

DEPARTMENT OF JUSTICE

**David Ford MLA
Minister of Justice
Block B, Castle Buildings
Stormont Estate
Belfast BT4 3SG**

**Lord Morrow MLA
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont**

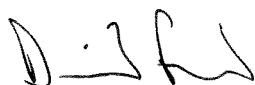
**12 December 2012
AQW/17044/11-15**

Lord Morrow (Fermanagh and South Tyrone) has asked:

To ask the Minister of Justice whether he will provide a copy of the review pursuant to the death in custody of Colin Bell on 1 August 2008, even in a redacted format.

ANSWER

A copy of the report has been placed in the Assembly Library.



David Ford MLA

**REVIEW PURSUANT TO THE DEATH IN
CUSTODY
OF COLIN BELL
ON 1 AUGUST 2008**

REVIEW TEAM REPORT 9 JUNE 2009

INTRODUCTION

1. This Review was commissioned by Paul Goggins, Minister of State in the Northern Ireland Office and Robin Masefield, Director of the Northern Ireland Prison Service (NIPS) on 15 January 2009 in response to the Prisoner Ombudsman's Report into the death of Colin Bell at Maghaberry Prison on 1 August 2008. The terms of reference are reproduced in Annex A. Summary biographical details of the members of the Review team are at Annex B. We met on ten occasions in Belfast, visited the three prisons and discussed our work with a wide range of people. A list of people with whom we spoke is at Annex C.

2. In his commissioning letter the Minister declared his hope that Colin Bell's death "proves to be watershed for NIPS.....skills and in particular an emphasis on custody, that served society well for the past 40 years are not so appropriate for today's needs including the increasing proportion of prisoners displaying the mental health and substance misuse issues". The minister also drew attention to the fact that the Criminal Justice Order 2008, which introduced public protection sentences in Northern Ireland, requires more "active engagement with prisoners". Our proposals are intended to help achieve these important changes in NIPS.

3. We have had access to much written material in respect of NIPS. Strategic plans, Blueprint, operational arrangements, Corporate Plan 2009 - 2012 and Business Plan 2009 - 2010 as well as notes on work in progress on many features of the Service's work have been made available to us. There is a huge amount of work in progress. We have something to say about managing the work effectively, not least the need to improve the management of follow up to inspections, inquiries and reviews. We have met key managers in the Service, visited the three prisons and talked at length to people with a keen interest in the well being of the Service. And we have had discussions with representatives of the Prison Governors Association (PGA) and the Prison Officers Association (POA). We invited the six main political parties in Northern Ireland to let us have their views. None took up the offer.

4. We believe that it was sensible to set a tight timescale for delivery of this Report given the unsettling effect of the death of Colin Bell on the Service as a whole and individuals most closely associated with the case. While nothing can undo the damage and hurt caused to Colin Bell's family and friends, we hope they will find some comfort in knowing that efforts are underway to minimise as far as possible the risks of death in custody. Our Report therefore considers fundamental questions touching on culture, practice and accountability which the Prison Service must tackle if it is to grasp the opportunity for lasting change created by the tragedy of Colin Bell's death.

5. Little, if anything, in what we describe will come as a surprise to professionals and informed observers. Our recommendations do not depend on the injection of huge amounts of new resources at a time when everyone is being asked to make do with less. To have proposed costly measures would have been unrealistic and damaging because it would offer an easy escape route for those who do not wish to embrace the essential change agenda.

6. The Prison Service in Northern Ireland has been subject to wide ranging scrutiny over recent years. As we indicate in the body of our Report, there is much unfinished business arising from reviews, inspections and stocktakes commissioned within the past five years. The most recent – John Hunter's stocktake in late 2008 – is a repository of good counsel and should be mined for all it is worth. It has informed a good deal of what we have to say. We have met those who provide services such as probation and healthcare. There is broad agreement on the values, standards and practices the Prison Service must espouse. There is equally widespread frustration, which we share, that picking up new ideas and sustaining old, well founded ones has been haphazard. Progress has been fitful and fragile.

7. Our recommendations are relatively few in number. We understand why much attention has focused on Recommendation 44 in the Prisoner Ombudsman's Report, but we have been clear from the outset that whilst that

Recommendation is very important there is much else deserving of attention. We hope our recommendations will challenge members of the Service. If they do not we will have failed. Implementing the recommendations will need energy, commitment and resilience. They tackle head on some serious weaknesses. We have not devised an implementation plan. That is for others to do, preferably in quick time. The changes we wish to see are not primarily about rearranging the managerial furniture and devising new structures. What is urgently needed is vigorous, visible leadership at all levels to press ahead with changes that are widely accepted as desirable. And we believe that our proposals offer a direction of travel for the next few years.

8. The Prison Service at Headquarters and in prisons has been generous in giving time to help in our work. We are especially indebted to the Secretariat in NIPS Headquarters for servicing our work so willingly. Responsibility for the analysis of the material and recommendations we make rests entirely with the Review team. We are unanimous in our conclusions.

CONTEXT OF OUR WORK

9. Our work needs to be put in context. The Prison Service in Northern Ireland is small service. It played a critical role in the justice system during the Troubles. It paid a heavy price during those times. 29 members of staff were killed. Many others were injured as a result of disturbances in prisons. Yet others lived under threat of violence to themselves and their families. Many continue to suffer the consequences of service during hazardous times. Rightly the Service has not forgotten those who died and those who were traumatised by their experiences.

10. The Troubles skewed the focus of the Service. Security and control were paramount. Unlike other jurisdictions there was a deliberate policy of prison officers not engaging with prisoners because of the risk of conditioning leading to damaging consequences. Recruitment was rapid, training rudimentary in matters other than basic security. Belfast prison and then the Maze dominated the system. Some welcome change has occurred since the

Good Friday Agreement in 1998. But the prison environment at Maghaberry is still affected by the need for a separated regime in relation to a number of groups of prisoners.

11. Since 1999 huge efforts have been put into trying to make good some of the gaps that were left unfilled during the previous 30 years. And there have been gains. The steep rise in the prison population – 90% since 2001 – has been accommodated. The three year pay and efficiency deal with the POA from April 2007 was an important achievement. Recruiting the new Operational Support Grade staff was a significant step. Finally managing the transfer of prisoner healthcare to the DHSSPS was another major step. The “Future Positive” programme was a serious attempt to begin to reposition the Service for a very different operating style. Very high sick absence has been driven down and provides a good example of what can be achieved by determined management. The first steps in improving training for prison officers which will lead to a professional qualification have been taken. More generally there is a growing recognition of the need to reposition the organisation to broaden the focus from debilitating containment towards engaging with the resettlement agenda. The Service remains a small and rather inward looking organisation, trapped by its own fraught history and wrestling with long standing difficulties. Continuing separation of prisoners is one example of these difficulties. It survived in the most difficult and dangerous times. It now has to refresh itself to be fit to face a different set of challenges.

12. There is a stream of unfinished business to deal with. The product of thinking afresh about roles and responsibilities, about the Human Resources (HR) strategy and safer custody should come forward soon. A comprehensive stocktake of NIPS business was commissioned by the Director in October 2008. This work was carried out by John Hunter. His report provides a huge reservoir of information and proposals for taking NIPS forward. Much of what we have to say mirrors the Hunter proposals. The trick for NIPS senior management will be to distil the proposals emerging from

all the in house work into a manageable programme and to discard or defer work that is not central to the agreed priorities.

13. NIPS does not exist in isolation. Alongside the in house work, the report of a recent unannounced inspection of Maghaberry by Her Majesty's Chief Inspector of Prisons (HMCIP) is soon likely to issue. A report following the 2008 visit to Northern Ireland of the European Committee for the Prevention of Torture (ECPT), which visited Maghaberry and Magilligan, may well make trenchant comments about some aspects of the Service. And on the horizon, the report of the long inquiry into the murder of Billy Wright in the Maze prison, and which has inevitably consumed a huge amount of time and energy at Headquarters and raised concerns for individuals, may reopen old sores relating to events a decade ago and once more test the capacity of the Service to maintain forward momentum when faced with criticism.

