Givan
Mr Alban Maginness
Mr Conall McDevitt
Ms Carál Ní Chuilín
Mr John O'Dowd

Witnesses:
Dr Ian Cameron)
Mr Stephen Dolan) Criminal Justice Inspection Northern Ireland
Dr Michael Maguire)
Mr Brendan McGuigan)

The Chairperson (Lord Morrow):

We move to one of the main items on our agenda, a briefing from the Chief Inspector of Criminal Justice Inspection Northern Ireland on its report into the corporate governance arrangements in the Northern Ireland Prison Service. A briefing paper has been provided by Criminal Justice Inspection, and a copy of the report is in members' packs.

I welcome Dr Michael Maguire, Chief Inspector, Mr Brendan McGuigan, the Deputy Chief Inspector, and Dr Ian Cameron and Mr Stephen Dolan from the inspection team. You are very welcome, gentlemen. I invite Dr Maguire to brief us on the report.

Dr Michael Maguire (Criminal Justice Inspection Northern Ireland):

Thank you for the opportunity to make a presentation on the report into the corporate governance arrangements in the Northern Ireland Prison Service. As I have said on previous occasions, the ability to bring to the Committee issues arising from our reports into the criminal justice system is a significant benefit, from Criminal Justice Inspection's perspective, of the devolution of policing and justice. I welcome the opportunity to speak to you this afternoon.

I must begin by saying that the Northern Ireland Prison Service has been shaped by the legacy of a past during which 29 of its members were murdered, and many others seriously injured. The effects of that and of the threat to prison officers and their families cannot be underestimated. The Prison Service's culture, working practices and management processes in many ways reflect a different era and a different agenda from what we want our prisons to do, and it has remained largely untouched by the reforms of the criminal justice system.

It is fair to say that this is a report that I would not have wanted to write. I do not like to publish such critical documents on any justice organisation, and this is probably the most critical piece of work that the inspectorate has undertaken. My role, however, is to provide an independent, impartial and objective assessment of the issues that face the various justice organisations. Only by doing so can we identify what we need to do to improve performance.

I will address the background of the report. When I took up my post in 2008, I was struck by a number of things: first, the difference between the strategic objectives of the Prison Service, as articulated through the various corporate planning documents, and so on, and the reality of what was described in individual prisons in various inspection reports. You will appreciate, as we said during a previous meeting, that the establishment inspections were always conducted in conjunction with Her Majesty's Inspectorate of Prisons. The second issue that strikes me is that the reported resources available to the Prison Service did not result in the delivery of an effective prison regime. I began to undertake specific pieces of work on prisons, such as the inspection of

Maghaberry prison and the examination of the treatment of vulnerable prisoners there after the death of Colin Bell. The same issues emerged from those pieces of work.

A central theme that has emerged from all the inspection reports has been the inability of the service to deliver real and sustained improvement on the ground. On the face of it, the service has more than enough available staff but, despite that, there are many occasions when there are insufficient staff levels to deliver an effective service. Our report provides some more detailed information on the profile of the service and the cost of current provision, so I will not repeat that.

The purpose of the inspection was to examine why that should be the case and to highlight those aspects of the operations that have had an impact on delivering an effective Prison Service for the future. In my view, it is only by having an open conversation about the challenges facing the Prison Service that a clear path for change can be designed and implemented.

The inspection built on the considerable body of work that had been undertaken by the inspectorate, but it also included substantial extensive analysis within the Prison Service itself. That analysis has been accepted in the main by the Prison Service and the Minister of Justice.

The report covers four main areas, and I will touch briefly on each of them. Obviously, you will want ask questions as we go through them. The four areas are governance and accountability; performance management; culture and behaviours; and working practices.

Beginning with governance and accountability, if we think about the architecture of governance, the way in which the Prison Service is organised is what one would expect to see in an organisation with 2,300 staff and a budget of £157 million. Therefore, there is a structure that has external reporting upwards and downwards and has a range of policies and initiatives that are designed to take the organisation forward. Although those structures, policies and processes exist at a high level of governance and accountability, there is evidence that they do not match the reality of what is translated into outcomes for prisoners. That has been the focus of much of the establishment inspections.

In the annual reports, the Prison Service achieves the majority of its published targets, lives

within its budget, and reports an annual decrease in cost for each prisoner's place. However, that sits uncomfortably with the critical inspection reports and other work undertaken by the Pearson review, the Prisoner Ombudsman and the independent monitoring boards. That means that governance arrangements in the Prison Service have not translated into improved outcomes for prisoners in its care or, ultimately, for society, in challenging behaviours to reduce offending in the future. Part of that is the result of a lack of alignment between the objectives of the Prison Service and the focus of Criminal Justice Inspection, the Inspectorate of Prisons and the establishment. It is a case of what gets measured gets done. The objectives of the Prison Service have not been aligned with trying to achieve the kind of changes that we want to see in achieving a modern prison system.

Secondly, the governance arrangements have not been able to reconcile what are quite often competing priorities with the sensitivity of how issues in prisons impact on the wider political process and the need for an effectively managed, efficient and progressive Prison Service. Those are two entirely valid objectives, but the problem arises when competing priorities come into focus. That has often meant, at best, an accommodation with staff and other bodies in creating the conditions to manage conflict in the service at times of sensitivity. At such times, that approach comes at a price. In this case, there has been a series of conflicting messages around the importance of reform and a potential undermining of meaningful efforts to make change happen.

