

## **RESPONSE TO INQUIRY INTO PRISON REFORM**

**29 September 2016**

### **Introduction**

- A. The CBA represents the views and interests of practising members of the criminal Bar in England and Wales.
- B. The CBA's role is to promote and maintain the highest professional standards in the practice of law; to provide professional education and training and assist with continuing professional development; to assist with consultation undertaken in connection with the criminal law or the legal profession; and to promote and represent the professional interests of its members.
- C. The CBA is the largest specialist Bar association, with over 4,000 subscribing members; and represents all practitioners in the field of criminal law at the Bar. Most practitioners are in self-employed, private practice, working from sets of Chambers based in major towns and cities throughout the country. The international reputation enjoyed by our Criminal Justice System owes a great deal to the professionalism, commitment and ethical standards of our practitioners. The technical knowledge, skill and quality of advocacy all guarantee the delivery of justice in our courts, ensuring that all persons receive a fair trial and that the adversarial system, which is at the heart of criminal justice in this jurisdiction, is maintained.
- D. This is the CBA's response to the Justice Committee's Inquiry into Prison Reform.

## **1. What should be the purpose(s) of prisons?**

We are of the view that prisons seek to serve several purposes such as punishment, deterrence and rehabilitation. We would submit that the primary purpose of prisons in fact should be to rehabilitate prisoners in order to reduce reoffending.

### **How should i) the prison estate modernisation programme and ii) reform prisons proposals best fit these purposes and deal most appropriately with those held?**

The prison estate modernisation programme should have two linked goals: (i) to make prisons safe and secure for prisoners and staff, so that (ii) rehabilitation can take place with minimum hindrance. Foul conditions breed insecurity and work against rehabilitation

The reform prisons proposals should allow Governors to act with enough autonomy over resources to make their prisons places where prisoners can receive education and training in how to become law-abiding citizens.

### **What should be the roles, responsibilities and accountabilities of**

**i) prison staff**

**ii) prison governors**

**iii) National Offender Management Service**

**iv) Ministry of Justice officials and Ministers and**

**v) other agencies and departments**

### **in creating a modern and effective prison system?**

Prison staff should be encouraged to engage with prisoners in a manner which seeks to guide and mentor.

Prison governors ought to have a level of autonomy in order to allocate resources and engage in contracts that will best serve the individual establishment and the offenders within it.

The National Offender Management Service should be a service which seeks to work with all agencies to promote rehabilitation.

Ministry of Justice Officials and Ministers should be in a position to review existing arrangements and address longer-term plans and proposals.

Other agencies and departments should be encouraged to engage with the prison establishment to offer education, training, employment, support (be that in dealing with mental health or substance issues or more generally to support well-being), housing and general post-sentence care. There can be little hope to reduce reoffending if, with improved resources within the prison establishment, a prisoner is left with little or no support on release.

**2. What are the key opportunities and challenges of the central components of prison reform so far announced by the Government, and their development and implementation?**

- (i) Without safety and security in prisons, properly ambitious rehabilitation and education plans will fail. It is outrageous that drugs, legal or illegal, are still widely available in many prisons, as the drug economy fosters violence and fear. It reinforces criminal mentalities that undermine rehabilitation.
- (ii) Unless policy makers are content with a churn of re-offending by released prisoners, they must recognise that public money has to be spent to make prisons into places where lives can be changed for the better.
- (iii) Policy makers and politicians need to explain to the public that money spent on prisons and the effective rehabilitation of prisoners is an investment that pays off in reduced offending.

**3. What can be learnt from existing or past commissioning and procurement arrangements for i) private sector prisons and ii) ancillary prison services which have been outsourced?**

We believe there can be advantages to looking at design and delivery by way of commissioning and procurement arrangements. Ultimately, to review available resources to achieve the end goal is clearly sensible. We believe however that there needs to be transparency as to the decision-making process and the outcomes that follow. Where financial incentives or penalties follow from performance there needs to be careful scrutiny that decisions are being taken appropriately and there needs to be improvement in relations between the public and private sector. The public interest is served when prisons use the most effective means available to them to prevent re-offending.

**4. What principles should be followed in constructing measures of performance for prisons?**

There should be realistic expectations in terms of measures of performance. A reduction in violence and drug use in the prisons, an improvement in the mental health and well-being of the prisoners, and meaningful education and work opportunities should be paramount. The measure of success will be a reduction in reoffending when prisoners are released.

**5. What can be learnt from i) other fields, notably health and education and ii) other jurisdictions about the creation of prison trusts or foundations and related performance measures?**

Trusts and foundations can be beneficial to support those directly involved in day to day management but that centralising systems may simply create a distance that frustrates the aim of reducing reoffending. It is important for prisoners to maintain contact with outsiders in order to mitigate their institutionalisation and to prepare them for life outside.

**6. Are existing mechanisms for regulation and independent scrutiny of prisons fit for purpose?**

Independent and objective scrutiny that tells the truth about prison conditions is essential for policy-makers and the prison authorities to improve their performance where things have gone wrong. The public has a right to know what goes on behind prison walls. We support the robust and candid approach that Inspectors have taken and wish it to continue

**7. What are the implications for prison reform of i) the Transforming Rehabilitation programme and ii) devolution of criminal justice budgets now and in the future?**

We believe there needs to be a level of consistency in any rehabilitation programme in order to secure long-term prison reform. Programmes will need to adapt, as necessary, but there needs to be a united and concerted effort to work towards effective reform. The transforming rehabilitation programme is interconnected to prison reform and both are clearly important; it is hoped that one does not detract from the other. There is a concern that recall to prison for those in breach of short-term licences (especially women) simply adds to the burden on the prison service and prison reform and frustrates the real rehabilitation process.

We believe that the devolution of criminal justice budgets should allow for a more productive prison reform in that resources can be applied appropriately by those more directly involved. Of course, like any devolution of powers, there will need to be scrutiny and review, but it is hoped that this move will assist a positive change.