14. The biggest change and a huge prize will be the devolution of the justice portfolio. And this at a time when resources are scarce whilst expectations may be high. The Service has to be alive to changing sentiments in the wider community. Scrutiny of performance will be intense. Fundamental refashioning is essential. Our proposals are designed to help that process.

PRISONER OMBUDSMAN'S RECOMMENDATIONS

15. Our Terms of Reference required us to "quality assure the effectiveness of the Maghaberry and NIPS action plans for implementing the Ombudsman's Recommendations" [paragraph 3(c)]. There were 44 Recommendations. In this part of our report we deal with the response to recommendations 1 - 43 which, for the most part, relate to important managerial and procedural matters. So far as we are aware the only Action Plan in use is the one prepared and managed by NIPS Headquarters. Recommendation 44 was remitted to us for advice. Our views are set out later at paragraph 36.

16. The base document issued on 9 January 2009, the date on which the Ombudsman's Report was published. None of her recommendations were rejected. The Action Plan described NIPS response to each Recommendation, action already taken, where responsibility lay for further remedial work, dates for completion of the work and who was to audit the changes reported as being completed. There were significant gaps in identifying who would drive through the changes, when completion was predicted and how change would be audited.

17. We registered our concerns about gaps in the Action Plan with NIPS Headquarters. Further updates (16 March 2009 and 21 April 2009) show that the Plan is now a more valuable and detailed document, identifying as it does who is accountable for action and for audit.

18. At 30 April 2009 action on 18 Recommendations was reported to be "complete", and on 14 as "partially complete". In respect of the remaining 11 Recommendations target dates have been set for completion by the end of 2009. The latest completion date (December 2009) concerns the creation of "some safer /Observation Cells in the Healthcare Centre in Maghaberry Prison" (Recommendation 8). Work is underway on this. A third of the Recommendations are being taken forward by the Safer Custody Corporate Project.

19. Inevitably some Recommendations take longer than others to implement. Some call for negotiation with trade unions – about break arrangements for Night Custody Officers. Negotiations are scheduled to be completed by 31 May 2009. Recommendations 22, 23, 24 go to important training for staff caring for vulnerable prisoners and prisoners with mental health problems. Action is in hand to provide this vital help to staff by the end of August 2009. Other Recommendations were dealt with by the reissue of existing and/or amended written instructions, though we caution against too much reliance on the efficacy of this method of changing staff behaviour. NIPS is not alone as an organisation in which the written word is often less powerful than local custom and practice. Sadly, many of the Recommendations in the Prisoner Ombudsman's Report illustrate the point.

20. Action Plans are a relatively new feature for NIPS. Our view is that NIPS should be more robust in deciding which recommendations from reports can be readily accepted and which, on careful analysis should be rejected. Others may have to be assigned a low priority in the context of service wide needs. Without a more discriminating approach NIPS will continue to suffer overload and the dispiriting experience of regularly missing targets. The work on the Safer Custody Project has suffered delay because the lead person described to us being “taken off” line on several occasions to attend to other business with set deadlines. We recognise that there is always a risk that new priorities will suddenly surface. That is the nature of an operational service. For the future NIPS must try to devise ways of coping with new demands without losing ground on existing urgent work.

21. There is of course the central question of who owns the Action Plan. The Prisoner Ombudsman’s Report majored on Maghaberry but there does not appear to have been a local plan to take remedial action forward. It seems to us more likely that a governor will respond positively and energetically to a plan that he/she owns and is held to account for delivering. There is an opportunity to test this out when the REACH unit is revived at Maghaberry. It would be right for NIPS Headquarters to be involved in agreeing the specification for the purpose and management of the unit. Delivery against budget, time and other factors should be for the governor. Accountability should be through line management. These basic principles might usefully be applied to other pieces of work – reports by HMCIP for example – where action plans limp along because there is insufficiently vigorous thought about what is achievable, and a want of ownership. We understand that the Chief Inspector, Criminal Justice Inspectorate plans to review progress on the implementation of the Prisoner Ombudsman’s Recommendations in June 2009. If there is follow up action thereafter it might be helpful to approach it in the way we favour. And closer to home, it would be encouraging if any action resulting from this report is handled as we suggest.

22. There is a practice in some other organisations to identify a named person who will be held accountable for delivering a piece of work and at the same time identifying a colleague who has a challenge role to keep the accountable person up to the mark. This peer group support and challenge is capable of use at NIPS Headquarters and in prisons.

23. As we argue above, regular face to face briefings, clear lines of accountability, and ownership of work are more likely to achieve positive outcomes than rather mechanical output of written instructions.

PRISONER OMBUDSMAN'S RECOMMENDATION 44

24. The Prisoner Ombudsman's final Recommendation was as follows:

"I recommend that the Governing Governor and Deputy Governor of Maghaberry Prison, who was acting for the Governing Governor during the two weeks leading up to Colin's death and to whom operational and functional Governor's report, are each subject to a disciplinary investigation in respect of the issues highlighted in this report in connection with Colin's care and, in particular the failures to adequately implement Prison Rules, the Prison Service's Self Harm and Suicide Prevention Policy, and the Standard Operating Procedures on the Use of Safer/Observation Cell".

[Note: I am aware that disciplinary investigations are being carried out by the Prison Service into the actions of 17 Night Custody Officers (NCOs) and three Senior Officers at Maghaberry Prison as a result of a wider probe involving the examination of Secure POD CCTV footage across the establishment]".

25. It is hardly surprising that this Recommendation overshadowed all others in several of our meetings with staff and Trade Union representatives. Recommendation 44 was without precedent in NIPS. We are clear that the Ombudsman had proper grounds for making this Recommendation in light of the circumstances revealed in her investigation into Colin Bell's death. We have seen our task as being to reach a judgement on whether the

Ombudsman's proposal represents the most effective way of dealing with the dreadful failures she uncovered.

26. We met the Ombudsman early in our work. She made plain that she had been determined to produce an evidence based report. Recommendation 44 flowed from her clear conviction that when things go wrong in a big way, accountability must be assigned at the appropriate level.

27. Colin Bell's death was a truly tragic event. The Ombudsman's investigation exposed wholly unacceptable behaviours and shortcomings at all levels. She concluded that implementation of policy was poor and where policy was implemented the quality of implementation was not up to a satisfactory standard. Apart from the improper behaviour of some NCOs in assembling makeshift beds during their tour of duty, basic observation and care of Colin Bell fell well short of acceptable standards in the last few days leading to his death.

28. The Ombudsman's overriding impression was of an organisation in which some staff were behaving in a delinquent fashion at the interface with prisoners, that such behaviour was rife and that it was not controlled or managed by middle and senior managers. She concluded that failures were so significant that the two most senior governors must be held to account in the way she proposed.

29. The Review team shares the Ombudsman's shock and revulsion at the wholly unacceptable way in which some staff on night duty failed in their duty of care. We agree with the Ombudsman that systemic problems were revealed at Maghaberry at many levels. Serious measures need to be taken so that everything humanly possible may be done to minimise the risk of such a tragedy occurring again.

30. Nevertheless our enquiries indicate that the recruitment, initial training and subsequent on site briefing of NCOs was properly carried out at Maghaberry. The Governor met all newly recruited NCOs as they began

working at the prison. This was in keeping with his standard practice with newly joined staff. Entries in his Journal record when he did this. We have also satisfied ourselves that supervisory and middle management grades visited the REACH unit to observe activity, respond to requests for help and to provide support. Other key personnel, such as Chaplains were also regular visitors.

31. The overriding emphasis on security and the physical arrangements to ensure security at Maghaberry make unannounced visits impossible. Given the type of physical security and lack of keys, no one can gain access to the REACH unit without the visit being heralded well in advance. Any malpractice may be suspended for the duration of a visit. The Governor explained that he had discussed with colleagues at Maghaberry how unannounced visits might be achieved – for example by the Governor or his deputy remaining in the control room when the prison was locked for the night. He concluded that the risk of activating a major alert if others became aware of an unknown presence in the prison was too high a risk to take. The Governor's conclusion makes sense in the context of the security arrangements now in place. The challenge so far not tackled is to reconfigure physical security in such a way that the integrity of the perimeter is preserved while at the same time allowing staff at all levels to move more easily around the prison. Put bluntly, the Governor, (and other staff) must have unhindered access to all parts of the prison at all times.