In considering the evidence in respect of this inspection, we came to the conclusion that the plans and other corporate documents captured the routine elements of Prison Service business. They do not explicitly expose to measurement or scrutiny the more difficult management issues concerning critical inspection reports, working practices, industrial relations, and so on. The delivery of improved outcomes for prisoners is limited by inconsistent and poorly implemented governance and accountability arrangements in the Prison Service. The role of the board and non-executive directors in formulating policy, making decisions and providing the challenge is not fully developed. Senior management in the service recognises that leadership is an issue and that the capacity for developing real leadership in the organisation is limited.

After one of our prisons inspections, for example, we came to the view that management almost presided over the institution, rather than actively managing what happens inside it. The

Prison Service acknowledged that it did not have a well-developed performance culture. A performance management system was available, but it was widely accepted that it was not well implemented. A failure to properly manage performance from the top sends a signal that performance is not important.

Accountability is related to performance management and, in that respect, there was little history or culture of accountability in the service. Performance management and accountability need to be underpinned by appropriate qualitative and quantitative targets for performance that are supported by meaningful and timely information at all levels in the organisation. In the report, we also pick up on the nature of the relationship between headquarters and the individual establishments, and how that is carried through into how managers undertake their work in individual prisons.

Another issue that we looked at relates to working arrangements. The Prison Service, in my view, has remained largely untouched by the reforms of the criminal justice system. Over the years, the Prison Service has often managed conflicting priorities. One of the consequences of that has been the development of culture, behaviours and working practices that have been difficult to change. Those arrangements have actively undermined management's attempts to create a modern and cost-effective prison system.

I will give you an example of the type of thing that I am talking about. We undertook an inspection of the review of vulnerable prisoners about a year after Colin Bell's death. We looked at the way in which vulnerable prisoners were cared for across the prison system. One of the high-profile issues at Maghaberry was the Reaching out through Engagement, Assessment, Collaborative working and Holistic approach (REACH) landing. When we looked at REACH, I was puzzled by the extent to which there were not enough available staff to do the necessary work there. When we began to unpick why that was the case, we found that working practices meant that staff were being put into what were called diminishing task lines, and work elsewhere. Therefore, priorities almost jarred with working practices. That is what I mean by the inability to deliver change.

I could go back and undertake a follow-up review on vulnerable prisoners. However, unless

we get to the core of why the arrangements are in place and address those, we could be faced with the problem of real change not having occurred. In this inspection, I want to avoid that by actually addressing some of the issues that impact on change. The inspection identified a range of local restrictive working practices, the net impact of which was to undermine the service's capacity to deal with an effective regime. That also exposed management to reliance on the goodwill of staff. That had an impact, particularly when was goodwill was withdrawn, as was the case in two past inspections of Maghaberry and Magilligan.

I will more explicitly address management and representative bodies. Management saw the influence of the Prison Officers' Association (POA) as all pervasive. There was a clear perception that any management plans to restructure as a whole — or even to make short-term or minor adjustments at establishment level — that were necessary for effective working practices were wholly dependent on securing the goodwill of the POA. The association's role was described as to fight for the terms and conditions of members. It believed that there were serious management weaknesses that needed to be addressed, and that failures in the Prison Service should not rest at the door of the POA. Questions about the management's ability to lead successfully were raised with inspectors.

Industrial relations varied across the establishments and at headquarters but, in my view, nowhere could they be described as constructive, and the nature of local relationships could be ad hoc and, in some cases, personality driven. Therefore, in moving forward, we suggest that the issue of the nature of relationships between management and the representative bodies needs to be addressed because that has an impact on the capacity of the organisation to move forward. Overall, we concluded that the industrial relations climate in the Prison Service was a barrier to change.

We also looked at organisational culture. In staffing terms, the profile of the Prison Service was out of step with the population, and there is no doubt that the service would benefit from new staff to work alongside those who have sustained the front line pressures for many years. Moreover, there were insufficient numbers to make an effective impact on the culture. Morale in the Prison Service was not good as it transitions from what it was required to do in the past to what society expects it to do now and, indeed, to do well, given the resources at its disposal.

The report highlighted a number of challenges for the Prison Service. The critical question was what to do next. In the report, we highlight a number of areas that it is important for any change agenda to address, including: a clear statement of purpose as to what society wants the Prison Service to achieve; the empowerment of management and staff to deliver, free from sustained operational interference; a more robust approach to governance and accountability in the service, based on clear objectives and transparency; an organisational culture and behaviours that focus on a more proactive engagement between officers and prisoners; the need to develop an industrial relations climate that is supportive of change; and the implementation of staffing and working practices that support a progressive and cost-effective regime for prisoners because, ultimately, that is what will deliver real change to the people of Northern Ireland through a greater focus on challenging offending behaviours.

We believe that there is a need to rationalise the objectives into a focused and manageable programme. In undertaking the review, we were aware that the Prison Service is currently undertaking work that is headed by Dame Anne Owers, and we have departed from the norm by not setting any strategic or operational objectives. There are two reasons for that. First, we did not want to be seen to be prescriptive to Anne Owers's team and, secondly, we have produced a number of recommendations in different reports that, if delivered, would engage with many of the issues that we have identified in the report.

In my view, the challenges that the Prison Service faces are clear. The question now is how to implement change. My view is that change management by stealth is not possible. We need to be clear about what we need to do, moving forward, to address some of those issues.

Finally, it has become, as the report states, almost a cliché to state that inspectors found many committed staff in the service. However, that is the case. There are staff who are embarrassed by the external critique of the service and who resent the fact that much criticism does not reflect the good work that they are doing. Moving forward, it is important that the managers and staff move centre stage. They represent the future of the service, and it is important that their attitudes, behaviours, working practices and professionalism become the norm.

