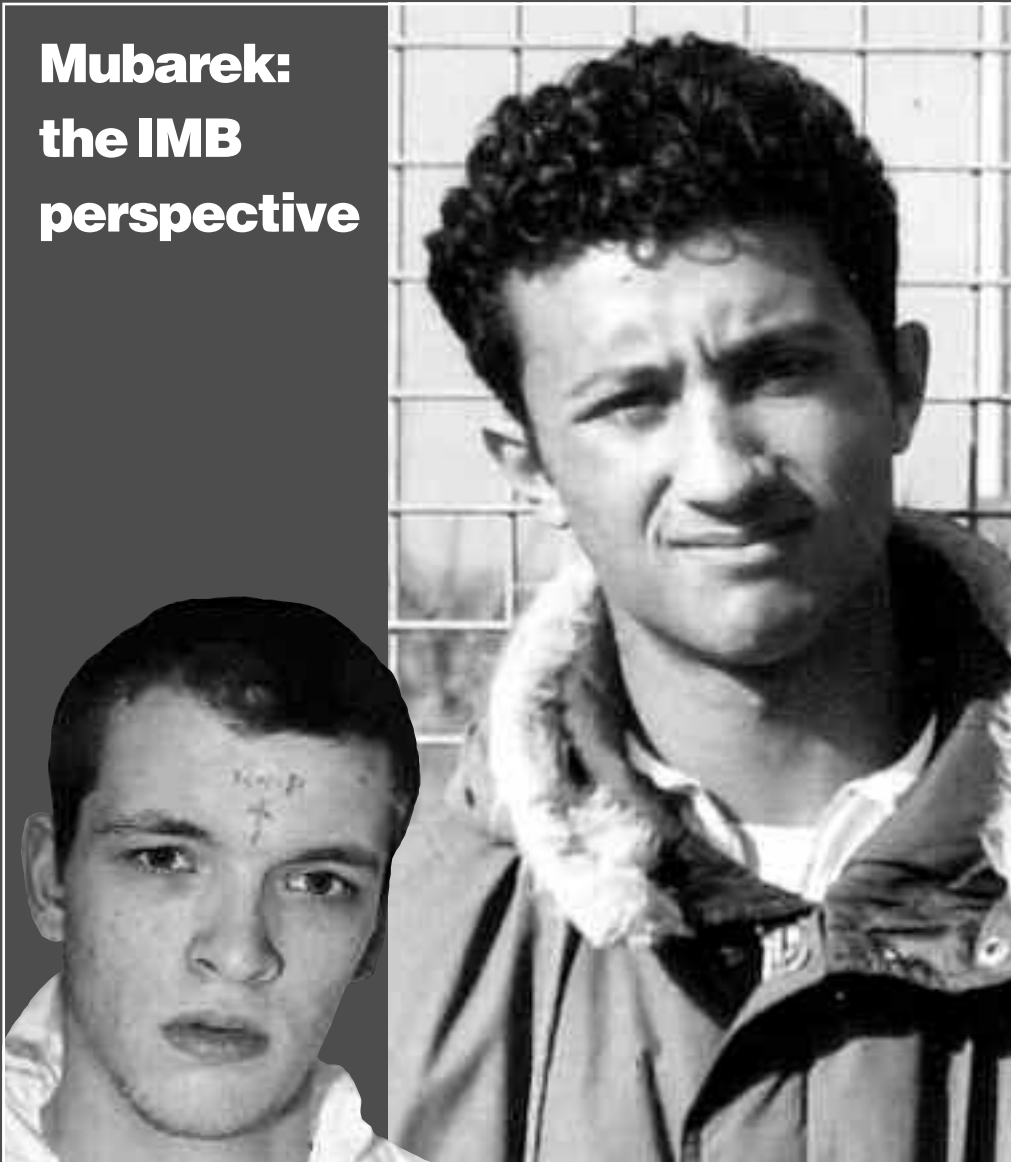


INDEPENDENT MONITOR

THE ASSOCIATION OF MEMBERS OF INDEPENDENT MONITORING BOARDS

**Mubarek:
the IMB
perspective**



Mental health

Indeterminate sentences

Penal politics

Foreign national prisoners

It has been the hottest July in living memory, certainly for followers of the politics surrounding prisons. The month started with the row about offenders on licence committing high-profile crimes still simmering away. With probation firmly in the spotlight, attention was suddenly diverted to how the immigration and prison services managed to release rather than deport so many foreign nationals. (Ironic that IMBs have spent so much time in the last year or so trying to achieve something similar.)

Cue a new Home Secretary, and another prisons minister. While we're taking breath, the rather expected news that the government has decided to hide HMCIP away inside a new criminal justice inspectorate. There is talk of a parliamentary campaign to fight the decision. Then it emerges that Leyhill open prison has been leaking prisoners by the gallon.

The week before the parliamentary summer recess saw a flurry of announcements from John Reid. The page opposite details some of the published material, but there was looser talk of things like: passport control officers and offenders on community service having to wear uniforms; immigration enforcement being privatised, next-day justice and mobile courts, using the army to deal with young offenders; beefing up parole and immigration appeal panels; releasing thousands of minor offenders.

How much of all this will survive the summer recess, who knows. Already the headline issue of 8,000 new prison places by 2012 has been undermined a little by the news that the treasury has not granted the funds (look out for further cuts elsewhere in the prisons budget). And July's Home Office projections suggest that the prison population may have gone up another 20,000 by 2012. Something much more imaginative is called for. But the chances of getting it seem remote. Instead, John Reid was heard to argue that, unless he sets up more prison places, the public will think that he's taking steps to keep people out of prison just because he's short of space.

Finally, on the very last day of July: an internal prison service report, leaked to the BBC, says at least 1,000 prison officers are corrupt – taking in drugs and mobile phones mainly. The director general says it can't be that bad because escapes and drug test positives are down. What? And if it's that bad in public prisons, what about private prisons where staff tend to be less experienced, less well paid, with a higher turnover?

All in all, a trying month, against a backdrop of mass murder in the middle east. This issue reflects that. See you in December, when the heat might be off.

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Membership of AMIMB is open to serving members of IMBs in prisons and immigration removal centres in England and Wales. AMIMB represents board members by presenting their views wherever they need to be known. AMIMB campaigns for change, both through its own efforts and by liaising with other groups, including via the Penal Affairs Consortium. Membership of AMIMB allows board members to have a say in the direction of boards and penal policy generally. Associate membership is open to anyone interested in penal affairs. The annual subscription of £20 should be paid to the Treasurer.

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A leaner, fitter Home Office?

What the Home Office permanent secretary calls 'the foreign national prisoners' crisis' coincided neatly with a Capability Review. So with a new Home Secretary in place, they were able to publish their plans in the Review last month. Here is some of what it says.

The key characteristics of the reshaped Department will be:

- a much smaller strategic centre, supporting the Home Secretary in setting the overall direction in policy and performance; and a shift of responsibility and resource to the front line
- accountable business units (the National Offender Management Service, the Immigration and Nationality Directorate and the Identity and Passport Service) with clear

performance frameworks and freedom to innovate and manage; with the Immigration and Nationality Directorate becoming an executive agency

- a Reform and Delivery unit driving change, priorities and performance
- much more efficient and effective shared services separated and governed by operational areas within a framework set by the centre
- an overall reduction in headquarter's staff by 30 per cent (2,700 posts) by 2008 and a further 10 per cent (600 posts) by 2010.

Funny how job cuts seem to be part of most government reorganisations. Wonder how many jobs will go when the prisons inspectorate is incorporated.

Putting victims first?

Last month's hurried Criminal Justice Review calls for changes 'to ensure that courts and the parole system consider the rights of crime victims and the law-abiding public above all else'. It suggests that 'there is still widespread belief among the public that the criminal justice system is too lenient on violent and repeat offenders.'

Having explained why it panders to tabloid-inspired misinformation and hysteria (rather than counter them) the Review's recommendations include:

- ensuring that parole board members considering cases involving serious violent or sexual offenders have direct or indirect experience as a victim
- allowing victims' voices to be heard by parole boards in serious cases
- requiring all prosecutors to take victims

into account

- increasing compensation offenders must pay to victims
- an additional 8,000 prison places will be created and sentencing will get harsher for violent and repeat offenders
- judges will have more discretion, including a view to ending the automatic halving of tariffs for those on unlimited sentences
- introduction of violent offender orders
- automatic time off for guilty pleas will be ended, and discounts for offenders re-sentenced at appeal will be abolished
- more foreign national prisoners will be returned to serve sentences in their home countries.

Would it help? Probably not. Will it happen? Some of it, perhaps.



Yet another prisons minister

We are used to rapid churn here. But less than a year for Fiona Mactaggart must mean that Tony Blair shared some IMBs' disquiet about her performance. Step up Gerry Sutcliffe, the eighth incumbent in 9 years. He's a Bradford MP, ex-DTI and manager of the parliamentary women's football team.

The *Monitor* asked him to address the IMB troops. He says the usual nice things about our unique role, then this.

'One of my first acts in relation to IMBs when I came into office was to approve the introduction of a Probationary Year for new IMB members. I was pleased to do so, not to provide a test which new members have to pass, but create a framework to ensure that through guidance and mentoring, new members feel valued and provide them with the skills, competencies and knowledge necessary to carry out the independent monitoring role to maximum effect.

'At the same time, I also approved a national strategy on diversity for IMBs. I see this as an important development. One of the biggest challenges for Boards is ensuring the cultural needs of all prisoners/detainees are being met. It is important that Boards are made up of a cross-section of the local community, with members from all walks of life, ethnic backgrounds, religions and ages.'

Well that would be very nice indeed. Then this:

'The annual reports produced by you are essential in giving an independent view across the whole year of the treatment of those held in custody, and I read them with great care and interest.'

Well we'll see; just acknowledging them would be nice – and to be fair early signs are promising. He's visited Holloway and Leeds prisons so far and is billed to speak at the IMB annual conference in September.



A murder unrave

Inquiry report ends a six-year wait for the Feltham IMB

On 21 March 2000 the Feltham BoV was called out for a serious incident. Zahid Mubarek, a 20-year-old Londoner on his first sentence, had been clubbed to death by his cellmate. Robert Stewart, known to be a psychopathic racist and on his 17th sentence, was from Manchester. It was the first time the Board had seen Zahid Mubarek. The Feltham IMB involvement continued for over six years, until the report of the Inquiry in late June this year. Lucy Bogue was the Feltham IMB chair in 2000. She was cross-examined by the Inquiry. She tells her story exclusively for the *Monitor*

I joined the Board of Visitors at HMP & YOI Feltham in 1994 and was appointed chair in January 2000. Zahid Mubarek was tragically murdered in March. I left the Board in September 2002. This was a very difficult period for the prison. Over a period of about six months there was the death of Zahid Mubarek, the suicide of a young person, and another prisoner came close to taking his own life. There was also a serious riot on Quail Unit, on the YOI side of the establishment. During this time, the Board

communicated with a wide range of key individuals including the Prisons Minister, the Director General of the Prison Service, and Her Majesty's Chief Inspector of Prisons to ensure that they were fully aware of the Board's concerns.

Our concerns

Specific issues gave the Board grave concern between 1996 and 2001. These were consistently raised by us with increasing urgency in all ways within our power; direct to the Governor and the Area Manager, verbally

and in writing and in minutes of Board meetings and our annual reports. The main issues were overcrowding and cell-sharing, fluctuating prisoner population, poor regime and lack of association. Every Board member reported that cell sharing, exacerbated by long periods behind their doors, was deplorable, indecent and inhumane. In our view, it was not acceptable for two adolescents to eat, sleep and use the lavatory in such a confined space. The negative impact of overcrowding created wide-ranging problems that affected other areas of life at Feltham.

The link between poor regime and poor prisoner behaviour may not be conclusively proved, but it was the opinion of the Board that the impact of 22 hours locked in a very confined space must have an adverse effect on the behaviour of any adolescent, let alone some of the most damaged and disturbed adolescents in the country. The lack of fulfilling association time was both degrading and disgusting, and must have a serious impact upon the social and psychological development of these individuals and we said so repeatedly both inside and outside the prison.