32. Colin Bell presented acute problems of care for a short and tragic period. Staff did not meet the standards expected of them. His care was woefully poor in the days immediately preceding his death. A raft of reasons may account for this poverty of care. His needs were imperfectly understood. But above all he was the victim of an insidious sub culture that allowed delinquent behaviour by some junior staff, much of it undetectable because of their isolation from unannounced supervisory visits. The formal training and preparation of staff was adequate. On taking up post we believe that the new NCOs were quickly subverted into accepting the culture of that part of the workplace. Regrettably this was not picked up by middle and senior

managers. We cannot be certain that the appalling behaviour of some night duty staff was not mirrored at other prisons. Unacceptable behaviour may have gone unchallenged over time at any of the three prisons. This is not simply a matter of disobeying rules and procedures or ignoring practice instructions. Rooting out malpractice will only come when there is much more vigorous managerial attention to behaviour at the coal face, where modelling good behaviour and practice is actively encouraged and there is zero tolerance of bad behaviour. In short, major cultural change is needed. We have more to say on this elsewhere in this report.

33. This may seem a dismal, some would say cynical view of the behaviour at Maghaberry in the run up to Colin Bell's death. Nonetheless it seems to us to be a reasonable description of institutional behaviour by a small number of staff. That it needs to be rooted out and acceptable behaviour becomes the norm is beyond question.

34. How then are the Governor and Deputy Governor to be dealt with? The Ombudsman is clear that each must carry accountability. The Governor was absent on holiday at the time of Colin Bell's death, though the post carries continuing responsibilities. The Deputy Governor was also away and the third in charge was for the time being in charge of the prison. None of the senior trio sought to shuffle off their responsibilities.

35. The Code of Conduct and Discipline sets out the guiding principles underpinning disciplinary action. These principles apply to governor grades as well as prison officer grades. The Code provides guidance on what behaviours are unacceptable, though it makes clear that the list is illustrative and not exhaustive. The Ombudsman was critical of the professional performance of the Governor and Deputy Governor and we have considered most carefully whether disciplinary action should be launched on the grounds of carelessness and/or negligence likely "to cause loss, damage or injury to the Prison Service or individuals". The Code includes this formulation in the section dealing with simple disciplinary action (3.5) as well as the section on gross misconduct (4.1).

36. On balance we have concluded that formal disciplinary action would not be the most effective or expeditious way of dealing with the Governor and Deputy Governor. It will be clear, however, from other parts of our Report that considerable change is needed at all levels to remedy systematic problems apparent within NIPS. Nothing should get in the way of achieving fundamental change designed to improve the care of prisoners. We elaborate on the action we believe is urgently needed later in our Report.

GOVERNANCE

37. The performance of a public sector organisation is always a challenge to assess. From a Prison Service, the public expect safety and security; communities expect an element of rehabilitation when offenders return to them; courts expect prompt and effective delivery of a prisoner to and from custody. Prison is more than a place of detention and custody. It is where offenders live, and staff work and where families and justice professionals visit. There are many expectations in a modern world. Accountability, fairness, openness and decency are central to a healthy prison environment.

38. NIPS management has worked hard to reflect this complex agenda and have endeavoured to lead the Service into a post Troubles era. By international standards the Service is small and faces inevitable challenges of scale and capacity in meeting the demands. It has tried to do so with energy and commitment, balancing day to day pressures and needs with longer term direction. The elements are in place for proper governance. Regulatory and public interest and the daily press of events provide an environment of scrutiny and demands for change with which the Service has struggled. NIPS is thus under strain from competing and pressing priorities and must be resilient in adhering to strategic priorities.

Policy and Regulatory Implementation

39. As we noted earlier, NIPS has been the subject of numerous reports which have generated many recommendations. There was little systematic

learning whether recommendations had been implemented. Many apparently had not.

40. The Service made strenuous efforts to implement a suicide and self harm policy introduced in March 2004. This was followed up by further work by Professor McClelland. The policy was updated in 2006 in light of the McClelland Report. Audits have been undertaken as recently as March 2009. Comprehensive policies are in place. Our concern is about application. There were too many subsequent amendments and updates to instructions that reflected lack of implementation of earlier versions.

41. There is substantial pressure on NIPS Headquarters to develop and streamline accountability and sustain core functions. Administrative matters have been recently reviewed, as we noted earlier, by John Hunter. We wish to reinforce his view that NIPS must acknowledge the need to respond to critical, corporate functions in a strategic sense, anticipate the greater scrutiny probable when devolution occurs and organise to be responsive whilst remaining strategically resolute. Other themes in his review should be reflected in any change to the structure at Headquarters, notably the need for robust performance management and raising professional standards.

Management Audit

42. There is a Corporate Compliance Committee chaired by a Non-Executive Director. The Committee approves an internal audit strategy which is carried out by Northern Ireland Office based internal auditors. This Committee also has some oversight of the NIPS Performance and Standards Unit (PSU). The PSU published in July 2007 the NIPS Standards Manual covering some 40 aspects of prison life. There are required outcomes and key audit baselines. This is relatively new territory for NIPS. The task now is for the practices that have been well laid out to be internalised by the Service and applied productively.

43. Within prisons there was evidence of a lack of internal management accountability and under valuing of finance, HR and personnel systems. Job titles such as Personnel Governor masked the professional role and service of such a person in prison. There were instances reported to us of incomplete investigations and irregularities of varying degrees of apparent severity that would benefit from a clearer focus and management approach to completion, with appropriate audit and assurance.

44. The impact on resources at middle and senior operational level of investigations under the Code of Discipline is striking. The process can take many months and involve a large number of staff. Scarce management resources are diverted from their normal work. Moreover, NIPS is a relatively small organisation and it is not uncommon for investigators to find themselves investigating alleged misbehaviour by colleagues with whom they have worked closely for many years. Whatever the outcome of these investigations and however well professional standards are maintained, it is difficult to convince a neutral observer that fairness and transparency exist. One way of providing transparency is for NIPS to have a bank of experienced investigators, perhaps retired senior police officers and others with investigative skills, on which to call when an investigation is needed. Appropriate preparation and guidance for the task would be necessary.

Repositioning the Service

45. The trade unions intimated their willingness to refocus the commitment of NIPS towards care and rehabilitation, and acknowledged to us the historical attention to security and exploiting perceived management weaknesses. There is resistance to non operational disciplines taking up management posts in prisons. This has stifled some much needed change. More should be done to ventilate the selection of key operational managers, reintroducing a fast track entry scheme and by opening up opportunities for able people to move into operational management. Proper selection, preparation and good career management are essential to the success of this approach. Trade Union representatives we met expressed their wish to see NIPS grow and

flourish. We see our proposals as a way of helping them to realise their hopes. We hope that they will work constructively with management to achieve change.

46. NIPS should build on the Hunter proposals to group issues of culture, professional standards, audit and secondary assurance across all functions in a coherent management arrangement. This would allow for proper emphasis to be put on business disciplines in order to drive the change management agenda.

Management Roles and Responsibilities

47. There was a lack of clarity about roles and responsibilities, not least between Headquarters and management at prison level. There was no clear distinction between staff and management roles. Some trade union activity seemed to range well outside their core interest in representing their members' interests at prison level.

48. We believe there should be a clear distinction between corporate supervision and operational responsibility. The governors of the three prisons should not be members of the Prison Service Management Board. The original decision for them to join was understandable. In the event there does not seem to be any evidence that it has had beneficial effects. It tends to confuse the legitimate distinction between the role of the Management Board and the role of the governor. It has not achieved a noticeable improvement in the working relationships between Headquarters and prisons. The governors should instead be members of a new Operational Management Board, chaired by the Deputy Director, Operations. This group, which might co-opt others as necessary, should be the principal forum for discussing the operational impact of new and proposed policy and for feeding back the impact of the application of policy at local level. It will have a critical role to play in improving connectedness between Headquarters and prisons.