The Chairperson:

Thanks very much, Dr Maguire. The report is fairly scathing; maybe that is being kind. It makes for some startling reading. You said in your presentation that what gets measured gets done. How much do you reckon gets measured? Is it 10% or 20%?

Dr Maguire:

That is a very good question. I do not want to be too pejorative, but I am puzzled by the disconnect between what appears on paper versus the reality of the prisons inspections. The Prison Service annual report shows that the service meets the bulk of its targets, lives within its budget and, indeed, has a decreasing cost per prisoner place. Therefore, on paper, the Prison Service is a relatively effective organisation. That jars with our inspection work and with the work of the Prisoner Ombudsman. Therefore, it is not the case that things do not get measured; it is a case of whether the right things are measured. When one looks at that in the context of changing the nature of the regime — time out of cell, the nature of the engagement between officers and prisoners, and other factors that have an impact on offending behaviour or an impact on vulnerable prisoners — we quite often found that there was an insufficient attempt to address and, indeed, measure the impact of those. Things were being measured, but I question whether, on occasion, they were the right things.

The Chairperson:

The report also states that:

"Leaders were seen to be providing a disproportionate focus on the '20% of negative staff as opposed to motivating the majority'."

Does that mean that there is 100% underperformance?

Dr Maguire:

The issue of performance management is difficult. A performance appraisal process is in place. We found two things that were of interest: the bulk of staff tended to achieve the higher-end box markings, but 25% of appraisals were not completed. That jars with the reality of prisons inspections when we deal with issues, some of which arise from performance. It is a very difficult question. Are there committed professional staff in the service? Obviously. Are they trying to do their best? Without question. The question is how we should use that as a basis and platform for engaging across all the organisations.

The Chairperson:

This is a bit like wrestling with smoke; it is difficult to get a grip on. The report states that the organisational culture needs to change, and it states:

"It is unfortunate that the Prison Service has a largely static workforce, steeped in the past with attitudes and behaviours of staff".

I suppose that they are a microcosm of what is outside; they reflect what is happening outside. Is it reasonable to expect an organisation to literally change overnight, remembering where we have come from and where we are hoping to get to? What sort of timescale do you think would be appropriate to take it from where it is to where it should be?

Dr Maguire:

Those are two very good questions. The direct answer to your question is no, it is not reasonable to expect an organisation to change overnight. One of the difficulties is that we have not been clear about what we want the service to do and what that means, moving forward. As I have stated in the report, if we can get to a situation whereby we articulate — both at political level and in how that translates into operational objectives — what we want the service to do, I would expect to see a sustained performance-improvement programme over a three-year period to deliver benefits. I would expect to see change over three years. If it goes beyond that, it will become much more difficult.

The right intent and the right support are required to make it happen — it will have to come with support. If we are about delivering a change programme, as Colin McConnell has said he wants to do — and I support what he has said in that regard — he has to be supported to make the changes that are required. That is not going to be easy, given where we have come from, but if we are clear about what we want to do, put the right mechanisms in place to make it happen, and provide support for that, it will not be unreasonable to expect to see change over a three-year period.

The Chairperson:

So we have a very inefficient service that costs twice as much as its counterpart in England and Wales. We hear talk of a figure of £77,831 per prisoner, but that is not really the true picture because — you work it out for us in the report — you then fit that figure into an 82% occupancy

level, and that gives the staggering figure of £95,000, give or take a few pounds. That cannot go on, can it?

Dr Maguire:

Well, it could go on, but I do not think that it should go on.

The Chairperson:

It lacks credibility, does it not? Your report does not just gloss over that, but tries to analyse why that might be. It suggests that the whole estate is totally inadequate — it does not use the word "totally", that is my word, but I think that you are saying the same thing. It is not adequate.

Dr Maguire:

Elements of the estate provide an explanation for some of the cost, as do elements of the dominant security approach to prison management and elements of working practices and payment. A number of factors make up that quite high cost base.

The Chairperson:

So "a shambles" would be a good enough title to put over the whole thing.

Dr Maguire:

I would not use those words, Chairman. Those are your words, rather than mine.

Mr McCartney:

I have a number of questions and observations around the idea of local agreement. Observations are made in the report that the local agreements that are made between a governor and the basic grade staff are not recorded and do not seem to have any legal status. How do we address that?

Dr Maguire:

I will say a few words, and ask Ian to pick up on some of the detail. The context for all of that is the nature of the climate that we want in the service. In any organisation, we want a positive approach to reform that engages with staff, representative organisations and management to go in the right direction. In that climate, many of those issues can be addressed very clearly, because it

is about how the work is done at a local level and the way in which people do their business on a daily basis. It is possible to do it if there is a will.

Dr Ian Cameron (Criminal Justice Inspection Northern Ireland):

We mention in the report that the Prison Service in England and Wales also suffered from a proliferation of agreements in the 1980s. Similarly, those were not well recorded by managers, but there was a determined effort to reduce them, and the numbers have been reduced systematically and been recorded formally. There are now a very limited number of agreements, and those that exist are recorded and revisited every year to be agreed between management and the staff association. We stated in the report that the Prison Service needs to move to that position urgently.

Mr McCartney:

The calculations that are made for annual leave are different from what is the norm in other aspects of work. How can an accounting officer for the Prison Service stand over that? You seem to be saying that, as a result of the way in which annual leave is calculated, a person gets paid for 1·3 hours a day extra than they should under any other regime.