The impact of a death

The death of Zahid Mubarek had an enormous impact on the whole establishment, including the IMB, as did the various investigations that followed his death. I believe that it is hard for staff to work in an establishment that is surrounded by negative press, whether deserved or not. The investigations and eventual Inquiry impacted on many people, including me. I was no longer on the Board and all the training that I had attended whilst I was a board member and as chair did not prepare me for what was to come. I found that while I was equipped to chair a Board, communicate with the

The dates

- 21 March 2000 Zahid Mubarek killed
- 28 March Prison Service investigation starts (reports November)
- 4 April Mubarek family calls for independent inquiry - denied
- November 2000 Commission for Racial Equality (CRE) announces a formal investigation into prison racism (corroborating report July 2003)
- September 2001 In the High Court Justice Hooper orders a public inquiry following a case brought on human rights grounds by Zahid's uncle. But
- March 2002 Home Secretary succeeds in the Court of Appeal – no need for an inquiry
- October 2003 House of Lords rules for an inquiry
- April 2004 Inquiry finally announced, through David Blunkett's gritted teeth
- September 2004 Inquiry starts
- 29 June 2006 Inquiry reports

lled



Governor and manage a budget I was woefully ill prepared to deal with the intense scrutiny and questioning that took place over the months and years following the death. I want to take this opportunity to thank the Board at the time at Feltham and especially Graham Chamberlain and Pam Ullstein who gave me such support during the first investigations and in the preparation and giving evidence to the Inquiry. Without them I am not sure whether I would have been able to cope.

Immediate investigations

Following the death of Zahid Mubarek there were two investigations that preceded the Inquiry. An internal investigation was led by Ted Butt and there was an investigation by the Commission for Racial Equality. There are real lessons to be learned from what happened to me during these investigations and the Inquiry and I feel that Boards should be made aware of these. In hindsight I was naïve and unaware of the full implication of these investigations. I felt very pressured

during the CRE investigation, being interviewed. There was no formal advice from the IMB Secretariat as to what procedures I should follow or what I should expect. I took colleagues to the interviews, but no formal records were ever taken. Interviews were taped by the CRE but one taped interview was said to be lost by the CRE and to date has not been passed back to me. The second interview, transcribed into note form, did not reflect accurately what I had said. When my solicitors saw some of my statements to the CRE they were alarmed that the Board had received no advice on how to manage such a formal investigation.

The Board raised concerns with the CRE and also with the Director General about the investigation; that if it was to have a real and useful outcome, interviews like mine should be accurately recorded. As a Board we asked the CRE for transcripts of the interviews, but these never materialised. We received no support or advice from the Secretariat, but Bryan Baker, chair of the National Advisory Council, did try to resolve it. Some time after I gave evidence the allegedly lost tapes were briefly aired on Channel 4 News. Our solicitors formally wrote to the CRE for copies of such tapes: nothing arrived.

Trying to get support

During the CRE investigation, and preparing for the Inquiry, I felt completely unsupported by the Secretariat, which I believed had a remit to support Boards, even those who were no longer serving members. I repeatedly emailed the Secretariat to ensure that they were kept informed of the situation and also made them aware of the dates I was due to give evidence. The lack of response or proactive support surprised and shocked me. I felt isolated.

Getting legal support and the funding required was a struggle and one that no IMB member should go through. It was obvious right from the start that the Inquiry would throw up the deepest conflict of interest between the Board and the Prison Service (for whom I now worked) and when eventually granting us funding, Judge Keith recognised that Treasury Solicitors could not be perceived to be sufficiently independent.

To get adequate legal representation Pam Ullstein and I had to go pro-bono to solicitors. This was outside any previous experience for me and again I feel that it was a position which no IMB chair or member should be in. While fighting to get funding for legal advice it was the Director General

Mubarek inquiry

and the Deputy Director General of the Prison Service, the very organisation that the Feltham Board were criticising, who personally assured me, without compromising the Board's independence, that if funding were not forthcoming from the Inquiry they would assist in this area. Eventually the Inquiry agreed to fund the legal representation for the IMB. I still don't understand why we were ever put in this position and why no assurances came from the Secretariat as to legal representation and funding.

I was fortunate to gain the services of a leading Inquiry solicitor, Ann Alexander of Alexander Harris. They took complete charge and looked after me very reassuringly. Once appointed, all communication with the Inquiry and with the press was filtered through them. I was also appointed a leading Silk, QC Richard Lissack. However, what if this were a chair or Board member who did not have the benefit of colleagues with the ability to access legal advice of the highest calibre? For many months I did not know how this advice would be paid for. They were the most stressful months imaginable, and ones that I would not wish on any IMB member should such circumstances happen again. Are not Boards entitled to have ready access to independent solicitors to advise them, especially in areas which could conflict with the Prison Service and therefore in which Treasury Solicitors would not be suitable?

Preparing for the inquiry

The nine months leading up to the Inquiry were hard work, I was also holding down a full-time job – a typical scenario for many Board members. I had to take time off work to spend hours in Feltham gathering evidence from our minutes, applications,

rota reports, annual reports and correspondence. I was no longer a Board member and had to get permission to go back into the prison to do this. I wondered whether Boards are aware of how accountable they are for what they write and that they could be questioned in detail on single words and sentences, which were written years before.

About nine months prior to giving evidence a letter was written from the Inquiry to our solicitors requesting answers from me to a range of detailed questions. As a result I had to write a statement of 56 pages. It took days to write, and once again it was my solicitors who assisted me in making sure that everything I said could be backed up by written evidence. This statement was completed in the summer of 2004. I then had to wait to hear if I was to be called to give evidence in person and this was confirmed in the autumn. Originally, I was due to give evidence before Christmas, but it soon became clear that the giving of evidence was taking longer than anticipated and I was warned that I would appear just after the New Year. The waiting was almost the worst bit.

Two weeks before giving evidence, I was presented by the Inquiry with files and files of evidence that I was told might be used in giving evidence. I, like other witnesses, spent hours reading, and rereading documents so that when I appeared I was confident that I would remember which Chief Inspector's report came before which IMB report, which itself came before which Area Manager's report and who said what and when. Pam Ullstein and I spent time preparing with our QC and solicitor. As I was timetabled to give evidence straight after the New Year, they gave up holiday time between Christmas and New Year to advise

and prepare me on what I could expect from the Inquiry and the form questioning would take. My solicitors had accompanied me to the courtroom for opening statements and I sat in on the evidence of other witnesses so I could get an idea what to expect when it was my turn.

The Inquiry itself

During the Inquiry I gave evidence for two days in five parts. For the first day and the beginning of the second I was questioned by the Inquiry QC. This was followed by the family's QC. Next was the Prison Service QC, then the POA, and finally my own QC. This was combined with questions from the Inquiry panel. The day would start at 10 and end between 4.30 and 5 with a one-hour break for lunch and ten minutes off in the morning and in the afternoon.

Questioning was intense: single words and sentences were picked out from annual reports and rota records and questioned as to their specific meaning, and I was closely questioned as to what the Board had done about their concerns and with whom they had raised them. Because of our good record taking I was able to evidence that we had raised our concerns from rota reports, through verbal reports and Board meeting minutes to the Governor and by letters to the Area Manager, the Prison Service and eventually various Prisons Ministers and two Home Secretaries. I was also able to evidence what responses we had. An Inquiry is inquisitorial and not adversarial: I had to be able to support every statement the Board had recorded. Boards often speak in terms of gut feeling, but during the Public Inquiry this was not acceptable and the Panel questioned me very closely all subjective statements.

I was enormously grateful for the support of the Feltham Board during those two days. I felt it took some courage to speak out publicly about the situation at Feltham.

Dealing with the media

Media attention was an added pressure throughout. Within the Prison Service there is a press office that formally liaises with the press and shields staff during such times. The IMB on the other hand have no such arrangement. The Prison Service had their press officer present at the Inquiry, but I had no one as the Secretariat did not attend at any time and I had to rely on my solicitors, to advise me on what I should or should not say to the press. Fortunately they were brilliant.

Who was involved

At the heart was the Inquiry team of 17 under Justice Keith. There were 15 legal representatives. Over the 18 months of the inquiry, 116 individuals (84 of them Prison Service staff) and 19 organisations gave oral evidence or wrote formally. Among those were:

- Amin and Sajid Mubarek (Zahid's father and mother)
- Martin Narey, Phil Wheatley, Peter Atherton
- HMCIP, PRT, PPPO, CRE
- Paul & Audrey Edwards (their son killed by a cellmate in Chelmsford)
- Sir David Ramsbotham
- Robert Stewart (the boy who killed Zahid)
- focus groups, prison visits and 56 delegates to six seminars.

No-one from the IMB National Council or the IMB Secretariat is listed as involved in any of this.



Robert Stewart's prison movements from August 1995, aged 15

Werrington	18.08.95-11.10.95	Hindley	09.05.98-19.05.98
<i>Period off freedom</i>	<i>11.10.95-14.11.95</i>	Werrington	19.05.98-30.05.98
Hindley	14.11.95-02.01.96	Stoke Heath	30.05.98-26.06.98
Werrington	02.01.96-09.02.96	Onley	26.06.98-13.08.98
Stoke Heath	09.02.96-26.02.96	Hindley	13.08.98-01.03.99
<i>Period off freedom</i>	<i>26.02.96-09.07.96</i>	Deerbolt	01.03.99-02.03.99
Hindley	09.07.96-20.08.96	Hindley	02.03.99-02.07.99
<i>Period off freedom</i>	<i>20.08.96-03.10.96</i>	<i>Period off freedom</i>	<i>02.07.99-27.07.99</i>
Hindley	03.10.96-17.10.96	Police custody	27.07.99-28.07.99
<i>Period off freedom</i>	<i>17.10.96-14.01.97</i>	Hindley	28.07.99-05.11.99
Hindley	14.01.97-18.02.97	Altcourse	05.11.99-02.12.99
Werrington	18.02.97-01.08.97	Hindley	02.12.99-09.12.99
<i>Period off freedom</i>	<i>01.08.97-05.09.97</i>	<i>Period off freedom</i>	<i>09.12.99-23.12.99</i>
Hindley	05.09.97-24.11.97	Hindley	23.12.99-10.01.00
Lancaster Farms	24.11.97-31.12.87	Feltham	10.01.00-12.01.00
<i>Period off freedom</i>	<i>31.12.97-23.03.98</i>	Police custody	12.01.00-13.01.00
Police custody	23.03.98-24.03.98	Hindley	13.01.00-24.01.00
Hindley	24.03.98-14.04.98	Feltham	24.01.00-26.01.00
<i>Period off freedom</i>	<i>14.04.98-07.05.98</i>	Hindley	26.01.00-07.02.00
Police custody	07.05.98-09.05.98	Feltham	07.02.00-21.03.00

When I had finished giving evidence I felt disbelief that I had become embroiled, unprotected, in what was a very public arena surrounded by the Prison Service, the POA, the press and above all the Mubarek family.

Lessons for all of us

I sincerely hope that what happened to the Board at Feltham has been a lesson learnt by the National Council and the Secretariat and I hope that they will now have in place a cast iron protocol for such occasions. If it is not within the remit or the capability of the Secretariat to give professional pro-active support to Boards when this sort of thing happens then I believe that all Board members should be aware of this and their vulnerability. While IMB members are volunteers, they are public appointees and individuals should remember that there is an accountability that goes with their appointment and it does not necessarily end when they leave the Board.

Following the Inquiry I wrote and expressed my concern over the lack of support. Pam Ullstein and I met with the head of the Secretariat and Sir Peter Lloyd to discuss the way forward, but as I am no longer a member of a Board I am unaware of what is now in place. Current IMB members should question this and reassure themselves that if they were in a similar position there would be adequate support and advice from the secretariat and independent legal advisers. These are questions for you.

I asked myself the question: would I ever be chair again? In the present climate the answer would have to be emphatically no.

Keeping records

I understand now that the value of good record keeping. When I took over as chair I was fortunate to be in a line of chairs, one of whom was a national tutor, whose record taking was an example of good practice. We were able to go back about ten years on detailed correspondence and this was vital when being questioned. It is essential to be able to demonstrate that there are unbreakable audit trails of rota visits, applications and correspondence, good accurate minute taking and annual reports that are factual and not subjective. I believe that this is an area of good practice that national tutors must continue to enforce in their training of new members and new chairs and one that Board members must follow regardless of how they have done it in the past on their individual boards. In my current job I read many IMB annual reports and am alarmed at some that are either inaccurate or not evidenced. One Board, when questioned about such statements, admitted that they were incorrect. I am concerned that, six years on, some Boards are still making subjective statements that cannot be substantiated.

What about the report?

Leading up to the Inquiry report's publication I heard nothing from the Secretariat on

how I would receive a copy. I did find that the Secretariat had gained invitations for two members of the current board at Feltham to be invited to the lock in before it went to Parliament. The Secretariat did not get an invitation for me. Fortunately the Prison Service included me on their list and ensured that I was not left out in the cold.

The lock in was held in the Home Office at 10.30am, with the report to be presented to the House of Commons at noon. It felt like the beginning of an exam. We were escorted to our room, had our mobile phones removed and were asked to sign a confidentiality agreement. It was a relief to have Kathy White and Rob Butler, two members of the Feltham Board at that time, with me for support.