49. We also believe that the title “Governor” should be restricted to the two most senior governors in the prison. Widespread use of the term “Governor” – there were 18 at Maghaberry – obscures the real function and status of the senior managers. It also tends to undervalue the role and contribution of people from non operational grades and backgrounds. It needs to be crystal clear who is responsible for governing the prison and to whom that person is accountable.

50. Other management positions and layers should have clearly designated functions and components that would include finance, personnel, administration as well as the necessary functions of security and prisoner management. There should be clear responsibility for prisoner care and resettlement work. Many of these functions need not necessarily be led by people with a prison background, though no one with the appropriate skill set and range of experience should be excluded from consideration.

Communications and Complaints

51. NIPS has many partners, stakeholders and public interest relationships in addition to its own communication routes to staff and prisoners. We concluded that there is scope for clarifying and streamlining communications. Plans are in hand to reduce the three stage prisoner complaint system to a two stage process and extend this to include visitors. We welcome these proposals, planned to come into effect later this year. Timely, sensitive and clear responses help to reinforce a caring approach even when the reply is unwelcome. Formal processes are important in communicating with staff and prisoners. Written communications are not needed but there is a great deal of scope for face to face briefing meeting with both groups on a scheduled basis, so that they can, over time, develop a constructive two way dialogue.

Re-balancing the NIPS Corporate Purpose

52. Security is a prime consideration in a prison system. It is not the only consideration. As we found in our visits and mention elsewhere in this

Report, there has been a disproportionate amount of attention devoted to matters of containment at the expense of resettlement, helping prisoners to take responsibility for their own lives so far as is consistent with a well managed closed institution. We acknowledge in other parts of our Report why this imbalance grew. NIPS, in collaboration with other agencies, should continue the work already started to support resettlement projects, to equip staff to carry out this work as part of the core job of working in prison.

53. Corporate risk management arrangements, which includes regular risk reassessment by the Prison Service Management Board, are in place. A revised policy and framework for risk management was introduced in October 2008. We were told that key staff have recently been trained in risk management and fraud awareness. We welcome this step. We hope that a culture of self audit – on finance, personnel matters, standards of professional conduct for example – will be actively encouraged so that the admirable formal structure is used at all levels to promote a new organisational ethos.

54. Time and resource should be devoted by senior management, including prison governors, to a modern set of governance arrangements. This development should include recruitment of external staff with experience and commitment in this area. This also provides an opportunity for prison staff to undertake secondments to learn new skills. These secondments need not be for long periods or involve other than minimal cost. Indeed, for those who aspire to be the most senior prison management levels, secondments outside NIPS for this and other experience should become obligatory.

Non-Executive Members of the NIPS Management Board

55. We were impressed by the insights and commitment of the current Non-Executive Directors to the good governance of NIPS. They appeared to us to be willing and keen to help the organisation meet the challenge of major change. We think that more use could be made of the experience and skills of Non-Executive Directors. And consideration might also be given to

recruiting additional non executives to add value in areas where additional expertise is needed.

56. The themes highlighted in this part of our Report will be familiar to senior staff in NIPS. What is now needed is a coherent restatement of the Headquarters role in setting policy, auditing implementation and ensuring compliance with a tough regulatory regime. This needs to be matched by a similar restatement of roles and accountability at prison level. Tensions always exist between the centre and out stations and there is room for healthy challenge by each of the other. What we have in mind is aimed at eradicating the destructive, and increasing the sense of connectedness between Headquarters and prisons.

HUMAN RESOURCES

57. In 2006, the Prison Service Management Board (PSMB) adopted the first NIPS HR strategy, setting priorities for 2006-2009. The strategy included an Action Plan. This work was crucial in laying the building blocks for a more comprehensive HR Strategy. It was important that PSMB recognised the need to focus on HR issues. Work on the Action Plan had led to policies, procedures and programmes for managing and developing staff that did not previously exist. While the Strategy resulted in meaningful progress, it did not result in major cultural change. Part of the explanation may be that day to day pressures squeezed out opportunities to move forward. There are significant challenges now for NIPS leadership in driving forward the additional changes required.

58. The 2006-2009 Strategy was recently evaluated to assess progress and review priorities in the current business context. The framework for a follow-up 2009-2012 HR Strategy has been approved by PSMB. An Action Plan in support of the new programme is now under development. The 2009-2012 HR Strategy and Action Plan will focus on Leadership, Values and Standards, Employee Relations, Resourcing, Learning and Development and Personnel Services Delivery. As we indicated elsewhere in this Report,

significant cultural change is required to bring NIPS in line with best practices in care and custody. This difficult shift in culture will require extraordinary leadership at all levels of NIPS.

Development Programme for Governors

59. NIPS has designed a development programme for governors. Difficulties were experienced at the end of 2008 in carrying forward some work on the programme because of a lack of buy in from governors in the wake of the Colin Bell enquiries. The programme was temporarily postponed. We are not aware of a date when the work will recommence. We were pleased to learn that NIPS launched a Management Development Programme (MDP) in 2006 and the first five appointees have recently started work as Principal Officers. A further group of Senior Officers has just been appointed to join the scheme. These efforts will surely serve the organisation well in the future, but there is an immediate need to enhance and refresh the organisation's current leadership capacity, both in Headquarters and within the governor ranks. Successful candidates should be dynamic, progressive, ethical and resilient. They must honour the unique history and traditions of NIPS and balance those with the need to develop and implement effective, forward-thinking management initiatives. We support the proposal to open up the next "Governor 5" selection to external recruitment. At higher ranks the current NIPS plan is to promote from within. There are proposals to run a "Governor 4" promotion board shortly. We believe that all senior management posts should be open to recruitment from prison officer grades, staff from elsewhere in NIPS and from outside especially given the relatively small NIPS candidate pool. Doing so would also help increase diversity of the candidate pool.

Succession Planning

60. Succession planning should be a high priority for NIPS. Continuity of leadership will be essential during and following devolution of justice and policing in Northern Ireland. Now is the time for identifying and preparing

NIPS future leaders to ensure continuity and smooth transition in the critical times ahead. This will be a challenge because NIPS is a relatively small service. In addition to properly grooming and mentoring high quality internal candidates, it is recommended that NIPS open competitions for governor and all other senior management positions to external candidates as well.

61. NIPS must develop minimum criteria for promotion to senior positions in the service. For example, candidates could be required to complete an external posting for relevant experience in another organisation [within the criminal justice field or elsewhere] prior to being eligible for promotion to senior positions. Candidates could also be required to complete an approved training course for senior managers, similar to the Strategic Command Course required for promotion to the most senior ranks in the United Kingdom police services. As a minimum, those who aspire to senior posts must be able to demonstrate competence against an agreed set of essential skills.

Industrial Relations

62. Efforts must be undertaken urgently to restore productive employee relations in NIPS. The level of discord in NIPS was a disappointing revelation to the Review Team, who had expected the opposite from members of an organisation who have collectively experienced a very challenging history. Management and trade unions must work to overcome the tensions that currently exist in order to develop healthy, productive industrial relations and a united front in moving the Service ahead. NIPS management and trade unions ought to agree to strong, clearly stated values. NIPS has a set of defined values. The time is ripe for there to be a renewed commitment by management and trade unions to this set of agreed values and to make a major effort to achieve buy in from staff at all levels. It would be a valuable exercise for senior managers and trade unions to spend time together, ideally with a facilitator; to hammer out a revised statement of values capable of being signed up to by staff at all levels.

Staff Discipline

63. NIPS needs a disciplinary system that is fair, swift and certain. And practice needs to follow these principles for staff to maintain confidence in the system. Recent staff surveys underscore the point that staff want to see indiscipline promptly and firmly dealt with. If there is not timely and proportionate action the big majority of honest and hard working staff feel let down. It also damages public trust. NIPS must operate a fair and efficient disciplinary system with zero tolerance for criminal offences of any kind and swift and certain sanctions for those committing non-criminal violations. One of the main problems with the current staff discipline system is that managers do not effectively apply it and trade unions maximise every loophole and procedural fault in challenging disciplinary charges. An effort is currently underway to review and rewrite the NIPS Code of Conduct and Discipline with an aim to remove any ambiguities. When this exercise has been completed, management and trade unions must share responsibility by working together and dealing robustly to address conduct that falls short of required standards. This is essential, not only in the public interest, but to restore a sense of fairness, pride and professionalism in NIPS.