Dr Maguire:

We are saying that the regime for the calculation of annual leave is certainly different from how the Prison Service across the water calculates it. In general, those are working practices that have grown up. That is not unusual in any big organisation; custom and practice takes over after a period. Some of those issues impact on the capacity of the service to change. I cannot comment on behalf of an accounting officer, who would have to talk about those issues. — *[Interruption.]*

The Chairperson:

Dr Maguire, I should have said that we are expecting Divisions in the Assembly Chamber, and that we will have to interrupt your presentation.

Dr Maguire:

Presumably, I cannot vote.

The Chairperson:

Maybe you could go and vote for some of us.

Dr Maguire:

That depends on how I vote.

The Chairperson:

We will not take that chance. *[Laughter.]*

Committee suspended for a Division in the House.

On resuming —

The Chairperson:

The meeting is resumed. Mr McCartney, you were speaking before we adjourned, but we were not quite sure whether you had finished or whether you had further questions. If you do, go ahead.

Mr McCartney:

If someone else wants to go ahead, that is fine. You can come back to me later.

Ms Ní Chuilín:

Thank you for your report. I can see why you were not jumping up and down when you brought it to us; it is very damning and disturbing. I started highlighting parts of it last night, as I am sure other members did, but I ended up putting the highlighter down. That is an indication of what is in this disturbing report.

Two questions are constantly repeated throughout the report, even though they may not have been explicitly asked: why did things happen, and how we are going to address them? My questions are to do with the POA. The report states:

"The inability of the…Prison Service to progress operational issues because of the Prison Officers' Association was a matter of intense frustration for a number of Governors and senior staff."

I suppose that this is the $64 million question, but how is that going to be resolved? I do not know whether it is appropriate for you to comment, but there were suggestions before about the

Prison Service being almost "Pattenised" in the same way that the Police Service was. However, we have been reminded that the money is not there. Perhaps a total root-and-branch overhaul is one of the things needed to change it. The reason why I said that the report is disturbing is that I, like other Members, have read report after report into issues around prisons, and my sense is that, unless there is a complete overhaul, I will be reading report after report in the future.

Dr Maguire:

As I said, my starting point for the report was to look at the work that the inspection had done at a number of levels. I will answer your question directly, but there is a slightly long-winded context for it and there are a number of levels involved. There are the establishment inspections, which are conducted with Her Majesty's Inspectorate of Prisons, and those provide a benchmark so that we can see how we are performing here relative to other institutions. We look at thematic work to see how the Prison Service fits in with other aspects of the justice system, such as the management of life sentence prisoners and so on. We then come up a level to specific pieces of work. One of the emerging themes, which you will have seen elsewhere, is the difficulty that the service has had in implementing the recommendations for change. This report tried to begin to understand the difficulties that the service has in moving to the next stage of development.

As I said in my preface, there are lots of reasons why we are where we are. The reality is that we are where we are. The question is what we are going to do to make a difference as we move forward. The starting point for me in the report was to try to begin to bring the issues out from under the folds of the tablecloth and onto the table so that we can see the things that we need to address.

No one single action will address the problems in the Prison Service. It is not just about the POA, management or leave arrangements. A number of things that have come together over time have made it very difficult for the service to effect change as it moves forward. That is why we have said in the report that, in any organisation — this is true for the Prison Service and any organisation that is going through a change programme — there has to be a desire to make change happen. There has to be a desire on the part of a member of staff, a representative body, a senior manager or someone at headquarters to say that they want to see a different service because that is what society expects of them.

As we say in the report, we articulated the POA's views as well as those of management. The consequence of that is that it is difficult, at a local level, to make change happen. That is why, to build on the sense of where we need to go, we need an overall acceptance that we need to change. Once we get an acceptance that we need change, we can then begin to put the building blocks on the table to make that change happen. Those building blocks include the nature of industrial relations between management and staff; the clarity around what we want the service to do; and the practical elements of managing a change programme, such as establishing who will do it, how much it will cost, the timescale and how much support is available to make it happen. Therefore, we need to do a number of practical things to try to deliver that change moving forward. As I said in the report, in my experience, change management by stealth does not work. We need to be clear about what we want to achieve and then put in place a number of things to make that happen.

Mr O'Dowd:

Thank you for your presentation, Dr Maguire. I read your report with interest, and I listened to your commentary today. Your press release on the report from 14 December 2010 says:

"In conclusion, the Chief Inspector of Criminal Justice said: 'It is only by addressing the issues raised in this report the Northern Ireland Prison Service will be able to progress operational issues and support pro-active management to deliver meaningful change.

'This means dealing with weak management processes and the current industrial relations climate. It will involve addressing issues of leadership and accountability.'"

You talked today about accepting the need for change, and you said that we cannot have change management by stealth. I want to ask you a difficult question, and I do not do that to be sensationalist. If you have a view on it, fair enough; if you do not, I accept that. The recent new appointment of a director of prisons was quickly followed by appointments to governorship, particularly in Magilligan, that raised public questions. How does that reflect change in the system? Given that you and others have produced reports, how does that reflect an attitude that your reports are being listened to and that there is a serious commitment in the Prison Service at senior directorship level, governorship level and management level to deliver change in the Prison Service?

Dr Maguire:

It is a fair question. I will not comment on individuals; I will leave that to the side. However, when I saw what the director general had done to try to put a platform in place to move the service to the next stage, I was encouraged. The issue of temporary people in post was dealt with by confirming them in post. Some of the structural issues were dealt with by removing the director of operations post, and he will now manage the three establishments directly. I think that that is a good thing.