Everybody had a sealed copy of the report in front of them and we were told that we had to remain in the room until noon. The report came in two volumes. The next hour and a half was taken up with examining quotes attributed either to me, the Feltham Board of Visitors, or the Independent Monitoring Board.

The report said that the Board 'was regarded as a model of how a Board of Visitors should behave ... praised for its high profile within the establishment and for its commitment. Its Annual Reports tended to be couched in far less dramatic language than those of the Inspectorate but its anxieties still came through.'

There were criticisms of the Board but

Gladiator games?

During the inquiry various prison officers spoke about the possibility that Zahid Mubarek might have been the victim of what were called coliseum or gladiator games. It had been alleged that prisoners likely to fight were deliberately put together so that officers could bet on the outcome. The play reviewed in last December's *Monitor* took its name from this.

The Inquiry investigated gladiator games in some detail and reached this conclusion.

'In short, I can put the public's mind at rest about the existence of a practice where unsuitable prisoners were deliberately put in the same cell – with officers betting on the outcome. But the real possibility that unsuitable prisoners have at times been put into the same cell – either to wind them up so that they would misbehave when they were let out or to see whether they would argue with each other – is certainly one which cannot be excluded, even though no hard and fast examples of such a practice have been given otherwise than in the anonymous setting of the Inquiry's focus groups with prisoners and prison staff.'

these were balanced against what the judge recognised as our priorities. The report said 'that racial discrimination can be missed if you are not specifically looking out for it.' It said that 'if the professional watchdogs from outside the Prison Service (the Inspectorate) and within the Prison Service (the Standards Audit Unit) had not detected any particular problems in the field of race relations at Feltham, it may be expecting a little too much to get a greater insight into them from volunteers, who give up their time to ensure that prisoners are cared for decently and humanely.'

The report also said that 'Annual Reports referred to race relations in terms which tended to suggest that this was not a major area of concern' but it did recognise that 'this reflected what the Board saw as the priority for Feltham which was to improve the regime and get inmates out of their cells for much longer.' The judge said that 'it is to the Board's credit that it had begun to recognise the worrying signs' [of race issues].

The report identified that prior to 2000

What the inquiry found

Justice Keith was very critical of Feltham and the Prison Service. He made 88 recommendations and 19 Prison Service staff were criticised by name. The dangerous areas that came under a particularly harsh spotlight included:

- racism and neglect of the issue
- inability to manage numbers
- inadequate communication about risk
- poor cell inspection
- neglect of mental health problems.

The Bov was praised in general, and only gently criticised in terms of its response to racism.

training in race relations for Boards was limited. It commented on the lessons learned by the Inspectorate who now have a specialist race adviser, and went on to say 'I have no reason to think that Independent Monitoring Boards have not learned a similar lesson. Although there is no room for complacency, I have little doubt that the focus on race relations by the independent watchdogs is now far more intense.'

When talking about his recommendations Judge Keith said that he was 'confident that the independent watchdogs – the Inspectorate, the Independent Monitoring Boards and (others) – will monitor the progress of their implementation.'

It is of course a great relief that the report acknowledges the positive role that the Board played in Feltham at that time.

I would like to take this opportunity to mention the debt that I owe to both my family and friends at work who made allowances for me when I was stressed, sent constant messages of support when needed, and generally helped me through this whole experience. There are too many of them to name individually but they know who they are.



Lucy Bogue

From the Secretariat

Dear Editor

I am sorry that Lucy feels let down or unsupported by the IMB Secretariat during the Mubarek Inquiry, and I apologise to her if we did let her down. However, one of the problems was that we did not have a full picture of what was happening at any given time. Had we had more information, we would have been in a position to consider what help could have been given at an earlier stage. It was only when the Inquiry was about to take evidence that we were fully aware of what was taking place. With the benefit of hindsight, perhaps the Secretariat should have been more pro-active in finding out what was happening, but with a National Council and almost 150 individual Boards to support, and a small number of staff, that is not always easy.

Nonetheless, lessons have been learned from some of the difficulties faced by Lucy during the Mubarek Inquiry and I would urge Boards or individual members facing some form of legal proceedings, or quasi-legal proceedings, or investigation, to come to us at a very early stage so that we can consider what help or advice can be provided. Boards can not seek legal advice independently as there are no funds available to pay for such advice. If legal advice is needed, the Secretariat along with Home Office lawyers will consider how best that need can be met.

Since Lucy gave evidence to the Inquiry, the Secretariat has worked closely with the Feltham Board to resist strong pressure from the BBC to provide details of applications from prisoners, requested under the Freedom of Information Act. We also ensured that the Feltham Board saw copies of the Inquiry's report (slightly) in advance of its publication.

It would be wrong to finish this letter without paying tribute to Lucy and the Feltham Board. Lucy did a fantastic job during the course of the Inquiry, especially in the demanding circumstances of having to give evidence, which she did so admirably. It is also to her and the Board's considerable credit that they have come out of the Inquiry's report so well. Amongst other matters, this is almost certainly due to the concern they expressed at the time about Feltham, and drew to the attention of the relevant authorities, and the quality of the records they kept to demonstrate this was the case – perhaps a lesson to us all.

Norman McLean
Head of IMB Secretariat

Brixton revisited

Who better qualified to cover the visit of the Lord Chief Justice to Brixton than *Guardian* prisons correspondent Eric Allison, an ex-offender who has spent much of his life behind bars? AMIMB chair Angela Clay reports

'You can taste the atmosphere of a prison the minute you walk in. I have been in dozens and every time I have got out of the sweatbox and into reception I know straight away. Last time I was here in 1990, I felt my hackles rise because I knew it was a bad jail. I wouldn't get that feeling if I walked in now. The biggest factor in a prison is the relationship between the person who is locked up and the

person who opens the door. Once you get that right then everything else follows. It is massively more important than physical surroundings.'

Eric Allison was re-visiting Brixton's Reception, this time at my request, to report for his newspaper on the visit to HMP Brixton of AMIMB's patron Lord Phillips, the Lord Chief Justice of England and Wales. George Mangar, chair of Brixton IMB and Deputy Governor John Hewitt put together a compelling event which achieved its objectives of raising public awareness of IMBs and of some of the positive things that go on in a prison.

You can't get away from the fact that Brixton is a Victorian jail with all that implies but as Eric says it is the attitude of staff that is key to a good atmosphere. I was reassured by the calm way that officers interacted with prisoners who in turn appeared relaxed and keen to talk to Lord Phillips and Eric Allison, although on a couple of occasions the men weren't sure who was the Lord Chief Justice.

At the end of the visit Lord Phillips gave his opinion of the day.

'I was very impressed I must say. What I was clearly looking for was aspects of the prison which prevent people coming back here and there seemed to be a lot of those in Brixton. Short-term drug rehabilitation, catering for the short-term prisoner, is a fairly new phenomenon. In the old days if you were in for a short term, nobody bothered with rehabilitation at all.

'I thought the programmes involving people coming in from local agencies to help with different types of drug rehabilitation were particularly inspiring. A prisoner was talking about family relationships and building them up. Here families are encouraged to come in on special family days to keep the relationships they had before they came in. It is not just a question of maintaining the status quo, it is actually about improving the relationship which might have been part of the explanation for why the man is here in the first place.'

'It might be stating the obvious,' said Eric Allison, 'but imagine having the same amount of staff and half the population, how much more they could do.'



This article by Eric Allison (above) made the front page lead in the *Guardian* on 30 May

Prison service fatally flawed says top judge

The most senior judge in England and Wales has warned that some drug users are so desperate for help that they are deliberately committing offences so that they can be sent to jail and receive treatment.

'We need much better drug-rehabilitation in the community,' he said. 'It

shouldn't be necessary to commit an offence in order to get drug treatment but I am afraid that the reality in many parts of the country is that it is.'

Lord Phillips, whose comments are at odds with current government hard-line messages on the use of prison, was speaking after a visit to Brixton jail in London last week when he spoke to prisoners taking part in schemes to help them deal with addiction.

Speaking to the *Guardian*, Lord Phillips, who was appointed last October, praised staff for their work in drug rehabilitation. He warned that overcrowding was 'fatal' to the smooth running of treatment programmes and said that it was disastrous when prisoners were transferred to other jails because of pressure on prison places.

During his visit Lord Phillips sat in on the morning briefing when managers and senior officers discuss the problems that have occurred overnight. He heard that every wing of the jail contained prisoners on suicide watch and that two inmates had self harmed during the night, one by slashing his wrists and the other by setting fire to his hair.

Lord Phillips said that prison was not the place to treat such people and called for more psychiatric beds to be made available to speed up the identification of prisoners with serious mental health problems. 'There are a

lot of people in prison who ought to be in hospital' he said.

Jacko, a former heroin addict who now works as a peer advisor on the main rehabilitation wing at Brixton said, that Lord Phillips was, 'on the ball.'

'He knows his stuff and wasn't the least bit patronising,' he said. 'He listened to what we were saying, which made a change. Judges should come in here more often and talk to us. The only time a judge has ever spoken to me before was when he was sending me down.'

Lord Phillips visit to Brixton was arranged by members of the Independent Monitoring Board (IMB) and the prison's governor. Angela Clay, Chair of the Association of Members of Independent Monitoring Boards said that care in the community was failing many vulnerable people who suffered mental health and drug/alcohol addiction problems. Many of the IMB's annual reports from the 139 prisons they monitor, highlighted the number of prisoners with mental health problems who should not be in jail.

'Nobody will take responsibility for these people and they revolve between prison and the fractured existence they lead outside,' she said. 'The circle has to be broken.'

Indeterminate sentences

On 21 July the prison population reached 78,495 – just 1,141 short of operational capacity. William Higham and Edward Holmes of the Prison Reform Trust explain the contribution indeterminate sentences make to this number

We will have to wait a little longer to find out what is behind the surge of the last few weeks. But the growth from May 2005 to May 2006, an increase of some 1,500, is analysed in the Home Office's Population in Custody summary. The number of people in prison for sentences under 6 months, and on determinate sentences over a year, had fallen off very slightly. Non-criminal prisoners had gone up by 30 per cent, adding some 400 people. Almost a thousand extra people were on remand. However, the greatest increase was among the indeterminate sentences. These had risen by 1,285, to 7,124. Of course this has enormous consequences for the future of the system, since many of these people will be in the system for a very long time indeed.

Much of the increase in the number of people on indeterminate sentences will be accounted for by the introduction of the indeterminate sentence for public protection (ISPP) in April 2005. ISPPs are a product of the 2003 Criminal Justice Act. They are given to people aged 18 or over who commit one of several specified violent or sexual offences otherwise punishable for a period of 10 years or more, where 'the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by him of further serious specified offences'.

That's life

The sentence is very much like a life sentence. It has a tariff element. Before release, prisoners are required to progress through their sentence and to demonstrate that they are no longer a risk to the public. Then they are released on licence. The major difference is that ten years after release they can apply to have their licence lifted by the

Parole Board. The broad purpose of this new sentence was to ensure that certain offenders are not released until they no longer pose a significant risk to the public. It is an extremely far-reaching change to the sentencing toolkit. However, the purposes and effects of the ISPP were hardly discussed in parliament.

The Home Secretary's speech at the second reading of the bill mentioned the ISPP just once. In committee it was the subject of only one substantial discussion. Some MPs, and the Bar Council, worried that setting the threshold for ISPPs at crimes that carried a maximum sentence of 10 years was too harsh, even draconian. Hilary Benn, then prisons' minister, admitted that it would be 'difficult to know' the impact of the new sentence until it was seen how the courts interpreted the phrase 'significant risk'. He revealed that the Home Office had modelled the increase to the population at around 900.

However, by June this year, the Prime Minister was saying in the Commons:

'[Dangerous] people can now be given indeterminate sentences, in which case they are not automatically paroled, but released only when they are no longer a danger to the community. It was precisely because of cases such as the one that he mentioned that we introduced the provision, and I think that I am right in saying that almost 1,000 people have been subject to it.'

During the recent public and political row on sentencing, the Prime Minister brandished the ISPP as proof of his government's commitment to being tough on crime. This new sentence may have had a quiet introduction, but it now politically central and being much used by the courts.

The effect on prisons and prisoners

The arrival of so many new prisoners on a new sentence has undoubtedly put a strain on prisons. In local prisons the problems are often around information. People are not always sure quite how to handle people on an ISPP. In some cases prisoners are arriving from court without it being sufficiently clear that they are on an ISPP. Their tariff is taken as their sentence. This problem is exacerbated by reports of some extremely short tariffs. The Prison Reform Trust (PRT) is keen to analyse the official figures, as they become available, but in the meantime, there are reports of people being given indeterminate sentences with tariffs measured in weeks rather than months.