64. The existing rules regarding consumption of alcohol while on duty should be consistently and vigorously applied. There should be zero tolerance for anyone reporting for duty unfit by reason of alcohol or misuse of drugs. A Staff Attitude Survey, carried out in 2006, revealed that staff were aware of colleagues being under the influence of alcohol while on duty. It was suggested to us that this behaviour is still evident.

65. On the other side of the coin it is important that NIPS has a well organised and caring approach to those members of staff who need help with problems associated with alcohol, drugs or serious stress. This is especially so given that many NIPS staff have been subjected to extraordinary job-related stress during their service. NIPS currently has a Welfare Service that refers staff to external sources of support. The alcohol policy does suggest that line managers must identify alcohol related problems and help staff to overcome them. We understand the Prison Service Management Board has

recently considered proposals to introduce drug testing for staff. NIPS will soon be introducing mandatory testing for prisoners and will be seeking to contract a provider for that. It may be timely to develop a staff testing policy to coincide with that of prisoner testing.

Performance Culture

66. The Review Team regularly heard the phrase, “There is no performance culture in the Northern Ireland Prison Service”. In the current environment of growing demand for good government and the need for economic efficiency, effective performance management is a must. While a performance management system extended to all officer grades has existed since 2007 and some changes have been made to the system since then. A revised and abbreviated proforma which focuses on values and the achievement of objectives has been introduced. This step is welcome. Performance management is still a relatively new and fragile feature that needs constant encouragement if the full benefits are to be realised. Of particular concern is the acknowledgement by senior management that governors have consistently been given high markings (mostly 1’s and 2’s of a five point scale) in spite of performance that has not always met the criteria cited for those levels. In 2007/08, for instance, there were no 3, 4 or 5 ratings for governors at the most senior level. There is an expectation on the part of governors that they will be routinely given high annual performance ratings. Custom, practice and expectations are hard to shift. A significant component of managing cultural change in the organisation will be an effective performance management system, operated fairly and accurately, holding staff accountable for acceptable performance and acknowledging those who meet and exceed appropriate performance goals.

Diversity

67. Any prison service must reflect the community it serves. In recognition of this standard, NIPS developed a Diversity Strategy that was launched in June 2008. NIPS should closely monitor progress of the strategy, but more

particularly as it relates to recruitment and promotion of women. For instance, there are only two women who currently serve in governor grades. They have progressed well into their careers but there is no evidence of a plan to develop other women to succeed them. A NIPS Women's Forum was recently launched to identify and address gender issues within the prison environment, which is overwhelmingly male. The Forum will address matters such as work-life balance, the cultural environment and career development. More specific topics, including working patterns, training opportunities, promotion arrangements, coaching and mentoring will be addressed. We welcome this development and emphasise the need to support this type of initiative.

Secondary Employment

68. We were told that a substantial number of staff appear to have two jobs. In maintaining the necessary commitment to health and safety standards, NIPS must develop and adhere to clear policies that restrict the types of secondary employment allowed and the number of hours worked. Current employment limitations focus on the nature of the employment and whether it is compatible with employment in NIPS, rather than the number of hours worked (although the European Working Time Directive sets limits for employees). NIPS is taking forward the Prisoner Ombudsman's recommendations on this and it is developing an updated policy on secondary employment. We believe this work should be completed as quickly as possible.

THE REACH LANDING AND HEALTHCARE

69. Other sections in this Review have remarked on the balance of matters termed as "security" within the prisons, alongside the resettlement of offenders and the range of contributing functions to prisons to meeting these objectives. The REACH Landing is a small area of Maghaberry Prison given over to the support and supervision of prisoners with high care needs arising

from vulnerabilities in their character or behaviour or general wellbeing. This was the location of Colin Bell's last days and where he took his life.

70. The health care function of prison is an essential feature that is integral to any prison's operation, and its involvement with the operation of the REACH Landing and wider endeavours to support and care for prisoners is a further focus of attention in this Review.

The REACH Landing

71. REACH is an acronym for "**R**eaching prisoners through **E**ngagement, **A**ssessment, **C**ollaborative working, **H**olistic approach" - a statement that summarises all that is best in the process of prison rehabilitation. The REACH Landing was established in 2007, with capacity for 18 prisoners and substantial investment in discipline, but not care professional, staff. In its first 22 months of operation, it hosted 420 individuals. Whilst it made a promising start, the Landing did not appear to sustain its original ethos and intention, and was viewed as a separate module of work within the prison rather than a resource within a developing Prison Service turning its mind to care and rehabilitation. Similarly, momentum behind the associated introduction of a Safer Custody policy dissipated and lost focus on suicide risk management for all prisoners who require this type of support.

72. We welcome renewed commitment from both prison and health senior management to this initiative. We believe that the REACH Landing is a bold and innovative initiative that should thrive within the prison as a focus for the changing ethos and balance of the service towards healthcare and rehabilitation. We further see the development of the REACH Landing as a prototype in NIPS. The Landing therefore should act as a focus of stepped-up care for vulnerable prisoners, and its ethos and contribution should point the way to the future of the Prison Service as a public service focussed on resettlement of all prisoners, including the most vulnerable.

73. The REACH Landing merits a talented management team that can build and nurture a high-performing, multi-disciplinary group to support vulnerable prisoners. It should be led by a NIPS Manager, working in partnership with colleagues from a range of disciplines. Policies and protocols should be agreed between operational, health, psychology and other key interests. Prisoners should be involved in decisions about their own care planning on this Landing, and be able to influence the day-to-day operation of the Landing in a collaborative spirit. Family involvement should be part of the blend of management, as was originally intended in the stated objectives of REACH. Resources may not always be at an ideal level, and it will be the task of the partnership to deliver a progressive regime from within those resources that are available. The Manager for the REACH Landing would have a direct reporting relationship to the Governor or his Deputy, who would ensure its successful operation and suitable resource investment.

74. In similar fashion Safer Custody approaches, once embedded, will benefit all prisoners and help to change the culture and performance of the organisation, providing that talented leadership and commitment across the organisation is sustained.

75. Psychology services of whatever type - forensic, clinical, educational etc - should take a more integrated role within the overall prison system; involved with multi-disciplinary problem assessment and problem solving, as well as in its traditional role of risk management and planning. It should take a role, supportive to operational colleagues, in shared responsibility for managing risk of self-harm, as well as the potential for harm to others.

76. The health centre has so far been unable to resource a commitment to the REACH Landing over and above basic staffing allocated for out-reach to all prison houses, and for multi-disciplinary risk assessment meetings. In addition, there has been pressure on the health service to take more responsibility for the management of vulnerable people within the prison, given the adverse effects on confidence of operational staff in this respect.

This group of prisoners is a whole prison concern and also merits commitment across the organisation.

77. There has been a recent tendency to deploy personality disorder as a health or medically treatable condition, rather than a characteristic of most prisoners. A whole prison response to personality disorder should be a natural developmental aim of the Prison Service, rather than a distraction of health and prison management from pre-existing priorities.

Health Care in the NIPS

78. There is substantial investment in health care in each Northern Ireland prison, not least in Maghaberry. Staff complement there is 48 and there are 16 in-patient beds in the health centre.

79. In common with other functions within the prison, there was excessive emphasis on security over care. This strong theme has serious consequences for the proper running and integration of health services as part of the overall function of prisons. Within Maghaberry Prison, there appears to be a lack of integration between health care and other functions, whilst there have been encouraging trends in other prisons.