There are several issues, as we say in the report, such as governance, accountability, management, information, transparency and performance management. In my experience, most people who go to work want to do a good job, and people have a right to be managed. If they had not been managed in the past, that was a problem. Therefore, if we put people in jobs in the right context with the right objective to try to change things, that process deserves a fair wind. We will continue to do our job in the context of my responsibilities in the assessment of the success of that change. How will I do that? I will look at prisoner outcomes, which are the basis for the prisons inspections. Issues of prisoner safety, respect, purposeful activity and resettlement will impact on offending behaviours and make a difference.

Therefore, the context to the discussion about prisons is different to the context that there was before, perhaps even when I took the job two years ago. My view is that there is a management process in place, and I want that to begin to deliver benefits over a period. I look at it positively in the sense that we are moving forward and addressing some of the problems of the past.

Mr O'Dowd:

Earlier, you referred to a three-year period of change. Was day one of that change the appointment of the new director general? Do we start further back or give him a run-in period? You have to put some sort of timescale on it.

Dr Maguire:

You do. It is a fair question.

Mr O'Dowd:

If the appointments that have been made have positive outcomes, so be it. It remains to be proven. When does the clock start ticking?

Dr Maguire:

My understanding — you can check this with the director general — is that the Prison Service is working on a change programme. In fact, I will be speaking to the director general about that tomorrow in a different context. When that programme is put together, it will be the basis on which the organisation can move forward. It is difficult to do that now because we are waiting for the Anne Owers report. Anne Owers and her team will produce a document that will say what it says, and the outcome will be a series of measures that need to be put in place to make change happen. If you are asking me for a personal view, mine is that the clock is not ticking now, but it will start to tick relatively quickly when those pieces of the jigsaw begin to be put in place.

Mr A Maginness:

Since 2005, there have been 23 reports and 1,194 recommendations, 597 of which are outstanding. So, at least 50% of the recommendations have still to be implemented. That is an extraordinarily high number of outstanding recommendations.

Your report refers to the POA as the "elephant in the room". That is obviously coming from senior management in the prisons. The day-to-day operational management in the prison establishment was described as "wading through treacle". It was also stated that the POA had a pervasive effect on the management of the Prison Service at an operational level and that industrial relations were a barrier to change that needed to be addressed. The Pearson report described the role of the POA as "corrosive", and the report states that you have seen little evidence of change in the 18 months since the Pearson report.

It is a catalogue of problems, and it is so frustrating, as a Member of the Assembly, to listen today and to note that very little has really changed. Is there any solution, other than the POA, in particular, coming to understand the gravity of the situation, the immense cost and the immense damage being done to its own reputation and to the work of the Prison Service? Is there any solution?

Dr Maguire:

As I said earlier, there are those factors that led us to where we are, but we are where we are. The agenda as we move forward is one that begins with an acceptance that there are widespread problems throughout the service and that we need to put a process and mechanism in place that begins to deal with them. One of the issues that we have identified in the report relates to the nature of industrial relations. They are not good locally, and they have acted as a barrier to constructive change. That is the reality of where we are. If we are to move forward, that is one of a number of issues that must be addressed. The report clearly does not single out the POA, staff, management or governance as the issue that is leading to the problems that we face. It tries to begin to understand the four or five big issues that are impacting on the capacity of the organisation to do its job differently. One of those issues is industrial relations — we cannot get away from that, but it is only one of a number.

If we are to move to the situation that I think people want to see, we need clarity about what we want prisons to do. It is not just about locking people up and forgetting about them. What happens inside a prison has a huge impact on what happens outside a prison. If you accept that, it means changing the nature of the prison regime. There are things that you need to do to be able to do that. Industrial relations are one of a number of issues that have to be addressed, and there are others as well.

One of the difficulties that we have had in the past is that we have not explicitly addressed blockages to change of whatever kind. With a new management team, a different climate under devolution, an acceptance that there is a problem, and a desire in the service to do something about that, we should give it a fair wind to see whether it makes a difference. That does not mean that we take our eye of the ball as regards assessing whether the process is doing what it is supposed to. The debate around prisons, and the role of prisons, is different now from when I took this job on two years ago. That positive is something to build on.

Mr A Maginness:

What happens if industrial relations do not change and, instead, remain static in the confrontational fix that they seem to be in? That is a reasonable question to ask.

Dr Maguire:

Industrial relations are one of a number of issues that have to be addressed.

The Chairperson:

Is it one of 600?

Dr Maguire:

No. The report covers a number of areas, including governance and accountability, management practices, culture and behaviour, and working practices. Those are some of the key issues that have to be addressed moving forward. The Prison Service will like to hear that I think that there needs to be a rationalisation of objectives. I was never of the view that the Maghaberry report, for example, had 200 recommendations. It may well have had that number because of how it was written, but there were 11 things that needed to be done. A lot of the other recommendations were housekeeping issues that could be swept up by normal working activity.

You can begin to rationalise and not treat every single recommendation as if it is the exactly the same as all the others, because, clearly, the recommendations are not all the same. You can then align that with what you want to do in the context of a change programme. From my experience of delivering change in the public sector, I know that clarity is important. If you do not look for change and try to make it happen, delivering the change that you want to see will be much more difficult. The report tried to begin to address some of those issues.

Mr Givan:

Thank you for coming along to the Committee today, gentlemen. You used the phrase "a progressive prison service" at the start. Part of the problem is how we define a progressive prison service. You intimated that we need to move beyond locking people up and forgetting about them. My experience, over many years, is that prisoners have not been locked up. Indeed, vast resources have been put into rehabilitation and educational programmes to try to make prisoners ready to come back into society. What is a progressive prison service? What has to change in current practice?