This means that the element of proportionate punishment in the sentence, the tariff, can be almost irreconcilably different from the amount of time a person will actually spend in prison. The prisons inspectorate report on Doncaster last November examines this problem:

'The Prison Service had withdrawn the Enhanced Thinking Skills programme for reasons of economy. This meant that there were no programmes for prisoners who were likely to spend a significant part of their sentence at Doncaster. This was particularly important for those who had received the new indeterminate sentence for public protection (ISPP). For these prisoners, who often had short tariff dates, the absence of any opportunity to address offending behaviour inevitably meant they risked a longer time in custody.'

The latest IMB annual report on Reading states: 'Because there are so many ISPP prisoners coming into the system, this is causing a backlog at local prisons as the



number of places available at both 1st and 2nd stage prisons is limited.'

With time spent on remand and the pressure on lifer prisons, there is a danger that ISPPs will stack people up for the length of their whole tariff, or even several times their tariff, before they even begin to work on the programmes necessary to demonstrate their reduced risk to the public.

The Summer 2006 edition of *Lifer News*, published by Noms, wrestles with this:

'The news on ISPPs is not so good. I have a number of ideas for dealing with the problems that you face with the management of these prisoners, but there is no quick or easy solution and this is an immensely difficult situation which as you all know, is not improving with the increased numbers entering the system. The problem is that virtually all the viable options that I have considered carry significant resource implications... and there is no indication as to whether or not these resources are available. I am afraid that until this situation is resolved you will need to continue to manage it the best you can...'

What prisoners say

Irrespective of the debate on the sentence itself, its implementation will clearly need further work. PRT is getting a growing number of letters from people on ISPPs.

'A lot of us with short tariffs are finding it difficult to get to a first stage lifer prison to do the courses being asked of us. It seems that the government have brought in these new sentences without thinking it through.'

'From talking to others on ISPPs there is a growing unrest as we are told nothing and are just left to it and just today one person has taken their own life who was on ISPP.'

Something to monitor

PRT will continue to examine how these sentences are being handed out and whether the 2003 Criminal Justice Act also increases the number of life sentences under its public protection provisions. We await official figures. There seem to have been some cases of severely disturbed, even vulnerable young men attracting these extremely heavy sentences. It certainly seems extraordinary that the number of young adults in prison, between May 2005 and May 2006, went up by 89%, from 173 to 328. It remains to be seen whether this sentence is yet making sense either to the courts, or in the way it's implemented in prison. The work of IMBs will be crucial in monitoring it.

Where next?

... asks **Lou Lockhart-Mummery, ex-Scrubs IMB chair, now Portland**

To Brixton 6 June for Prison Reform Trust's launch of *Restorative Justice in prisons: a guide to making it happen*. Authors, Kimmet Edgar and Tim Newell; foreword, Erwin James. Publisher: Waterside Press. Passed a group of men out on exercise. Noticed they were behind wire fencing, and that the space seemed dark. Maybe it was partially enclosed by walls or a roof? Did not otherwise think about it. All invitees will have passed this space en route to the launch venue. According to Erwin James it is known as the cage. The word triggered the image; the image stays with me.



Later the same week to the Perrie Lectures 2006. Turn-keys or role models? Can those who work with offenders really change lives? Speakers: Rod Morgan, Erwin James again, Andy Downie (wing therapist, Grendon Therapeutic Prison) and Anne Owers. All lectures will be published in the autumn edition of the *Prison Service Journal*. The Perrie Award 2006 to Kathy Biggar (suicide prevention co-ordinator for the High Security Directorate and peer support adviser for the Safer Custody Group.) Snippets from Erwin James' lecture:

- prison a valuable community resource but not regarded as such by society
 - people who helped him were enhancers
 - prison can be a life enhancing experience
 - described a particular officer as a real authentic human being: a turn-key but this did not undermine any aspect of his humanity; he must have made a choice
 - we (society) believe in rehabilitation but don't know how rehabilitated prisoners should be.
- Do I agree? Needs thinking about. Speaking in Brixton he had touched on some of the same themes. He had no place in society before he was imprisoned – detached from society. In prison he had met some enablers. Now he was 'restored' – a part of society. Restored. What a good word. For me more vibrant, more challenging, than the commonplace 'rehabilitated'.

A few days later to Harmondsworth IRC, on an AMIMB training day visit. (Am I turning into a prison anorak?) Presentation by the Manager, the healthcare manager and the contract monitor. Excellent. They spoke of their problems, did not pretend all was easy, or all was process, and engaged with our questions. The tour included the multi-faith centre. I was struck by the plethora of quotations posted on notice boards, displayed on the walls. Words of men of faith, philosophers, sages, whatever. Moving from one quotation to the next I wondered whether I, on the cusp of deportation, might find comfort somewhere in what seemed to me an impenetrable forest of words.

Reflected on words again a few weeks later, as I sat at home assembling material for a board training session around our monitoring in the care & control unit. Segregation is such a familiar word in the IMB lexicon. I am so used to the fact that it happens. So familiar that I have stopped trying to imagine what it might feel like? Does that matter for the IMB? Am I so used to reading the records – the safety algorithm, the use of the special cell, the segregation review – that I no longer reflect that they are about the experience of a real human being, however appropriate his segregation, or stay in the special, might be deemed to be in the prison context? Decided against divulging any of this during the training session.

And yet more words. I've applied for membership of the new board for the short-term holding facilities at Heathrow airport. Conventional application form not supplied. CV (not more than one page) and statement of reasons for application (again not more than one page) requested. Read the bump carefully; reflected on my CV and hoped there would be a match between what is sought and what I can offer. Who knows? I don't yet.

Prisoners' needs neglected

It's now widely recognised that mental illness and imprisonment are closely linked and that the mentally ill prisoner is badly served. Michael Sheldon of the Norwich IMB summarises the findings of a recent Prison Reform Trust book on this issue

Part One of *Troubled Inside: Responding to the Mental Health Needs of Men in Prison* deals with what may be the most important issue of all: keeping men who are severely mentally ill (usually people diagnosed with schizophrenia or bipolar disorder) out of prison.

Better out than in

There is research to show that offenders who are sent to hospital by the courts respond to treatment there as well as non-offenders do. Also, they are roughly half as likely to be reconvicted as men of similar ages and offences who have been sent to prison or given community sentences. So we have reason to think both that the mental health problems of many offenders can be treated successfully outside prison and also that such treatment addresses offending behaviour. And in principle the importance of 'diversion' (directing men who have been arrested into mental health treatment, in or out of hospital, either before they reach court or as the outcome of their court appearance) is recognised and there are plenty of opportunities and legal provisions for it to take place.

But practice is another matter. There is evidence that over recent years less and less advantage has been taken of some of the legal provisions for diversion. The necessary services are patchy and under-resourced; the community mental health services into which men would need to be diverted are themselves overstretched, inadequate, and often reluctant to make room for patients they regard as difficult; PCTs have taken on responsibility for mental health inside prison but have often not recognised their responsi-

bility for organising their services so that diversion is possible; magistrates are often unaware of the opportunities for diversion or reluctant to use them; and so on.

Obviously if somebody's mental health means he shouldn't be in prison it is best if he never gets there at all. Very much second best is to transfer him from prison to hospital. That does happen, but not very often (only to 721 men in 2003; and of those 721 only 296 had been sentenced and 96 were returned to prison after treatment) and the regulations governing the process are such that there are often considerable delays. The courts cannot insist that a hospital place is provided even though the need for it has been agreed.

Mental health care in prison

The Royal College of Psychiatrists has said 'A healthy prison is almost a contradiction in terms'. Whatever mental health problems men arrive in prison with, there are many features of life in prison that almost certainly make them worse: feeling unsafe, lack of privacy, lack of respect, isolation from family, pressure to take drugs, lack of purposeful activity, overcrowding, uncertainty, and so on.

Mental health care in prison is now the responsibility of PCTs and prisoners are supposed to receive the same standard of care as members of the general population. Achieving that will make heavy demands on PCTs to whom it is a new task. One set of calculations gives cause for concern: a local prison with 1,000 places and 5,000 receptions a year can expect the same sort of caseload as a town of 20,000 people. The town might be served by a full community mental health team (3 or 4 community psychiatric nurses, 2 or 3 social workers, a full time clinical psychologist, a support worker and administrator, and two full-time psychiatrists).

Concerns arise over using seclusion (in health care centres) and segregation for prisoners who are acutely mentally ill. There is a stark contrast between the lack of safeguards in prison health care centres and segregation units, and the care provided to people in the community who require occa-

sional seclusion in psychiatric in-patient units. Seclusion in hospitals is strictly governed and monitored under the terms of the Mental Health Act, but that Act does not cover prisons. There is evidence that segregation is used (for a variety of reasons) for some severely ill prisoners.

On release

The National Service Framework set out by the Department of Health in 1999 says that 'no prisoner with serious mental illness will leave prison without a care plan and a care co-ordinator'. Such a plan should include occupational activity, housing and entitlement to benefits. It would be established at a meeting that includes all key professionals and to which family and carers would be invited; and it would arrange for clinical follow-up within seven days of release. Many prisons have so far failed to meet these requirements.

Quality of care

Prisoners should not be treated as passive recipients of healthcare. In the NHS outside prison the importance of involving service users, both in forming policy and in decisions about their treatment as individuals, is increasingly recognised as important and healthy. Implementing that sort of policy in prison is clearly difficult, both for practical reasons (security and so on) but also for reasons that have more to do with the established prison culture. But some prisons have made to move in this direction by, for example, setting up bodies through which prisoners can have some input into the planning of health care. To a considerable extent prison life takes away rights to choose, experiment, discuss, negotiate, and be self-assertive. These issues are important to mental well-being and much current therapy specifically aims to encourage them. The question is how successfully prison mental health services can operate along those lines if the rest of the prison culture for the most part is working against them.

Self harm

The book draws particular attention to people who harm themselves repetitively. A survey of prisoners in 1998 reported that 7% of sentenced men (and 15% of men on remand) said they had tried to kill themselves in prison in the previous year, and that 6% said they had harmed themselves deliberately without meaning to kill themselves.

There is a widespread, persistent belief among prison staff that acts of self-harm are 'manipulative' or 'attention-seeking'.

Suicide prevention

Suicide risk is highest soon after reception, higher for remand prisoners and for men in prison for the first time. These facts have been known for over 100 years without any discernible effect on the capability of prisons to prevent self-inflicted deaths. Men in prison are 5 times more likely than men outside prison to kill themselves, and boys aged 15-17 are 18 times more likely.

Clearly one approach to preventing suicide is to focus on identifying the individuals at most risk. That may be less useful than it sounds. Identifying risk in an individual is difficult: a study of one year's suicides found that only 25% had been on an open F2052SH and that at their last contact with health care staff risk of suicide was judged low or absent for 93% of them. And the odds are stacked against making correct identifications. Only roughly 1 prisoner in every 100 will kill himself in any given year but roughly 75 in every 100 have at least one of the characteristics known to put people at risk. Strategies aimed at preventing rare events almost inevitably get things wrong most of the time.

What may be at least as important is to attend to more general aspects of how a prison works (the 'whole prison' approach). There is research showing that frequency of suicide is related to general levels of distress in individual prisons and that the two most important factors influencing those levels are personal safety and the extent of caring and fairness from staff.

Personality disorders

Surveys show that 64% of sentenced prisoners (12 times more than men in the general population) meet diagnostic criteria for at least one personality disorder (PD) with antisocial personality disorder, not surprisingly, the commonest (49%).

How to deal with PD (even whether to deal with it at all) is a problem for mental health services generally. There are few clearly established treatments and few specialised services but there is general agreement that any successful approach will place heavy demands on services and be slow to produce results. Working with PD patients is challenging and frustrating and, probably because of that, the label is often used pejoratively or as an expression of thera-

PD: a confusing concept

The concept of personality disorder is controversial and problematic. The term disorder easily gives the impression that PD is an illness that doctors are somehow able to diagnose. In fact, saying that somebody has a PD is really just saying that they are disposed to behave in a particular way: people with 'antisocial personality disorder' are people who behave antisocially. It is also worth being aware that there is no single entity called PD. Diagnostic systems used by psychiatrists describe a variety of persistent, possibly lifelong patterns of behaviour that cause distress to the person who exhibits them and (often) to those around them: these are the 'personality disorders'. Different diagnostic systems have different lists of PDs and they are, in any case, a pretty mixed bag. Some, like antisocial PD, describe dangerous and aggressive behaviour, but others describe behaviour that is isolating and withdrawn. It needs also to be said that even when psychiatrists are using the same system for 'diagnosing' PDs the level of agreement between them is poor. MS

peutic despair. 'Prison staff may view them as: violent, emotionally unstable, cunning, manipulative, insincere or lacking in feeling ... The result is that these prisoners are likely to face a destructive cycle of rejection and coercive crisis.'