80. There was evidence of isolation of the prison health function from the NHS and broader health sector across Northern Ireland. These patterns of lack of integration and isolation pre-date the transfer of responsibility for the prison health service to the NHS. The NHS is currently taking stock of arrangements following transition of responsibilities, and the Review would welcome a statement soon of clear, strategic direction and suitable allocation of resources to meet priorities across all 3 prisons.

81. As responsibility for health care passes to the NHS in Northern Ireland, prisoners' and offenders' health should achieve suitable involvement and prominence in mainstream health policy; specifically, in the development of primary care in special settings; mental health policy and services; addiction

services, including drugs and alcohol; in development of services for people with learning difficulties and disabilities, and in efforts to narrow health inequalities.

82. Prison health should review the assessment of need for care in prisons, and focus their services, chiefly acute primary care, structured primary health care for long-term health problems, mental health, addiction as well as dental, optical, therapies and chiropody services. It should ensure robust arrangements for integrated community-style mental health team care within the prisons and, in particular, adequate contribution to the management and operation of the REACH landing with similar services in other areas for vulnerable prisoners. Prison health should be a prominent, integrated part of shared responsibilities between senior prison management and DHSSPS.

83. Both the Ombudsman's report and our Review regarded the McClelland Review of Non-Natural Deaths in Custody as a key document that deserves the fullest consideration and full implementation. Prof McClelland's assessment of the care of Colin Bell, conducted at the Prisoner Ombudsman's request and included at Annex A of her Report, reinforces his earlier recommendations. Work continues on the McClelland Review action plan. A recent presentation on progress by the Safer Custody Corporate Project Team at the Ministerial Forum on safer Custody is evidence of a constructive approach which we welcome.

84. A flourishing health function within the prison, and positive relationships with the health service externally, should be one of the lead responsibilities of a senior Governor in close association with NHS senior management.

85. Prison health functions should, with others, recognise the importance of family and relationships in the broader context of physical, mental and social aspects of health, as part of rehabilitation and efforts at re-settlement of prisoners.

86. Prison should encompass also the role of chaplaincy as central to the spiritual component of health - the importance of instilling hope and purpose to life which underpins other aspects of rehabilitation, especially for vulnerable prisoners.

MANAGEMENT AT PRISON LEVEL

87. Our Terms of Reference required us to take account of “the challenges for senior management in establishments in Northern Ireland, and especially at Maghaberry” [paragraph 2(c)]. Maghaberry is the biggest and most complex of the three prisons. Around 800 prisoners of every type are held there. Over 900 staff work there, mostly prison officer grades. The budget for 2008-2009 was £50M and annual cost per prisoner place in excess of £82K. By some distance it is the biggest player in the Northern Ireland Prison Service.

88. The historical background to an operating environment driven almost wholly by considerations of security needs no further rehearsal. The separation policy, reintroduced in 2003, is a constant reminder of the difficulties faced by staff. We understand the dangers to which many staff were exposed and the continuing uncertainties. For many years staff were discouraged from engaging with prisoners other than in perfunctory and basic ways. Staff are now asked to do a very different job and focus on different outcomes. Some welcome the shift of emphasis. Others are less sure. A number do not accept the need for change. We have been encouraged to see staff with potential. They need to be affirmed in what they are doing.

89. Many of our observations and recommendations have relevance in all three prisons in varying degrees. There has been progress in recent years but there remains much to be done to embed regimes based on risk assessments rather than on a narrowly defined concept of security. As yet prisons are not achieving their full potential. There were examples in all prisons where the actual fell short of the planned. This was most noticeable

in Maghaberry, where regime drift and cancellations had the greatest impact on the quality of life for prisoners. The routines felt sluggish.

90. The structures, procedures and working practices at Maghaberry are geared to maintaining order and control and to dealing with any threats, perceived or real. Notwithstanding this, the time is surely right for Maghaberry to reposition itself so that it can respond to new requirements. A relatively small number of prisoners, including separated prisoners, may require a different approach. From time to time an individual prisoner or small group of prisoners may present special risks and need to be managed differently from the majority.

91. This is no more than recognizing that flexibility is needed rather than the special needs of the fewer having a disproportionate impact on the regimes for the many. Changes to the culture and management which we highlight at Maghaberry will have application, in part if not whole, at Magilligan and Hydebank Wood.

92. The Senior Management Team at Maghaberry is large and multi-layered; its size and shape appear to have been determined less by the business needs of the prison than by presumptions about the background, grade and specialism of the person required to do particular jobs. The current command arrangements are complex and often involve the duty governor, a senior on call governor and the governor himself being contacted in the event of an emergency. There is a pressing need to review the size, structure and purpose of the management team, and to produce a structure based on role, drawing on the skills and experiences of individual team members from a range of backgrounds and from across and beyond NIPS. A more flexible use of senior management will allow for best use of the talents and energy of individuals and help to break down the barriers which exist between operational staff and those described to us as “civil servants”. The designation ‘governor’ should be used only for the person who heads the team and his/her deputy. There are 18 people who are described as governors at present. It would be better that their title reflected their role.

93. The delaying of the senior management team and clearer lines of responsibility and accountability must include a restatement of the respective roles of the governor and deputy governor. Currently they seem rather blurred.

94. A new SMT, slimmer and flatter in shape, and more diverse in the backgrounds and experiences of its membership will need a clear view of its priorities. An immediate priority should be the preparation of a change programme. There may be resistance to the scale and pace of change needed. But change there must be if Maghaberry is to be an effective, decent and efficient prison which meets well articulated operating standards and agreed performance targets. It is essential to have in place a senior team up to and up for the challenge and to have a sufficient number to cover the management tasks and support each other. The prospect of change will worry, frighten or irritate some staff. But the prize is a refashioned prison with the needs of prisoners as its primary focus.

95. That is why we recommend that an improvement team be identified very quickly and charged with taking Maghaberry through the next phase of its history. We believe that the team should stay in post for three years. The team, led by a senior governor experienced in leading organisational and cultural change will need to focus on the key business priorities, which must be robustly managed so that the urgent is given priority without senior managers becoming overwhelmed by the scale of the challenge. We suggest that a multidisciplinary team, drawn from within and outside NIPS would be the right size. Such a team might usefully include experienced prison managers and those with special skills in finance, human resources and offender programme management. A compact including the change programme objectives and the management and governance arrangements to support them must be formally agreed between the governor and his/her line manager and the Director. There should be clear milestones to track progress and a communication strategy to share achievements with internal

and external partners. It will be clear from what we propose that we believe transparency of purpose is essential.

96. The governor and senior team will have a formidable agenda. Strong, visible leaders who demonstrate commitment to the corporate values and model required behaviours will be needed. It will not be enough to tell staff what they are required to do. Face to face briefings and regular opportunities for sharing experience will be important. Managers should think carefully about where they have their offices. Most are presently based in the central administrative buildings which limits their awareness of and active involvement in the running of the prison. It would also be important to review how managers and other staff are able to access all parts of the prison more readily than they are able to at present. That will mean reviewing internal security systems – locking and biometric – so that barriers that do not add value to security are removed.

97. The relationship between the prison and NIPS Headquarters needs to be clearly defined and understood by all parties. The governor of Maghaberry told us that he felt “micro managed” by senior colleagues at Headquarters and less supported than he felt right. We conclude that there is substance to this criticism. Headquarters staff do get involved in detail that is not always necessary or desirable. This reinforces irritation and adds to the sense of disconnect between Headquarters and Maghaberry. There is legitimate criticism by Headquarters staff that those working in prisons do not appreciate the need for full and rapid response to requests for information and advice and the prompt submission of routine returns. In short there needs to be a coming together of both groups to achieve a better understanding of the contribution each makes to the whole. In particular we felt that the governor’s expectation that he should be left to govern without what he viewed as “interference”, primarily from the Deputy Director, Operations, was unrealistic and did not reflect a proper managerial relationship. This conflict highlights the need to strengthen the understanding of the role of the Deputy Director. The Deputy Director has a legitimate role in managing governors and so improving organisational effectiveness. The Deputy Director should use visits

to prisons in a more structured and transparent fashion. Greater clarity in where responsibility and accountability lie should be the starting point in defining and managing relationships between prisons and Headquarters. It is a crucial managerial link.