Dr Maguire:

That is a good question. Part of the answer is to look at the way in which we use the resources that we have made available. You know Maghaberry very well, and you know that it has workshops, libraries and educational programmes. One of the striking things in the reports on establishment inspections is the extent to which those facilities are not used. We are not reaping the full benefit of the resources that we have, because prisoners are often kept in their cells. One of the reasons for that is staffing levels. The movement around the prison is not what it could be. Utilisation of resources is important, because we want to get the best out of those resources.

What do we mean by a progressive regime? In many ways, that goes to the core of much of the debate around prisons. There are probably several answers to that question. I was struck by one of the inspections that I carried out. One of the officers who showed me around had come through the ranks as a prison officer. He said that, in the early days, officers used to bang on cell doors to get people up in the morning and that, by the time they got to the last person, he was almost ready to go for them because of the noise, activity and action. On a different landing, another officer had shown him that you can open the door, call the prisoner by their first name and, by the time you get to the last person, they are up and ready to go. As a result, tension levels were reduced. That officer took that as an example of how the nature of the engagement between officers and prisoners can create a different climate.

Moving beyond the nature of individual interaction, what does that mean for challenging offending behaviours? The easy option for prisoners is to be left in the cells for extended periods. I visited a prison across the water that did particularly well in inspections. I asked the governor of that prison what factors helped him to lead a progressive prison. He said that the prisoners go to bed knackered, because they get out of bed, are fully engaged all day and go to bed having done something constructive. That is very difficult to do if prisoners are locked in their cells. There are issues outside of the control of the Prison Service that lead to that situation. For example, a high percentage of prisoners are on remand, so they do not have to engage with the regime in the same way as other prisoners do. So, if you did something about remand and delay, which we have talked about on other occasions, you could impact on that.

Some of the issue is about the nature of individual engagement with the officer as a role

model. Some of it is about utilising the resources that we have, which is why we need to look closely at working practices that impact on the capacity to utilise those resources. Some of it is about looking at the actual services that are provided to challenge the nature of behaviours. It is OK getting a prisoner into a workshop, but what are you going to do with him while he is there? Also, how do you manage prisoners back into the community? So, the resettlement agenda becomes important.

What does the word "progressive" mean to me? It means challenging behaviours that have an impact on the number of people who commit a crime when they come out of prison. If you do that, there will be families in Northern Ireland that will not be subject to crime. That is what I mean by progressive. It is about building a regime within a prison environment that deals with, challenges and has an impact on some of the issues that lead to offending in the first place.

Mr Givan:

I do not dispute anything that you have said. Part of my issue with the report is the language that has been used. It certainly did not land that way on quite a number of individuals, and that obviously makes people go into a corner and get very defensive, which then makes it difficult to get them to engage.

I know a gentleman who has been an officer at Maghaberry prison for over 30 years. He worked in the workshop and did a fantastic job with the prisoners there. At Hydebank Wood, we met a gentleman who told us that, when he was brought in, the policy was to turn the key and keep them locked up. In contrast, he is now working with young people and vulnerable people, and he is doing an excellent job. We talk about attitudes being steeped in the past, but quite a number of individuals in the Prison Service are to the fore in trying to bring forward the system that you outlined. That is why I say that the report did not necessarily land that well. You may want to comment on that.

You touched on the management side. What is your view of the number of people who are engaged in management and on the ratio of managers to staff? The report states that people have a tendency to go straight to the governor, so the managers are not managing. Where is the fault in that system?

Dr Maguire:

There are several issues that can compound the problem. First, we have a lot of governors compared with other institutions. However, that in itself is not necessarily a problem. The issue is how they do their business. We talk in the report about the extent to which people are acting up and the problems that that can lead to when it comes to managing individuals. We talk about the performance appraisal process and the fact that 25% of appraisals were outstanding. Incidentally, that is not just a Prison Service issue; it can be a wider issue in the public sector, but we will leave that aside.

As I said to Alban, there is no single issue that we have to address; there is no magic bullet. It is very difficult. Therefore, in looking at how organisations are run, we must go back to first base. Ian and Brendan were serving police officers, and they can tell you about their experiences in the police and what that meant as regards management. From my experience of having worked throughout Ireland, the UK, Asia and elsewhere, I feel that some basic principles should be in place. People want to know what they are supposed to do. They want to be given the information to tell them whether they are doing it the right way, and they want to be apprised of whether they are doing a good job. We have not seen all of that happen in the service. If there is a gap, it will be filled. To some degree, it was filled by the POA. That is just the reality of the situation.

I go back to what I said earlier; we are where we are. The question is: what do we need to do to move the agenda forward? I know that we cannot forget about the past — we do not want to forget about the past — but what do we need to do to build a prison service for the future? How people do their job, staffing ratios and working practices are issues that need to be addressed if we want to see any change. The REACH example is a powerful one that showed me the impact of the regime on the care of vulnerable prisoners. Another example that struck me relates to association areas, and that is included in the report. It is good prison practice to have association areas. However, if prisoners are left on their own, it can lead to bullying, drug abuse and all the rest. Here, they are monitored by CCTV, although not always. So, that distance limits the extent to which staff can engage with prisoners.

We have to move from a situation where, undoubtedly, some officers believe that happiness is door-shaped: get them in their cells and lock the door so that they are controlled and contained. We need to move beyond that. Some are already doing so, and, as we say in the report, there are some excellent examples of good practice. All the reports that I have issued have documented good practice. We must build on that and move forward progressively to address some of the issues that we are talking about.

Mr Givan:

The report touches on headquarters and allowing the governing governors to govern. How much of an issue is that for the director general now that there is no director of operations? As we move into the future, do we need to have more autonomy for governors, or will closer management be needed to make the changes that you think are necessary for head office? The governor posts have been a problem. There have been so many different governing governors that individuals have felt that a governor with new ideas will last only six months and then be gone. That lack of stability and confidence in senior management has resulted in an inability to make changes. People feel that the governor will be out and someone else will be in. Should the real power lie with the director general or the governors?