Three prisons (Grendon, Dovegate and Blundeston) operate specialised treatment units for PD (a total of several hundred places for the whole service) working on therapeutic community lines. Because the ethos of these units is unique, return to

normal prison life presents considerable problems.

Since 1999 special attention has been given to dealing with 'dangerous and severe personality disorder' – previously regarded as untreatable. Specialised programmes for assessing and treating people of this kind are being set up both within the prison service (Whitemoor, Frankland) and the special hospitals.

This programme is so costly that it may restrict spending on other areas of mental health in prisons; defining and assessing what is 'dangerous and severe' is difficult; there are difficulties relating to consent.

Specialist areas

The book deals with mental health needs in various specific areas.

Prisoners with drug or alcohol problems combined with mental illness are badly served.

Learning disability (including autism) is not well recognised and dealt with in prison, yet such problems are likely to increase the chances of imprisonment.

Deaf prisoners experience particularly high levels of frustration, fear and isolation that will tend to cause or aggravate mental health problems.

Older prisoners' mental health needs, though recognised by the NHS, were not being dealt with in any of the prisons visited by HMCIP in 2004.

Foreign nationals with mental health problems are likely to be particularly vulnerable for a host of obvious reasons.

Black and ethnic minority prisoners are statistically less likely to have mental health problems – but this may be because they don't trust the system enough to seek help, or that their behaviour is more likely to attract punishment than treatment

Troubled? Confused? Uncertain? Harassed?

AMIMB Helpline

Here's a selection of the sort of things we get asked.

- Dissension on boards.
- How to deal with a tricky prisoner application, perhaps about missing property?
- How to get a reply from the Secretariat?
- What do we think about a governor who has just been transferred?
- Is there a prescribed way rota reports should be done?

For support or advice from AMIMB contact Jenny Budgell on 01249 660035 or jennystobyrumple@btinternet.com

When community care equals seg unit care

Prisons & Probation Ombudsman Stephen Shaw on the treatment of mentally ill prisoners

The well-read readership of the *Monitor* will be familiar with Samuel Butler's nineteenth century satire, *Erewhon*. In that unfortunate land, people who were ill were not treated but punished. Sickness was their own fault and even those who were simply sad were imprisoned for their misfortune. (Yes, I do know that, in contrast, those who robbed or murdered were dealt with kindly and taken to a hospital to recover.)

I sometimes wonder if society's treatment of people with mental illnesses is so different from that portrayed in Butler's novel. All too often, I encounter attitudes towards illnesses like post-natal depression or alcoholism that are essentially punitive in their nature. The illness is seen as a sign of weakness – a failure of character that 'they' could do something about if 'they' tried hard enough.

There is much fear of mental illness too – and of mentally ill people themselves. They are seen as presenting a random threat of violence; indeed, by their very presence among us they seem to upset the natural order of our lives.

Lock them up?

Years ago, those with depressive or psychotic symptoms were locked away in workhouses or asylums. But from the 1960s onwards, the combination of libertarian philosophies, new drug treatments, and government parsimony led to the closure of psychiatric hospitals in the name of so-called community care. I was an advocate of community care myself, but where are its beneficiaries today? In very many cases, they are back inside other institutions. Only this time not hospitals but prisons.

I am told there is academic research that maps the rise of prison populations in the Western world against the closure of specialist psychiatric facilities. At least three prisons I can think of (Parc, Downview and Highdown) are actually built on the sites of what were once mental hospitals. Different labels, same inmates.

Estimates of the proportion of prisoners with one or more psychiatric problems vary according to the definitions used, but all are astonishingly high. Among women in prison, it is hard to find a single woman who does not have some psychiatric history. And I am well aware from my death in custody investigations how many prisoners who take their own lives have previously self-harmed in the community or received psychiatric care.

For the most part, these mental health problems are relatively low level. It is hardly surprising if people in prison feel anxious or depressed. But in all too many cases, prisons are being asked to care for people who are seriously mentally ill: people with sectionable illnesses who should rightly be in secure hospitals not in prison healthcare and segregation units.

Nothing new

In over 25 years of visiting and writing about prisons, I know that the scandal of mentally disordered people in prison has always been with us. I remember the foul conditions in what passed for prison hospitals in the 1980s. In the local prisons, the whole of healthcare or the whole of some wings could be given over to the warehousing of seriously disturbed patients. I have lost count of the number of times I have been told that one or other initiative was helping ameliorate the problem, but I do acknowledge that we now have nowhere as remotely grim as Brixton's Fraggie Rock or the sort of Bedlam scene you



could witness at one time in Holloway, Strangeways or Winson Green.

That said, in virtually every prison I now visit, I find prisoners who have been waiting weeks or months for transfer to a psychiatric hospital. I have also found prisoners who have been transferred back to prison the moment their condition shows any sign of improvement. Some of the most psychotic patients continue to deteriorate as they cannot be compelled to take their medication while they remain in prison. In all too many cases, these prisoners end up not in healthcare but in segregation units, there being nowhere else to house them safely. The more ill you are, the more severely you are punished. Samuel Butler would have loved that.

The community perspective

So is this simply a matter of the NHS discriminating against prisoner-patients? To be blunt, I suspect that may be part of the problem. But imagine yourself in the shoes of the manager of a local psychiatric unit. With limited bedspaces who would you take first: the deeply psychotic patient who is secure within the confines of a prison or the deeply psychotic patient who is living alone in a bed-sit alarming his neighbours? It is not difficult to see why it is the latter who is perceived as in greatest need (and as posing the greatest threat, since such thoughts are also part of the equation).

Despite the growing evidence that many psychiatric illnesses have an organic cause, I still retain a lot of personal sympathy for the anti-psychiatry movement of the 1960s. We are much too ready to hide away those who do not conform to the mainstream – whether they be the elderly, the delinquent or the mentally ill. But it also seems clear to me that we have an insufficient number of secure places in psychiatric care to take those who are both ill and potentially dangerous.

Community care was never meant to mean that those in a highly psychotic state would be treated not in hospital but in a prison segregation unit. Yet all too often that is exactly what is happening. Month after month, they languish awaiting transfer. If they decline medication, their condition continues to deteriorate. As it is currently practised, it is the policy of community care that is mad, sad and bad.

Everyone knows that *Erewhon* is an anagram. I think it may be an anagram of Pentonville, Brixton or Durham – or of any of our local prisons.

Phone charges ripoff

Decent family contact is a key part of resettlement. Yet a contract between BT and the Prison Service is jeopardising this essential link. From Sam Hart of Action for Prisoners' Families

Maintaining strong relationships can help prisoners reintegrate into society and prevent family breakdown. Prisons certainly pay lip service to this. Yet prisoners are currently charged 11p per minute for phone calls – more than five times the standard payphone rate. People using a standard BT payphone can talk for up to 15 minutes for 30p, while prisoners can talk for just under three minutes for the same amount.

With prisoners earning around £8 per week on average, this can put a severe strain on finances, meaning that calls must be kept to a minimum. Inmates with larger families may also have to make heartbreaking decisions about which family members to talk to during an all too brief call home.

'It's difficult – you have to be really strict about how much time you can spend speaking to each child,' says Richard, a father of three serving a three-year sentence, 'You don't always get to talk to everyone – it can be difficult. Of course they all want to talk to their Dad and they don't understand.'

How the charges work

Under the pin phone system, each prisoner is issued with a pin number and an account. To make a call, the prisoner dials the phone number followed by his or her pin number.

Minimum charge to a landline 10p, for 55 seconds; then 1p per 5.5 seconds.

(Payphones outside are 30p minimum, for 15 minutes, then 1p per 45 seconds.)

Pricing phone calls abroad is a complicated business, but foreign national prisoners and others used to calling abroad outside prison complain that the prison should use the sort of economy phone card services that are widely available.

Curiously, phoning mobiles from prison, though expensive (10p for as little as 10 seconds at times) is no more expensive than phoning from a payphone.

Among the different Immigration Removal Centres there is considerable variation in systems, allowances, selection of phone cards on sale etc.

Information please. Any more details on phone charges to the Editor.

Why it matters

Research by Action for Prisoners' Families has found that many children with a parent in prison experience severe mental health problems, bullying and disruption to their education. And prisoners are up to six times less likely to re-offend if they maintain strong family ties while in jail – yet currently nearly half lose contact during a sentence.

The government is committed to finding ways of maintaining and strengthening children's contact. Yet inflated phone costs seem to contradict this commitment.

The Prison Service points out that visiting and letters provide alternative ways of staying in contact. But chronic overcrowding means that prisoners are being held further and further away from home. A recent report from Blundeston prison revealed that more than half the prisoners were held over 100 miles away from home. As a result, getting to prisons is becoming increasingly difficult and the number of visits has plummeted in recent years.

In summary:

- women are held on average 62 miles and men 51 miles away from their home base
- 150,000 children have a parent in prison
- 45% of prisoners in England and Wales lose contact with families while in prison
- 22% of prisoners' marriages break up before release.

BT's line

BT says that prisoners are not losing out because they can get a 55-second call for 10p – a third of the price for the payphone minimum of 30p. But that 30p buys 15 minutes; 15 minutes from a prison pinphone costs £1.82. BT also says that the

average length of inmates' phone calls is only 4.5 minutes. But that would cost a prisoner 50p – 20p more than on the outside. In any case, the fact that overcrowding restricts phone access should not be used as an excuse to inflate prices.

A campaign

Action for Prisoners' Families is calling on BT and the Prison Service to review these charges and bring them in line with the outside community. We are running a joint campaign with the Prison Reform Trust to reduce phone costs for prisoners. To get involved please contact Sam Hart at Action for Prisoners' Families on 0208 812 3600.

Application for AMIMB membership

Name _____

Title Mr Mrs Ms
 Other (please specify) _____

Address _____

Postcode _____

Phone (Home) _____

Phone (Work) _____

Email address _____

Establishment _____

I enclose my cheque for £ _____

Signature _____

Date _____

Membership fees

The subscription year runs from 1 August to 31 July. The annual subscription is £20, or £10 if joining after January

Send this form with your cheque, made payable to AMIMB, to the Treasurer.

If you would like to pay by standing order in future years tick here

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AMIMB

The Association of Members of
Independent Monitoring Boards
Patron Lord Phillips
President Baroness Vivien Stern

Shutting the barn door



IMB members should have seen a useful note recently on the sudden movements of foreign nationals from open prisons. It is summarised below. Its author, Simon Nieboer of the National Council, elaborates

Since May there have been reports from some prisoners removed from Ford of excessive journey times without food or comfort breaks. These complaints are being actively pursued. As the majority of removals were made without accompanying property, we would expect boards to have received complaints from the prisoners affected. Those who were removed appear to have been given little information about what was to happen to them. Some have since been returned to open conditions.

But how did it come to this?

Intention to deport

The rush to move these prisoners to closed conditions was the direct result of the Home Secretary's insistence that all foreign national prisoners be assessed for deportation.

This followed the revelation that 1,023 foreign national prisoners had been released from prison over the past seven years without being considered for deportation. The rules are that all EU citizens serving sentences of 2 years or more and all non EU citizens serving sentences of 12 months or more will be considered for deportation.

Phil Wheatley, Director General of the Prison Service, reinforced the Home Secretary's statement in an Instruction to Governors on 27 April 2006 which required that Population Management Section (PMS) be informed of all immigration cases at least 8 weeks prior to release. In addition:

'To ensure no prisoner is released without Immigration Service consideration additional checks should be made on all foreign national prisoners serving 12 months or more, or subject to a Court recommendation to deport, at 2 weeks and again at 24 hours before release.'

A dedicated line was set up between PMS and the Criminal Casework Team (CCT) in the immigration directorate to get decisions

in these cases. The Prison Service has been blamed for failing to report to CCT all foreign nationals or suspected foreign nationals at first reception in prison. CCT, in turn, has also come in for criticism. PSO 4630 explains the procedure for informing CCT. Prisons must refer all foreign nationals and any whose nationality is unclear. It is for CCT to assess whether they should be served a Notice of intention to deport.

Deportation in practice

Not every foreign national prisoner wants to appeal such a Notice. Many want to return to their country of origin but feel frustrated at the delays, particularly when they are detained in prison after their release date under an immigration detention order (IS91). The lack of reliable information on when they will be deported is the issue.