98. Maghaberry has a mix of functions. The prison houses unconvicted prisoners (almost half the population at any time) as well as those convicted and serving sentences from a few days to life. From a daily population of around 835 about 15% are in Category A (the highest security category), with up to 75 of them in separated accommodation in Bush and Roe Houses. Staff, including the governor and other senior staff, describe Maghaberry as a complex prison. They seem somewhat overwhelmed by its perceived complexity and by the requirement to meet the needs of a diverse prisoner population as well as balancing the demands of security and order. The challenge of operating a safe, decent and purposeful regime adds yet another dimension for them to handle. Security is cited as the factor which determines everything. Staffing requirements, regime activity, daily routines for prisoners and how visitors to the prison are received and admitted to prison are regarded as security matters. A number of prisoners at Maghaberry require the very highest level of security. But there is a crucial distinction that needs to be made between security and control. Security ought to provide the envelope in which the life of the prison runs in a safe, orderly and constructive way. As a consequence of this lack of clarity, regime activities were routinely cancelled and curtailed, movement around the prison limited and sluggish. The impact on timetables and planning was serious. The regime is not helped by the difficulty of moving around the prison. We certainly endorse the Prisoner Ombudsman's Recommendation 26. We believe that it is time to reconsider the widespread use of turnstiles in the prison. They have a place in some parts, but they slow down movement unnecessarily in others and act as a break on making best use of time and facilities. They disadvantage prisoners without adding value to security.

99. One way of tackling the situation described in the last paragraph is for staffing levels and physical security procedures to be reviewed against

proportionate, risk assessed criteria. On a visit to Maghaberry one of the team saw at first hand the response to a fight between two prisoners in the visits room. All movement in the prison stopped. The governor remained in his office. Prisoners were not allowed to move to any activity. Staff from the Standby Search Team (SST), with protective equipment, attended the incident. Two prisoners were taken to the Special Secure Unit (SSU) and placed in unfurnished accommodation for a short time before being put into furnished rooms in the unit. There are occasions when such a response is necessary. On this occasion only two prisoners were involved; there was no indication that the prisoners had weapons. It felt disproportionate. We were told that the SST always responds in this way, irrespective of any assessment of the scale and nature of the incident.

100. Security was frequently cited as a reason why planned activities did not go ahead at Maghaberry. The requirement to deliver decent and purposeful regime, linked to measurable outcomes for prisoners need not undermine or threaten security. Security is likely to be enhanced if the physical and procedural manifestations of a secure operating environment are augmented by a dynamic approach to security. Respectful professional relationships between staff and prisoners and a more normalised regime will nurture information and intelligence, which in turn will inform security priorities.

101. The introduction of a range of performance targets at prison level will support and drive the improvements needed. They will enable governors to clearly evidence what is being done. When we spoke to governors and staff we were struck by an apparent absence of indicators of how well the prison was performing. For example, governors had no sick targets for their prison, though they were aware of the Service wide targets. There is a lack of local ownership. There are no targets for the delivery of offending behaviour programmes or for programme completions. Violence reduction and anti bullying strategies are not underpinned by improvement targets. There are no targets for reducing the use of force or control and restraint (C&R). Events such as regime cancellation, curtailment or interruption were not seen as

challenges to be overcome but rather as the inevitable consequence of operating in a security-centric environment.

102. The performance targets currently being finalised by NIPS, and which will be introduced during 2009-2010, will be important. They should be clearly articulated and outcome based. If they are set at realistic levels, early demonstrable improvements should motivate and encourage staff at all levels. Ownership at prison level will be essential if incremental, sustainable change is to take place.

103. An early priority for the governor and senior team will be to develop a more normalised prison environment. Central to this is the implementation of the Criminal Justice Order legislation which requires the Service to tackle criminogenic and resettlement needs. This will call for a very different approach to the use of staff, particularly prison officers. Agreements, both formal and informal, about safe staffing levels, working practices and staff flexibility will need to be urgently re-examined and replaced by arrangements matching profiled work to available resources. There will have to be clear priorities and contingencies to protect the regime in the event of shortfalls or unplanned events. A culture of assessing risk, supported by effective dynamic security and championed by managers will underpin this approach. Decisions to curtail or restrict the regime must be made at the appropriate management level. Benchmarking particular activities using comparators in other jurisdictions will be helpful.

104. The 'withdrawal of goodwill' by the POA, resulting from disciplinary action taken against Night Custody Officers and the work undertaken to drive down sickness absence, has resulted in significant disruption to routines. We saw this during our visits to prisons. At Maghaberry prison officers were refusing to escort prisoners around the prison unless the staff to prisoner ratio was 1:1. The governor viewed this development as extreme, though he had not chosen to challenge it. The effect on activity levels was dire (we saw PE officers escorting six prisoners from the gymnasium back to their house) and the impact on the routine running of the prison debilitating. These restrictions

represented a further tightening of an already restrictive environment for prisoners and staff.

105. A critical part of the improvement plan will be a restatement of the relationship between local management and trade unions. We would expect the governor, with proper support from Headquarters, to make clear to local trade union committees what they may expect from the management team and what will be expected of them. A shared protocol or local memorandum of understanding would define the nature and purpose of formal meetings between the governor and local committee. It should also describe how business can be done less formally and on an ad hoc basis. A *modus operandi*, widely used in many prisons, involves the deputy governor meeting and speaking regularly with local representatives so that most issues are discussed and resolved without need to resort to more formal disputes procedures. This approach removes the need for local representatives to have immediate, unchallenged access to the governor. The governor of Maghaberry told us that the POA committee regularly present themselves at his door and expect to be accommodated. The local committee also use the formal disputes procedure prolifically. The governor told us that he expected to be handed Failure to Agree (FTA) notices on a regular and routine basis. At the end of April 2009 there were 11 FTAs outstanding. Many FTAs are relatively trivial but take up a great deal of senior managers' time. They represent a barrier to change at local level. Trade unions have an important, legitimate role to play. The present confrontational approach is corrosive and does not encourage the constructive dialogue managers and trade unions say they want to have.

106. There is scope, in our view for more collaborative working between governors. The estate is small. Governors know each other well and meet regularly. They each bring a particular style to prison management. But consistency in the application of agreed policies is vital. They might also help themselves and each other by sharing in thinking about succession planning at prison level and taking trouble to manage staff identified as having good

potential. That same collaboration would offer some opportunities for delivering efficiencies by sharing good practice.

RECOMMENDATIONS

Prisoner Ombudsman's Report

1. Implementation of recommendations 1 - 43 should be completed by December 2009.
2. No further disciplinary investigation should be conducted in respect of the Governor and Deputy Governor of Maghaberry [Recommendation 44].

Governance in the Northern Ireland Prison Service (NIPS)

3. NIPS should anticipate increased scrutiny resulting from devolved responsibility for prisons.
4. Management audit of professional standards and secondary assurance arrangements should be introduced.
5. The NIPS Management Board should not include prison governors as members.
6. An Operational Management Board should be created, chaired by the Deputy Director, Operations with the three prison governors as members.
7. The contribution of non executive members of the NIPS Management Board should be maximised and consideration given to increasing the number of non executive members.
8. The use of the title 'governor' should be restricted to the person in charge of a prison and his/her deputy; other senior staff should be described by their functional title.
9. NIPS should consider introducing support mechanisms for senior staff in Headquarters and prisons such as mentoring, executive coaching.

10. Governors should be managed by the Deputy Director, Operations using transparent measures of performance, including well focussed site visits.
11. Self audit of all activities in prisons should be introduced as a tool to engage commitment to improved performance management.
12. Outstanding work from external inspections, reports etc and work from major internal projects should be audited and revised Action plans written to reflect current priorities and resources.
13. Open competition for recruitment of fast stream entrants to NIPS should be revived.
14. A scheme should be introduced which enables staff to move between NIPS Headquarters and prisons as part of a planned career path offering preparation for staff who aspire to middle/senior operational posts irrespective of their original discipline.
15. NIPS should consider developing minimum criteria for promotion to senior positions, such as experience in another organisation, demonstrated competences against an agreed set of essential skills.
16. NIPS should work to further diversify its staff with the goal of becoming more representative of the community it serves, particularly relating to the recruitment and promotion of women.
17. NIPS should ensure that its performance management system works effectively, that staff should be held accountable for acceptable performance and those who exceed performance goals should be recognised.
18. NIPS should make renewed efforts to restore productive employee relations within the Service.