Dr Maguire:

The real power should rest with the director general, because he is the one in charge. It is an interesting paradox: I am talking about greater autonomy for governors, but, at the same time, we have taken away a management layer. I actually think that that is a good thing. We have a small prison service. Governing governors should be managed in a way that is direct and transparent. That does not mean micromanagement, nor does it mean diving in and going three layers down to address issues that may have arisen in the past. It means governors being clear about what they are expected to do. It means ensuring that there is information that tells the director general and others in the management team whether that has been delivered, and it means ensuring that people are being held to account for delivery. I would give more autonomy to governors. I would give them budgetary responsibilities, for example, because that is what happens in other institutions. The more you devolve, the greater the chance of getting ownership of the problem. In some cases, governors felt that they were disempowered to make changes.

So, I do not see that as a paradox: I see it as a strengthening of governance and accountability, provided — this is terribly boring stuff — that some of the basics are put in place, such as management information and the kind of objectives and performance process that hold management to account in a way that allows them to then hold their management teams to account. If you can do that in a climate where there is a more positive approach and agenda to make change happen, that is a good building block for moving forward.

Lord Browne:

Thank you for your very detailed report. It states that the cost per prisoner in Northern Ireland is significantly higher than in the rest of the United Kingdom because the Northern Ireland prison population is at 82%, whereas there is overcrowding in prisons in the rest of the United Kingdom. Will you expand on that?

Dr Maguire:

Stephen can say a bit about how the numbers were calculated. For me, it was an attempt to begin to understand the cost of the service. The usual measurement is cost per prisoner place, which is the total number of prisoner places that we have available divided into the total costs. Because only 82% of our prisons here are occupied, the much higher figure comes in when you look at that actual number. In England, Wales and Scotland, prisons are at overcapacity. They are doubling up on cells and so on. Therefore, their cost per prisoner is lower in some cases.

It was part of an attempt on my part to put the issues on the table, once and for all, to say that we have a very expensive prison system and to ask what we need to do to make some of those changes happen. That was the rationale.

Lord Browne:

Looking at your figures, I see that, in 2007-08, the average number of prisoners increased but the average cost per prisoner seems to have decreased significantly. How did the unit cost decrease so much in that one year and then increase the next?

Mr Stephen Dolan (Criminal Justice Inspection Northern Ireland):

The total expenditure of the Prison Service is given as £128 million in 2007-08. The following

year sees a fairly rapid increase. In 2006-07 and moving into 2007-08, as I understand it, the costs of health care provision were transferred to the Health Department. So, the number of prisoners stayed the same or increased slightly, but those costs were transferred out, and that changed the overall expenditure. In 2008-09, there was a move to a full resource costing basis, which meant that, although the budget lay outside, those costs were attributed back to the Prison Service. That is why you see the costs going up.

I will address the point on the cost per prisoner place and why we included two figures. As you see, the number of prisoners fluctuates quite regularly year to year and, in fact, month to month. The cost per prisoner place is one way of giving a slightly more stable method of comparing cost year-on-year. We felt that, because of the low occupancy rates, it was worth highlighting the fact that there is a very high cost per prisoner here.

Lord Browne:

The report talks about the high costs being due in part to the proportion of prison officers who are on the highest pay scale. Is that not simply an indication that they have risen through the increments to the higher pay scale? Is your report, therefore, criticising the Prison Service for retaining people with experience?

Dr Maguire:

There are two separate issues there. You are right that prison officers are at the top of the scale because they have been there for a long time. The fact is that there has been no recruitment of main grade officers (MGOs) since 1994. The reason for including that in the report is to try to understand why the costs are what they are. The reality is that there is a perversity to some of the numbers, and that is why they need to be treated with caution. We would bring our costs down if we put more people in prison. I am not sure that we necessarily want to do that. So, part of it is about understanding the cost base.

The second issue has to do with the nature of experience. It is my experience, as I am sure it is yours, that you can have someone with 20 years' experience or someone with one year's experience 20 times. Longevity in the job does not in itself mean that someone has the experience needed to do the job. Therefore, there is a slightly different issue there.

Mr Dolan:

There is another point about tenure. The Prison Service had identified quite a number of main grade officer roles that could be carried out by support grades, which cost a lot less. However, it has not been able to implement that. It is carrying some 150 posts at MGO level when there is a cheaper option available.

Mr McCartney:

If you were the chief executive or chairperson of a modern organisation, which do you think should prevail: terms and conditions or custom and practice?

Dr Maguire:

Terms and conditions.

Mr McCartney:

If custom and practice in an organisation allowed staff not to go on duty on time for 15 minutes three times a day, who should step in to say that that was not good practice and that it needs to be stopped?

Dr Maguire:

That is management's responsibility.

Mr McCartney:

However, if the practice prevails, who would be responsible?

Dr Maguire:

Ultimately, it remains management's responsibility. Unless we get to the core and address some of those working practices, they will affect the capacity of a regime to enable people to go to workshops and so on. You either address those issues or you do not. If they are not addressed, the problems will continue. In some cases, that went on in the past.

Mr McCartney:

Are those problems flagged up or does the Prison Service accept that they are problems that should not be allowed?

Dr Maguire:

My understanding is that —

Mr McCartney:

I will put it another way: can anyone stand over those as good practices?

Dr Maguire:

I am sure that someone could, but I could not.