By the time foreign national prisoners are assessed for D cat, there should be an expectation that their deport status will have been determined. Those who agree to be deported without appeal may be eligible for removal under the early release scheme and possibly transferred to open conditions subject to risk assessment. Those who are not being deported should be able to pursue their resettlement work without further disruption as D Cat prisoners in open conditions in the expectation of release in the UK.

The latest position

There are currently about 600 foreign nationals detained by the Immigration Service in prison after sentence expiry. That is almost 400 more than in March this year with the prison population at an all-time high. Of these 200 are risk assessed as being unsuitable for holding in an Immigration Removal Centre pending deportation.

PMS and CCT have a joint operation for removal of sentence expired foreign nationals from prison. The process is continuous. Only those who have been notified of CCT's intention to deport and held under an immigration warrant will be either detained in prison or removed to an IRC pending deportation. The remainder will be released by the prison into the community at sentence expiry.

The National Council welcomes information from IMB members about how this is operating where they are.

What happened in May

All open prisons with foreign nationals were required to move selected prisoners to closed conditions for assessment – a combined operation between Prison Service HQ and the Immigration & Nationality Directorate.

The advice to staff in sending and receiving prisons was poor. There appeared to be no rhyme or reason for the way prisoners were selected; lack of paperwork accompanying the prisoners added to the confusion. Staff attempts to answer questions about immigration status of prisoners were met by unanswered phones. The concerns of families and the prisoners themselves about whether they would be allowed to return to their open establishments to continue with their resettlement work were unanswered. The impact of this uncertainty on those remaining in open prisons was evident in the higher abscond rate following the early removals at HMP Ford.

It was evident that many foreign national prisoners are being treated with a lack of humanity owing to the inadequacies of the immigration assessment system.

At HMP Ford, ship outs started on 6 May but at dawn on 26 May the big guns went in – see bottom of next page.

At YOI Thorn Cross four youngsters were transferred, with their property.

At HMP Latchmere House five men were shipped out with no property.

At HMP Coldingley (cat C) cat D prisoners arrived without paperwork, disrupting an appeal and a hospital visit. One of them turned out to be a UK citizen.

At HMP Kirkham nine prisoners were moved to closed conditions – one on his release day.

A new kind of apartheid?

Juliet Lyon,
director of the
Prison Reform
Trust, on some
of the fall out
from recent
political
turbulence



Prisons are our most neglected and least visible public service, only emerging as a matter of national debate when something goes radically wrong. Successive home secretaries have striven to keep prisons out of the news. Over the last ten years the number of foreign national prisoners has more than doubled, while the imprisonment of British nationals has increased by a half. Yet years pass without a consistent strategy to manage them. Sooner or later this serial failure was bound to come to light. It did, on Charles Clarke's watch and led to his resignation.

Since then the focus has been on failures to secure public safety. However there are many untold stories concerning welfare and human rights. One prisoner contacted the Prison Reform Trust recently because he has been incarcerated for 10 months after the end of his sentence, waiting to be deported. We respond to many cases of this kind, yet the new Home Secretary struggled to tell parliament just how many foreign nationals are detained in prison beyond their sentence.

The main reason behind the rise in numbers is simple. One in four foreign

national men and four out of five women are held for drug offences. Most are mules. Reacting to changes in law enforcement, countries of origin have shifted. At one time many came from Africa, then Jamaica, then the wider West Indies. Increasing numbers now are from south-east Asia. One thing remains the same: big drug importers are always able to locate a stream of desperate people to take a foolish risk under duress or for promises of meagre reward.

After one prison visit last year I received a letter from a group of women sentenced for importation. They were full of regret for their crime and distraught at their 10 or 15-year sentences, away from their country and children. Clearly, they had committed a serious offence; their plea was for mitigation and mercy. Not all foreign-national prisoners are dangerous or violent people. Prison staff often regard them as people who cause no trouble – a stark contrast to the recent scaremongering in the popular press.

A PRT survey as early as 2004 found that information on prisoners' immigration status was inaccurately and inconsistently recorded. Many foreign national prisoners were held in bureaucratic limbo, as documents and requests passed between arms of the Home Office and their home country. Many were unaware of the workings of the criminal justice system here and had problems understanding prison procedures and rules. Most needed immigration and legal advice. A shortage of translation facilities and English classes for prisoners compounded language barriers.

Yet communication between staff and prisoners is the basis on which a safe, constructive prison regime is built.

These failings can be attributed to the absence of a strategy for managing the huge rise in the number of foreign national prisoners. Until recently, prison, probation and immigration services have operated in separate spheres. The current political and media firestorm could eventually lead to a proper plan that secures both prisoner welfare and public safety. It might even draw attention to the foreign nationals held for disproportionately long periods in our overcrowded prisons.

Restoring humanity

Sadly, in the short term, it has fuelled the growth of a kind of apartheid in a risk-averse prison system. Unlike British prisoners, foreign nationals nearing release are now rarely trusted to undertake community work. At Ford open prison 141 foreign national prisoners were hauled back into closed establishments in a dawn raid organised by the Prison Service itself. Foreign national prisoners working as Samaritan Listeners, responding daily to people in extreme distress, were barred for the first time from taking their place alongside British prisoners, Samaritans and prison staff at the annual listeners conference.

All this at a time when news is trickling through about deaths in custody involving uncertainty, despair, foreign national prisoners under sudden threat of deportation and often separation from their families. What is happening to the decent, humane service all sensible people want to see? What is happening to prison staff whose professional integrity is so compromised? What is life like now for foreign national prisoners so long ignored and now so vilified?



Dawn raid at HMP Ford

After some shipping out and absconds, the beleaguered Home Office decided to remove the 141 remaining foreign nationals. The call went out at 9pm on 24 May for a 3am muster the next day. From many directions converged 19 C&R teams (14 officers in each), 25 dogs and handlers and 20 transport vehicles with staff. So, over 400 people surrounding this large, open site. At 5am they went in, as Ford personnel processed the prisoners. A successful, if overblown affair. Who was it that said John Reid himself was there in a boiler suit?

Keep them safe – but use force if necessary

The Carlile report, published in February, was critical of the use of force on children in custody. Rod Morgan, chair of the Youth Justice Board, reports on its aftermath

In February the Howard League published its commissioned independent report by Lord Carlile into 'the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes'. On 12 July the Youth Justice Board published its response to the 25 recommendations addressed to us (out of 45 – the others being addressed to ministers, the inspectorates, the police, the CPS, the local authorities and the establishments themselves). Lord Carlile will in due course give the YJB his considered reaction to our response, which may be one of disappointment given that we have not accepted all his recommendations.

In the meantime, however, we have to continue exercising our statutory responsibilities to monitor the performance of the youth justice system and, within available resources, purchase places for, and place, children and young people remanded or

sentenced to custody. As we exercise those responsibilities those concerned with these vexed issues must face up to some of the uncomfortable realities with which we wrestle daily.

Numbers and problems

There are today just short of 3,000 children and young people in custody. Not quite a record high – that was reached in November 2002, at the height of the government's Street Crime Initiative – but approaching it. The YOIs, secure training centres and local authority secure homes with which the YJB contracts and in which it places young offenders are all close to full. We don't determine who should be placed in custody – that is a task for the judiciary, who we seek to influence – and we don't have the ability to pull up the drawbridge. I already receive regular complaints: from the courts about the YJB's inability to find at short notice remand places for young children or older, vulnerable adolescents in secure homes; from IMB members about repeated escort late arrivals or concentrated allocations of particularly disturbed young people; from everyone about the distance that many young offenders are currently held from home; and from some custodial staff about the restrictions allegedly placed on their ability to handle very difficult young people.

The YJB has since 2000, when we took over our current commissioning functions, walked a tightrope, over the years raised unacceptably too high and stretched between an inherited infrastructure which is far from ideal.

What has all this to do with the use of physical restraint, solitary confinement and forcible strip searching? Everything.

Imagine, if you will, a system in which most neglected, troubled and troublesome young people and their parents or carers were identified early and worked with intensively by social services, the education authorities, the community mental health services, etc. Imagine that, where compulsion was needed, it came mostly through the family court; that prosecutions of children were rare and most young offenders were dealt with pre-court. Imagine that those few young offenders brought before the youth court were overwhelmingly dealt with in the community, where necessary through fostering and intensive surveillance and supervision schemes. Imagine that resort to penal custody was exceptional. Implausible? Not at all. In fact we only have to rescue some of the elements of practice from as recently as 10 or 20 years ago to realise this agenda and end up with a population of children and young people in penal custody half the size it is today. As volume crime, including that done by young people, has fallen by 44% since the 1990s, that is not at all fanciful.

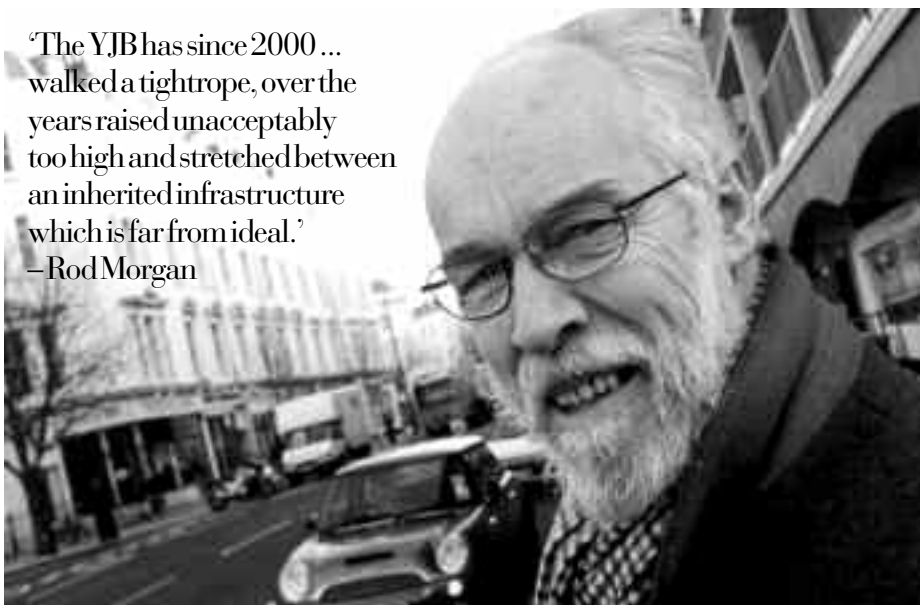
Could do better

The youth justice system needs, to use the Prime Minister's phrase, 'rebalancing', but in ways about which there is as yet little official discourse. There are many children and young people in penal custody who absolutely should not be there. Many children and young people who have been subject to no effective care or parental supervision for most of their young lives; have been repeatedly victimised by most of the adults with whom they have had contact; are mentally ill or highly disturbed; have been totally disengaged from education and training not for weeks or months, but for years. We should be investing more heavily in early preventive work and alternatives to criminalisation.

Were the overload on our penal custody system significantly reduced we, the YJB, could more rapidly move towards the realisation of the operational principles set out in our Strategy for the Secure Estate for Children and Young People published in

'The YJB has since 2000 ... walked a tightrope, over the years raised unacceptably too high and stretched between an inherited infrastructure which is far from ideal.'

– Rod Morgan



November 2005 and our Code of Practice for Managing the Behaviour of Children and Young People in the Secure Estate published in February 2006. We could hold most young people close to their community roots, thereby reducing the intolerable stresses on them, their families and custodial staff. We could develop a fully dedicated estate, instead of having split-site YOIs. We could better ensure the recruitment, training and employment of staff suitable for, and opting to work with, juveniles. We could develop the smaller, more child-centred, more intensively staffed accommodation units we need for those older young offenders who, for various reasons, cannot and should not be expected to cope with life in mainstream regimes. We could even better provide vocational training and other positive programmes.

We are already moving in the general direction which Lord Carlile signposts, and we want to move further down that road. But we are currently grappling to manage an extremely difficult situation many of the parameters of which do not lie within our control. We operate on a tight budget subject to increasing demands. We think that most of the staff in most of the establishments with whom we contract are doing their best in conditions which, to employ the current euphemism, are frequently more than 'challenging'. We are unhappy with many aspects of current provision and we repeatedly emphasise that though improvements have been achieved since 2000, there remains a considerable distance to go.

But let us be clear. We think that the maintenance of order in custodial establishments is essential to safeguarding the young people. We are committed to the proposition that order is best maintained by modelling, inculcating and rewarding positive behaviour. We are working with our providers to that end. But we are not prepared, particularly in the current climate, to remove from staff the ability to resort to physical restraint, separation and strip searching when circumstances warrant it. Further, where we have not accepted some of Lord Carlile's other recommendations – for example, that there should be a consistent staff-inmate ratio throughout the youth estate – it is not because we are trimming to resource restrictions not of our choosing. It is because our operational experience indicates that such a requirement could not be justified given the very different needs of the highly diverse population in custody.