Healthcare in NIPS

19. The REACH unit at Maghaberry prison should be revived on a multi disciplinary basis, headed by a senior NIPS manager accountable to the governor of Maghaberry.

20. A statement of strategic direction should be issued soon which identifies the priorities and allocation of resources for healthcare in the three prisons.

21. The NIPS Management Board should take stock of progress in implementing the recommendations of the McClelland Review of Non Natural Deaths in Custody and determine the priority to be given to any work still outstanding.

22. Healthcare functions in prisons and sustaining relationships with the health service in the community should be one of the lead responsibilities of a senior governor in each prison working in close association with NHS senior management.

Management at Prison Level

23. An improvement team, led by a governor recruited from outside NIPS, should be appointed immediately at Maghaberry to carry out an urgently needed change programme.

24. The first task of the improvement team, which should be appointed for three years, will be to draw up a detailed programme to be agreed with senior NIPS colleagues against which the team will be measured.

25. The role of the Standby Search Team (SST) at Maghaberry should be reconsidered so that it plays a legitimate role without overshadowing other aspects of the regime.

26. Physical security needs should be reviewed and a sensible balance struck between security and good order.
27. Regimes and daily routines should be reinvigorated to make best use of regime facilities and opportunities.
28. Programmes to help equip prison staff to engage professionally with prisoners should be given priority. The size of the senior team at each prison should be determined by the business needs of the prison.
29. Prison Officer deployment should be based on risk assessment of tasks and not historic assumptions about appropriate use.
30. Targets for all major prison activities should be devised as a tool for measuring performance.
31. The relationship between local management and trade union representatives should be restated, indicating what trade unions may expect from management and what will be expected from them.
32. A shared protocol or local memorandum of understanding should be drawn up to describe how management-Trade Union business shall be conducted at local level.

Work Outstanding from Earlier Reports

33. Outstanding recommendations from external reports should be reviewed and decision taken about whether to continue or discontinue work.
34. New deadlines should be set for the completion, implementation and performance management of changes recommended by internal reviews on HR strategy, Roles and Responsibilities, and Safer Custody.
35. Action Plans should be owned by managers accountable for carrying out agreed work in prisons, in the training field and in NIPS Headquarters.

36. Auditing progress on implementing recommendations should be a central task.

37. Judgements should be made about capacity to take on new work when external reports are considered.

Auditing this Review

38. Progress in responding to the Review should be audited six months from receipt by auditors other than members of the Review Team.

**REVIEW TEAM
JUNE 2009**

REVIEW TEAM TERMS OF REFERENCE

1. To carry out a review, pursuant to the Prisoner Ombudsman's report of her investigation into the death of Colin Bell in Maghaberry Prison on 1 August 2008.

2. In conducting the exercise, the Review Team will take account of:
 - (a) the NIPS corporate safer custody project and the Service's progress towards establishing a culture of care,

 - (b) the NIPS roles and responsibilities project,

 - (c) the challenges for senior management in establishments in Northern Ireland, and especially at Maghaberry,

 - (d) the development of performance management in NIPS,

 - (e) approaches taken in other Prison Services.

3. In particular the Team will:
 - (a) quality assure the effectiveness of the Maghaberry and NIPS action plans for implementing the Ombudsman's recommendations,

 - (b) make recommendations that would assist NIPS in developing as a Service with a culture of care and accountability,

 - (c) advise on the nature and scope of any further disciplinary action, taking account of the Ombudsman's report and having regard to the NIPS Code of Conduct and Discipline.

TEAM MEMBERS BIOGRAPHICAL DETAILS

Tony Pearson CBE

Tony Pearson spent 37 years in Her Majesty's Prison Service, retiring in 1999 as Deputy Director General. He had governed several prisons prior to becoming Deputy Chief Inspector of Prisons in 1985. On retirement, he became a Trustee of the Butler Trust in October 1999 and was appointed Deputy Chairman in 2001.

Sue McAllister

Sue joined the English & Welsh Prison Service in 1986 as an Assistant Governor Trainee and has worked in a number of prison and Headquarters roles. She was Governor of Gartree Prison and of Onley Young Offenders Institution. She was Area Manager for the West Midlands area, which included operational management of 12 establishments. She is currently seconded to the Home Office as Head of the Police Performance Unit.

Andrew Fraser

Dr. Andrew Fraser has been Director of Health & Care in the Scottish Prison Service since 2006; (he was previously Head of Health in the Service from 2003). From 1997 to 2003 he had been Deputy Chief Medical Officer in the Scottish Executive. (He was a member of the Group set up under Professor Roy McClelland's chairmanship to review non-natural deaths in Northern Ireland Prison Service establishments from June 2002 to March 2004).

Kathleen O'Toole

Kathleen O'Toole is currently Chief Inspector of the Garda Siochana Inspectorate. Previously she served as Boston Police Commissioner. Prior to that, as Massachusetts Secretary of Public Safety, her responsibilities included oversight of the Massachusetts Department of Correction. She was also a member of the Independent Commission on Policing in Northern Ireland chaired by Lord Patten which reported in 1999.

ANNEX C**REVIEW TEAM - DEATH IN CUSTODY: COLIN BELL**

The Review Team met the following:-

Organisation	Title
CJINI	Chief Inspector
CJINI	Inspector
CJINI	Deputy Chief Inspector
DHSSPS	Director of Primary & Community Care
DHSSPS	Medical Officer
Independent Monitoring Board, Maghaberry	Vice Chair
NI Ombudsman	NI Ombudsman
NI Ombudsman	Director of Investigations
NIO	Minister of State
NIO	Director General Criminal Justice & Policing
NIO	Permanent Secretary
NIPS	Chaplain, Maghaberry
NIPS	Chaplain, Maghaberry
NIPS	Chaplain, Maghaberry
NIPS	Consultant Forensic Psychiatrist
NIPS	Consultant Psychiatrist
NIPS	Deputy Governor, Hydebank Wood
NIPS	Deputy Governor, Maghaberry
NIPS	Governor, Hydebank Wood
NIPS	Governor, Maghaberry
NIPS	Governor, Magilligan
NIPS	Head of MSS, Maghaberry
NIPS	Safer Custody Co-ordinator
NIPS	Senior Management Team, Maghaberry
NIPS	Senior Management Team, Maghaberry
NIPS	Senior Management Team, Maghaberry
NIPS	Senior Management Team, Maghaberry
NIPS	Senior Medical Officer
NIPS	Senior Medical Officer
NIPS HQ	Director
NIPS HQ	Deputy Director Finance & Personnel
NIPS HQ	Deputy Director Operations
NIPS HQ	Deputy Director Services
NIPS HQ	Head of Finance
NIPS HQ	Head of Operational Policy Unit
NIPS HQ	Head of Personnel
NIPS HQ	Head of Secretariat
NIPS HQ	Safer Custody Officer

NIPS Management Board	Non-Executive Director
NIPS Management Board	Non-Executive Director
Prison Governors Association	Chair, Secretary and 1 x member
Prison Officers Association	Chair, Secretary and 3 x members
Prisoner Ombudsman	Prisoner Ombudsman
Prisoner Ombudsman	Director of Operations
Probation Board (NI)	Director of Probation
Probation Board (NI)	Deputy Chief Probation Officer
Probation Board (NI)	Head of Planning, Policy & Business Development
Samaritans	Head of Operations
Samaritans	Deputy Director (Belfast)
Samaritans Ireland	Director
South Eastern Trust	Director
South Eastern Trust	Assistant Director
Independent	Former NI Senior Civil Servant
Independent	Professor Emeritus of Mental Health at Queen's University Belfast and Consultant Psychiatrist at Belfast City Hospital.