Mr McCartney:

If similar practices existed in the health or education services, the public purse —

Dr Maguire:

All organisations have local agreements and customs and practices that determine how things are done. I say in the report that the working practices of the Prison Service must support the direction that it wants to go. At the minute, there is a disconnect between working practices and the direction that the service wants to go. We want prisoners in workshops, and we want resources delivered to where they are most needed. If working practices are preventing us from doing that, we need to think about changing them.

Mr McCartney:

I understand that. However, it is not good practice: people are still being paid for an hour's work that they do not do.

Dr Maguire:

I could not stand over it.

Mr McCartney:

Why has it not been flagged up as a waste of public resources?

Dr Maguire:

I thought that I had done so.

Mr McCartney:

I know that you have now, but these are stringent budget times. You have outlined a number of things. I assume, perhaps wrongly, that your interpretation of how annual leave is applied to the Prison Service is that it is not good practice. Some £2·5 million is lost to the public purse. Every day of the week we hear about people's jobs being in jeopardy, yet there seems to be no public outcry about practices that cost the public purse £2·5 million.

In your report you say that that working practice is equivalent to the cost of 60 jobs. Someone has to step in and, whether it treads on someone's toes or not, cry from the high heavens that paying people for annual leave that they are not entitled to is a waste of public money.

Dr Maguire:

Had I been doing the report in the absence of the Owers review or other cases, I would have included clear recommendations to address the issues that need to be addressed. However, the outcome of the Owers is coming up, and it will say what it says. The Prison Service is pulling together a change programme that will, I assume, build on what has been said. That is when the test begins about whether what is proposed will address the issues that have been flagged. The purpose of the report was to —

Mr McCartney:

I understand that, and you are to be thanked for bringing the issue into the public domain. However, even apart from the Owers report or any other report, the accounting officer responsible for the Prison Service should be flagging up the issue that needs to be addressed. Whatever reason there might have been for that practice in the past — it keeps prisons quiet or it is a legacy issue — is behind us. If there is malpractice or bad management, it has to be called. Giving people money that they are not entitled to from a public purse that is under pressure is a waste of

public resources.

I do not make that point against you; you flagged the issue up. However, given that we are scrutinising the budget, it startles me that no one in the Department said, "Hold on." Your report lists issues about reserve hours, special leave and medical appointments that cannot be stood over.

Dr Maguire:

Let us go back a bit, Raymond. I take the point about whether those practices should be changed, but the reason for putting them in the report was to answer what is, in my mind, a very simple question: given that we have a service that has considerable resources and, in many cases, has more prison staff than prisoners, why is it that, on occasion, there are not enough staff to run the prisons? That is the question I wanted to answer, and the answer lies in a series of working practices. I would expect that, if the issues that we addressed are going to be dealt with, any programme will need to engage in a positive way with staff representative bodies and staff to say that it is now on the table and we need to talk about it. Only by talking about it and changing it will we be able to answer the question about what it means to be a progressive prison.

Mr McCartney:

During our visits to Maghaberry and Hydebank, the governors were saying that they had adequate resources, but the working practices still prevented them from using them in an appropriate way. Saving the £2·5 million from the annual leave budget and appointed extra staff would not tackle the underlying problem, because we were told — you mentioned it in the report — that group managers cannot redeploy staff in advance.

We made the point to the Prison Service that it talks about a progressive regime that can predict that a prisoner is going to be locked up three weeks in advance, as if knowing that a prisoner is going to be locked up in three week's time is progressive. We were saying the opposite: if the resource issues are tackled, there would be no need to lock them up. Some of those practices seem to prevail as terms and conditions. Whatever the side deals were in the past, someone has to call that, and thankfully your report is pointing it out. I think it is something that needs to be tackled.

The Chairperson:

Dr Maguire, you state in the report that there have been 20 external reviews and inspection reports since 2005. We now have your report, so that makes it 21, and when Dame Owers produces hers, that will be 22. How many more reports do you think it will take? Do we not have enough reports now, and do we not know that there is a problem and that something needs to be done sometime, rather than just reporting all the time? Are we at that stage yet, or do we need a few more?

Dr Maguire:

The short answer to that question is yes. I go back to what I said at the beginning. We have spent the past hour talking to elected representatives about prisons, the challenges facing the Prison Service and what needs to happen moving forward. I do not think that has ever happened before. The nature of the work that we have done in bringing to this table some of the issues that we are facing is a very positive thing, because it means that there is a willingness and desire to move the thing forward.

Am I saying that there should not be prisons inspections? No. Prisons are closed institutions and there is a need for external scrutiny of what happens inside those institutions. We will continue to inspect those establishments and, in the reports that we produce, I want to be able to come to this table and say that there are some positive improvements that have been made in the nature of the regime, as we saw with the report on Magilligan.

Perhaps one of the reasons why there are so many reports — this is speculation, rather than fact — is that there is a level of frustration about the capacity of the service and a disconnect between, on the one hand, a service that performs effectively, meets its targets, lives within its budget and brings the cost of prisoner places down, and, on the other hand, a lot of the difficulties that we saw. Now that the issues are on the table, it is a different context in which to move the debate forward.

The Chairperson:

Maybe it would be too much to expect that, the next time you produce a report, you will be coming here and saying that you have seen changes starting to be established.

Dr Maguire:

I would like to be able to say that.

The Chairperson:

We are going to stop there. Thank you very much for your presence here today. I am sorry we had to interrupt the session.

Dr Maguire:

I am just sorry I did not get the opportunity to vote.

The Chairperson:

There will be another day.

Mr McCartney:

Given what Bill we were voting on, you are lucky. *[Laughter.]*