Checking the pulse of prison healthcare

These are complicated times for prison healthcare: rising expectations from the NHS takeover tempered by worries over budget cuts. And how are new systems for dealing with complaints going to work out? Michael Noddings, chair of Hull IMB, reports from a recent conference

About 130 delegates, including three IMB members, attended a May conference organised in Manchester by the Health Commission. The conference objectives were to clarify the responsibilities of PCTs in relation to prison health complaints, to consult over possible changes to guidance on handling prison healthcare complaints and to consult and provide input into a new revised prison service instruction.

The introduction, delivered by the Health Commission, confirmed that PCT complaints policies include some examples of good practice but much uncertainty. There is an ongoing issue relating to how complaints about healthcare are handled in private prisons. Particular prison complaints issues are: managing diabetes and asthma, pain management, access to mental health services, dentistry, opticians and smoking cessation services, waiting times, information and attitudes and confidentiality.

The next speakers described prison healthcare complaints as 'the hardest nut to crack in a very unfamiliar environment'. Services need to be more patient focused and complaints should not be seen as negative feedback but as a learning tool. PCTs need to recognise this. A responsive support system is particularly difficult when prisoners are being transferred. Patients need clear concise information in plain terms and everyone needs resources to help explain the procedures.

It was clear from the two workshops that followed that many delegates had no understanding of the different roles and

responsibilities of those present at the conference. The lack of knowledge by the Healthcare Commission colleagues present about what goes on in prisons was a concern. It was recognised that IMBs have a very important role ('they have a lot of power' said a facilitator) and that it was important for the Independent Complaints Advocacy Service (ICAS) and IMBs to work together.

The final speaker, from the Department of Health, highlighted the key professional and clinical issues. They included the integration of services, maintaining appropriate levels of confidentiality, developing new roles, maintaining an ethos of individuality of care and treatment, developing clinical and professional practice, and the need for an agenda for change. He suggested that the number one issue was the reduction in the re-offending rate and that there was a need initially to do a few things well. The Prison Health Corporate Business Plan 2006/07 includes mental health transfers and staff awareness training for mental health, smoking policy and a flu pandemic plan for public health and an integrated drug treatment system when dealing with substance misuse. He concluded with challenges for the future – practice based commissioning; the fact that the main provider is still the Prison Service; escorts and bed-watches; funding and over-spending; mental health needs of prisoners; drug treatment programmes; resettlement; and health and offender partnerships.

There are going to be regional meetings in the future and I hope that Independent Monitoring Boards get more involved.



Integrating mental health care

Lord Phillips, The Lord Chief Justice of England and Wales said recently, 'We need much better chance of rehabilitation in the community. It shouldn't be necessary to commit an offence in order to get drug treatment.' Most drug/alcohol dependent people also suffer from mental health problems and the sad fact is that 'care in the community' has failed many of these vulnerable men and women.

The vast majority of annual reports from IMBs raise the issue of mental health and say that there are far too many people in custody who should be cared for in the community. In my work with homeless men and women I see clients with very complex needs but because they don't fit into any recognised category, no statutory

authority will take responsibility for them and they often end up in prison. On a practical basis this adds hugely to overcrowding, but more important is the suffering of an individual who cannot get the care he or she desperately needs, be it for substance abuse or what I would see as mental health problems.

A couple of weeks ago I sat with a distraught alcoholic man. He was crying in frustration because he had finally accepted that he needed help but the waiting list for an intensive programme was depressingly long. Then there was the young street homeless girl, a heroin user, who I talked to when she was sitting alone on a bench in the town centre late at night. I knew her background and that she should never have been in that state. She was arrested for shoplifting a few days later.

Josh is 30 and was brain damaged after an accident. He was sleeping rough for a couple of years, alcoholic, incontinent, often beaten up as he slept, and very confused. He

served several custodial sentences for minor offences but the authorities couldn't help because he didn't fit into a category. Eventually there was a happy ending and he is now in supported housing but what about those who do not have a charity to keep pushing for them?

There are some excellent drug and alcohol rehabilitation programmes run by dedicated experienced workers in the community but there are not enough. Local authorities are overstretched and much work is carried out and funded by voluntary agencies whose resources are limited.

The circle of drug/alcohol/mental health prison can't be broken without a holistic approach which addresses all those issues as well as housing, jobs and education. If the government is serious about reducing re-offending rather than just wanting to tick boxes to please the electorate then it will have to come up with some hard cash.

Angela Clay, East Sutton Park

Sex offenders, not vulnerable prisoners

In order to make any real progress in the rehabilitation of serious sex offenders, then the attitudes of other prisoners to them need to be addressed. It is ironic that prisoners with horrific crimes to their names often considered themselves to be superior to sexual offenders. The successful experience of Durham (a local) in not having any so-called 'vulnerable prisoners', in place for several years, seems to have been totally ignored by the rest of the system.

Why? Putting sex offenders all together

seems to me to be an opportunity for them to be able to dwell on their experiences and fantasise with fellow offenders. Also, putting them together with inadequate prisoners (and lumping them all together as 'VPs') is totally indefensible and counterproductive. Sexual offenders are often older and pathetic humans who need to be exposed to a wider world. Yes, there will be problems, particularly in the early days of such a policy, but Durham seems to have solved them.

From my experience in a local prison, I have been very concerned at the conditions in which VPs are held. At Preston, their present location is the only one which has not been refurbished and is entirely unsuitable for holding them: cramped conditions, double cells, no TVs, inadequate association facilities and exercise opportunities compared to those on normal

location. Not to mention that some prisoners apply for VP status because of problems they have brought on themselves by getting into debt etc, and sometimes because they think that they are going to have an easier life. Our Board report states this year that the location and conditions of our VPs is 'totally unacceptable.' And prisoners are often held at Preston for too long before they are transferred to a more suitable establishment.

In the past 15 years or so, there have been several reviews on all this, but recommendations have been put into cold storage. The problem may be that no-one wants to put their head above the parapet in case something goes wrong. The Minister will need to be bold and far-seeing if these problems are to be tackled and the real needs of sexual offenders tackled.

Mike Watson, Preston IMB

Home Office policies unfit for purpose

Vivien Stern of the International Centre for Prison Studies, and AMIMB president



A report from an Independent Monitoring Board was quoted in a packed House of Lords on 4 July. The House was not packed because the IMB report was to be mentioned but because on 4 July, after 14 centuries, the Lord Chancellor ceased to sit on the Woolsack and his place was taken by a Lord Speaker, actually a Lady Speaker, the Baroness Hayman. The occasion for the mention of the IMB was a starred question (seven minutes to quiz a Minister). The question (in my name) was about the sudden appropriation of two women's prisons, Bullwood Hall and Brockhill, for men. Labour peer Baroness Gale joined in the questioning to ask the Minister if she was 'aware of the report from the independent monitoring board of 2005 on Brockhill prison, which noted that the staff there had built up many years of expertise in reducing self-harm?' She went on to ask if the Minister would 'now expect the level of self-harm to rise as a result of the dispersal of the women prisoners from Brockhill?' The answer was that the Minister 'hoped not'.

It is good to see IMB reports being widely read and used to hold the government to account. However, 'good' is not the word to describe current criminal justice developments. For those who work in the prison or probation services, those who are concerned about criminal justice, or merely remember when the Home Office was a great department of state, it has been a sad few months. On all fronts the Home Office has become associated with crisis and failure.

Public panic and pandemonium

This latest crisis was triggered by the pandemonium about the failure to deport foreign nationals at the end of their prison sentences. IMB members are not likely to have been

surprised by this as they have been calling for years for something to be done about the breakdown in communication between the different parts of the Home Office. Sadly, one of the results of the Home Office failure to deport those recommended by the court for deportation has been an hysterical manhunt for anyone who has served a prison term and does not have a British passport. It is likely that many have been unjustly deported to places they have not seen since their earliest years and whose language they do not know.

The recent panic about the Human Rights Act has added to the sense of Home Office failure. They brought in an Act, so it is claimed by some, which prevents the public from being protected from dangerous criminals. In fact, since the Home Office started preparing for the legislation on human rights it has viewed the Human Rights Act as a threat. This seems the most likely explanation for the extraordinary conclusion reached by the Chief Inspector of Probation when investigating the case of Anthony Rice who committed murder whilst on parole licence. The Chief Inspector suggested in his report on the case that 'the Multi-Agency Public Protection Arrangements panel handling the case allowed its attention to the public protection considerations of this case to be undermined by its human rights considerations'. Those reading the report have found no evidence whatsoever to support this suggestion. But few have read the report and most believed what they saw in the newspapers – that it was because of the Human Rights Act that dangerous people had to be released and could not be properly supervised.

Inspectorate and Noms under threat

The Government also finds itself in trouble for a decision that seems to lack all supporting evidence and one it did not have to make. To be fair it is a decision that the Home Office resisted but failed to convince the Treasury, from whence it comes. The idea for a new combined Inspectorate and the absorption of the prisons inspectorate into this larger entity, to be called the Inspectorate of Justice, Community Safety and

Custody, is deeply unpopular in most quarters. In the House of Lords on 6 July the proposal was condemned by representatives of all parties.

Noms had already attracted uncertainty, indecision, plans, renewal of plans, reversals of plans, postponements and confusion. This worsens. The removal from the control of the prison service of many policy departments, done suddenly when Noms was set up, is being reversed. The Chaplaincy, Prisoner Administration Group and Safer Custody Group have now been moved back into the prison service and, the Home Office announcement says, 'the National Offender Management Service headquarters will get progressively smaller, reducing by half by 2010.'

Probation and prisons

The proposed Bill to abolish Probation Boards and replace them with business-oriented Trusts controlled by the Home Secretary has been trailed many times but has so far not appeared on the expected date. However we have been given a glimpse of what the government has in mind by the new Undersecretary of State at the Home Office for criminal justice and offender management, Gerry Sutcliffe. He was bemused that the Probation Boards had been campaigning (rather quietly it must be said) against their abolition. Apparently he said at the General Meeting of the Probation Boards Association in June, 'The National Probation Service is totally funded by central government and it would not seem in the government's best interests to fund and support a body that lobbies against its policies.'

And of course at the end of the line of all the chaos and tabloid-inspired gestures are the prison staff, struggling with gross overcrowding, trying to prevent suicides and working to retain a modicum of humanity. What is Dr John Reid going to do about that problem? Not much. He is going to introduce measures, like a four-year term for carrying knives and fewer released on parole, that will push prison numbers well above the current highest-ever of 78,500. There will be 8,000 new prison places, though it is not clear how or when they will appear as Gordon Brown has not agreed any additional money. IMB members may soon see cherished and long-awaited plans for refurbishment and prison improvements cancelled as the money disappears into the new building fund.

And the additional prison places will remove us even further from the Western European approach to the use of prison. If the current prison population simply rises by the number of new places opened, we shall have an imprisonment rate of over 160 per 100,000. France has 88 and Germany has 95. We shall have moved another few nautical miles across the Atlantic towards a country sometimes called 'the prison nation'.

Whos to blame?

Much blame has been heaped on the Home Office staff for the current problems. The latest announcement makes it clear that they have been moved around, reshuffled or despatched elsewhere. The staff are not to blame. Since Jack Straw handed over as Home Secretary to David Blunkett in 2001 we have become used to new Home Secretaries repudiating predecessors' policies as if they were not members of the same government. The new incumbent then embarks on untried and untested paths without consultation. The jettisoning of Charles Clarke's ideas by John Reid has been swift, so swift and so complete that Charles Clarke has protested from the backbenches. Police forces, for example, are not to be compulsorily amalgamated. The development of a strategy for prison reform based on community prisons, announced by Charles Clarke in September 2005, will not survive the changeover. Ideas for removing from prison the so many unfortunate people who should not be there have almost vanished.

Better north of the border

Finally we should note that Dr John Reid has a Scottish constituency. Justice matters are devolved and Scotland has a rather different set of policies. There are no prison-like places for children aged 12-17 run by private companies in Scotland. Children under 16 who are in trouble are dealt with by welfare-oriented panels of lay people. Scotland has no plans to open up the criminal justice social work service (there is no probation service in Scotland) to competition from commercial companies. In Scotland the rise in the prison population over the last ten years has been 15% compared with 50% in England and Wales.

Perhaps after all there is some merit in the idea being floated in political circles that MPs from Scottish constituencies should not be allowed to vote on matters that affect only England and Wales.

Recall of lifers

by William Brown, chair of the Wormwood Scrubs board, and the Monitor's legal expert

In 1980, a Mr Hirst was convicted of manslaughter following an attack with an axe on his landlady. He represented a serious long-term danger and was sentenced to life imprisonment. In April 2004, a Discretionary Lifer Panel recommended he be released on life licence. In August, following a recommendation of the Parole Board, his licence was revoked and he was recalled to Hull prison on 3 August.

On his recall Hirst was supplied with a 'recall dossier'. On 26 August, he was given the reasons for the recall. On 3 September, the Lifer Review and Recall Section of the Home Office referred the matter to the Parole Board. Following an oral hearing, the Board found that his recall had been fully justified but nevertheless ordered his release.

Hirst then claimed that aspects of his recall had been in contravention of his rights under Article 5 of the European Convention of Human Rights (ECHR). And further, that the statutory recall scheme set out in section 32 of the Crime (Sentences) Act 1997 was incompatible with Article 5.

Article 5 provides that 'Every one has the rights to liberty and security of the person.' It stipulates that no one shall be deprived of his liberty save in a number of grounds given in detail in the Article. It also demands timely explanations and paperwork for any arrest.

The first decision

In June 2005, in the High Court, Mr Justice Crane upheld two of Hirst's complaints, both under Article 5 of the ECHR.

First, there had been an impermissible delay in the process by which Hirst had been informed of the reasons for the recall. Second, there had been impermissible delay in the provision of the recall dossier.

Mr Justice Crane concluded that the delay in providing Hirst with the reasons for recall was sufficiently dealt with by a declaration to that effect. In respect of the recall dossier delay, he awarded Hirst compensation of £1,500.

But he rejected Hirst's primary claim that the statutory scheme for recall was incompatible with Article 5. This was to be the subject of appeal.

The Court of Appeal

The gist of Hirst's critique of the statutory scheme for the recall of life sentence prisoners to prison is that when the Home Secretary revokes the licence, either on his own initiative or on the basis of a recommendation by the Parole Board, the decision is made by the executive. This is without the normal safeguards built into the criminal justice process and was alleged to be in breach of ECHR Article 5.

The court judgment in July this year stressed that the section 32 scheme deals with recall, not the process by which an unconvicted citizen may be arrested and detained. The court explained that a life sentence meant that whether he was inside or outside prison, his liberty was at the discretion of the executive for the rest of his life (subject to statutory controls). The release of such an individual is on the basis of dangerousness and this involves an element of risk. Before directing his release the Parole Board must be satisfied that the risk can be safely managed in the community. The release should be made subject to conditions, which will provide for public safety.

The court surveyed case law of the European Court of Human Rights and concluded that provided the circumstances under which the original sentence was imposed were sufficiently reflected in those, which pertain at the time when the recall order is made, the recall of a life sentence prisoner does not contravene Article 5. The recall and subsequent detention follow a conviction of a competent court – this is one of the grounds set out in Article 5.

Taking into account the case law of the European Court and the circumstance of Hirst's recall to prison, the court concluded that there had not been a breach of Article 5 and thus the scheme created by Section 32 was compatible with the ECHR.

Concluding thoughts

IMB members are well aware of the growing number of lifers. Parole is a topic of media and political interest. This case is a reminder to the Home Office and the rest of us that while the recall scheme complies with the ECHR, procedures must be followed scrupulously and promptly otherwise it may breach the rights of individual prisoners.

HMCIP reports

Summarised by Helen Banks of the AMIMB executive committee.

Full reports on www.homeoffice.gov.uk/justice/prisons/inspprisons

Risley (Cat C)

Risley remains an enormously challenging prison and it is still not sufficiently safe. More focus is required on violence reduction and by a more proactive approach to prisoner supervision and a continued emphasis on combating illegal drugs.

However, there are also a number of aspects that are going in the right direction, particularly in resettlement.

Send (Female)

This inspection found it to be a safe, respectful and purposeful prison which was beginning to work effectively to resettle its prisoners.

In many ways Send is an impressive establishment and, with development of its resettlement function, it could easily become an excellent one.

Blundeston (Cat C)

Considerable progress in its transition from a category B to an increasingly effective category C training prison.

Staff and managers are to be congratulated on delivering a generally safe, respectful and purposeful establishment though there is some way still to go to achieve the necessary focus on resettlement.

Inspectors were dismayed to find on a night visit that fire prevention procedures were woeful and night staff lacked basic equipment to respond to attempts at suicide. Staff-prisoner relationships were good – most notably in the therapeutic community – and this helped to mitigate the inadequacies of Blundeston's accommodation.

Whitemoor (High security)

There was some extremely good and innovative work going on at Whitemoor, particularly in the specialist units which deal with very difficult and dangerous prisoners. These well-resourced units had sucked in most of the energy of managers, and many of the most committed staff, at the expense of the rest of the prison where there were serious concerns about the quality and extent of staff relationships with prisoners.

Overall Whitemoor was not performing sufficiently well in three key areas: respect, purposeful activity and resettlement.

Prisoners were not encouraged, or challenged, to participate in the activities to which they were allocated.

Black and minority ethnic prisoners were much more likely than white prisoners to be segregated and to be subject to the use of force.

Kingston (Cat B lifers)

Kingston had improved considerably since the last inspection.

The population has changed recently with the arrival of younger prisoners, some with shorter tariffs, under the the new sentences. Although the management of life-sentenced prisoners in general is now much less structured, with no clear national system for managing them through sentence, Kingston provided a generally safe and respectful environment.

Brixton (Local)

Brixton was a reasonably safe prison.

First night arrangements had improved and bedded in.

There was relatively little use of force, and an effective anti-bullying scheme as part of a broader violence reduction strategy. There were, however, some potentially dangerous gaps: continuing delays in responding to emergency cell call bells; inoperable Samaritan phones (including in the first night centre); and the fact that staff could not always gain access to anti-ligature devices. Resettlement had also moved on, with the engagement of a number of community groups and voluntary organisations. Brixton suffers from a poor built environment, and little had been done since the last inspection to address this.

There was only a limited regime, too much reliance on agency nurses, and the basement area, holding the most severely mentally ill patients, was wholly unacceptable. Race relations, which had showed significant improvement in 2004, had not developed as hoped. In spite of the obvious enthusiasm of senior managers, the improvements that have been put in place, and the commitment of many staff, Brixton was still not performing sufficiently well against three of our four tests of a healthy prison – respect, purposeful activity and resettlement.

Hull (Local)

Hull has made a number of improvements since the last inspection.

Efforts had been made to improve safety, although more remained to be done. Reception had been refurbished, with better holding rooms, access to phones and improved detoxification procedures. Prisoners tend to be kept too long on the induction wing which had an impoverished regime.

Population pressures had compelled the reopening of E wing before it had been refurbished – and it remained unfit for use. Similarly, on many wings, two prisoners were crammed into single cells with inadequately screened toilets.

Healthcare had improved and made good use of prisoner forums.

Hull had continued to make progress on its resettlement agenda.

Dartmoor (Cat C)

A prison transformed in 5 years - now recognisably a 21st century training prison, with good and improving resettlement opportunities for prisoners.

Inspectors were particularly impressed by the work done in the Amethyst unit, working with prisoners in crisis or with mental health needs; and by the extension of resettlement work to the whole of the prison.

Around one in six prisoners were still engaged in largely unproductive activities on residential wings, and there were too few qualifications on offer.

Dartmoor is an example of how the culture and effectiveness of a prison can be changed, a credit to all who have worked hard to change it.

The new Dartmoor deserves as much praise as the old Dartmoor deserved criticism.

AMIMB AGM

Information about the agm and conference is included in the mailing of this issue of the *Monitor*. But it's worth summarising:

Wednesday 1 Nov, Wormwood Scrubs

2.15pm, 90-minute tour of the prison

4.15pm, agm

5pm, conference led by our president,

Vivien Stern, with our patron

Lord Chief Justice Phillips and

Nicholas Sagovsky the canon theologian of Westminster Abbey.

6.45pm, ends

LAST WORD from Carp

Canteen complaints

Carp was sent an anonymous but obviously authentic analysis of canteen practices in an English jail. The author, a prisoner, reported five main grievances.

- Prices rose with no explanation – baked beans up 41%, curry powder 73%, almonds 137%, chicken seasoning 196%.
- Some big price rises were camouflaged by changes in size.
- Prisoners were encouraged to suggest new products for the canteen; they suggested 100. When 45 new products appeared, only 9 were from their list. The same happened to their requests for Christmas goods.
- Products were taken off the canteen list without any consultation.
- Because of misleading labels – and some dissembling, it seemed, from the company organising the canteen – some Muslims ate non-Halal chicken.

Things for IMB members to look out for.

Public inquiry announced

The Howard League for Penal Reform has persuaded the government to have a public inquiry on the treatment of a child in prison. The League first acted on her behalf in 2003, when she was 17, with severe mental health problems and a history of neglect and abuse. She was transferred to an adult women's prison from local authority secure children's home on her 17th birthday. In prison she was placed on suicide watch and held in the seg for several months. She was often banged up in her cell for 22 hours a day, eating her meals on her own and taking her only exercise in a metal cage. Her self-injury was so serious while she was in prison that she had to be taken to hospital for blood transfusions. Since being transferred to a mental hospital her condition has stabilised.

Road to nowhere

There's a rough and ready rule of transport planning that, if you ignore what's made a road too busy, then widening it will simply attract more traffic and it ends up as busy as it was before. Bypasses, even, can fail to achieve their objective for similar reasons. So with prisons, perhaps. We are promised 8,000 fresh places by 2012. As they appear, the process may drag more prisoners inside. So, no more new roads: improve public transport instead. No more new prisons: spend the money on crime prevention instead.

PPPO annual report

Stephen Shaw's annual report for 2005/06 was published on 18 July. A year of relative calm after a lot of change. A welcome reduction in prison deaths to be investigated – from 224 last year down to 193. Suicides by women prisoners fell from 12 to 3, but young offenders' suicides were up from 4 to 7. The Ombudsman also conducted a special investigation into allegations of racism and abuse at Oakington IRC, and reviewed the supervision of a serious offender by a Probation Area after the man committed further grave offences.

On complaints, the completion rate remains stubbornly below

the 70% target. In the last three years it's gone from 66 to 61 and now 56%. This is blamed on the introduction of a new IT system during the year. Look for an improvement next year?

Stephen Shaw is still waiting for his office to be put on a statutory basis, without which work under Article two of the European Convention on Human Rights is weakened.

Blunkett's letter

Last word last time mentioned a threatening letter from David Blunkett to the director of *Gladiator Games*, the play about Zahid Mubarek's murder in Feltham. Well, Carp has seen it. It rejects her claim that he had blocked the public inquiry. He talked, though, of the inquiry 'lining the pockets of lawyers'. And here's the threat: 'I want you to know that as I am no longer a member of the Government I am free in a way I was not previously to deal with both factual inaccuracy and defamation.' Intimidating? Must get a lawyer? Well actually the recipient simply ignored it and the bully went away.

Children in detention

What do you think is the UK's main centre for the detention of women and children? According to its very recent HMCIP report it's Yarl's Wood IRC. The report expresses considerable concern about the detention of children. Yarl's Wood held 32 children at the time of the inspection, seven of whom had been there for more than 28 days. There was no evidence that children's welfare was taken into account when making detention decisions. A social worker appointed to help in this had an unclear role and later resigned. And there were weaknesses in child protection arrangements.

Lest we forget

This from a fairly routine INQUEST press release in May: *'22-year-old Kelly Hutchinson was found hanging in her cell early yesterday morning. She was serving a five month sentence for theft. Her death comes just days after a jury at the inquest into another death at HMP New Hall returned a verdict highly critical of the care provided to a woman at risk. HMP New Hall has recorded the highest number of self-inflicted deaths across the women's estate. Kelly Hutchinson is the eleventh self-inflicted death at HMP New Hall since 2002.'*

Key compromise

It's every IMB members' nightmare: you take a key out of the prison and so all the locks have to be changed and you've cost the prison tens of thousands. Anything worse? Well one key compromise recently in the staff canteen led to a story in the national papers and an IMB resignation. The IMB secretariat confirmed that it happened but is tight-lipped about where.

Making waves at North Sea Camp

In the December *Monitor*, read the inside story of a dispute within the IMB at North Sea Camp. A board divided, members suspended, governors fired, the secretariat involved: don't miss it.

AMIMB statement of purpose

AMIMB works to maximise the effectiveness of its members by providing:

- encouragement in the robust and efficient performance of their duties
- training support
- best practice advice on the treatment of prisoners and the administration of prisons
- information on relevant developments in penal affairs
- support for members who seek advice in times of difficulty.

AMIMB also helps to enhance public awareness of the work of Independent Monitoring Boards.