

Reforming prisons: the role of inspection

Anne Owers discusses the role of the Prisons Inspectorate as a means of achieving reform.

Independent inspection, as carried out by the Prisons Inspectorate in England and Wales, is both a catalyst and a monitor of prison reform. It operates independently not only of the institution, but of the service and the department. As such, it can chronicle what is really happening, as opposed to what is supposed to happen – I have frequently referred to the ‘virtual prison’ which can sometimes be found in a governor’s office, an area manager’s report or the Minister’s red box. Inspection can also encourage best practice, and press for improvement, both at the level of the individual institution and the service as a whole. But it has no regulatory function – it cannot require change, or close down failing institutions. It is therefore critically dependent on the will, and to some extent the ability, to change and reform.

The Inspectorate has the right to enter any prison, at any time and without warning. In practice, every adult prison will experience at least two inspections in a five-year period, at least one of which will be unannounced; and every juvenile prison will have two inspections in three years. Subject to that, the timing, scope and frequency of inspection is dependent upon intelligence. Inspection gathers together the views of prisoners – both during inspections and in confidential surveys of a randomly selected number of prisoners – as well as the views of staff, the observations of inspectors and the documents available in the prison. It is carried out by inspectors with prison, probation, social work, healthcare and substance abuse skills and experience, alongside specialist education and training inspectors from Ofsted.

The most important driver of reform is that the Inspectorate uses its own criteria, called *Expectations*, rather than the standards or guidance of the service itself. These criteria have been developed over a number of years. There are over 500 of them, and they cover everything from the moment a prisoner leaves court to the moment he or she steps out of the prison: reception arrangements, safer custody procedures, segregation and discipline, healthcare, education and training, diversity, food and hygiene, offender management and reintegration arrangements. There are separate *Expectations* for young people under 18. They are referenced against human rights standards. To a large extent, they reflect the standards, targets and orders which are audited and managed by the Prison Service itself – but they go further. They look for best practice, not compliance; for outcome, not process; for quality as well as quantity. Taken together, they allow inspectors to assess the ‘health’ of a prison using four key tests: safety, respect, purposeful activity and resettlement.

Those *Expectations*, and the detailed process of inspection and assessment, have played a significant part in changing and improving performance. They have, for example, been influential in improving practice to support prisoners in the crucial early days of custody and prevent suicide and self-harm – something which is no longer a key performance target, but which is clearly of huge importance, given the vulnerability of many of those in prison, and the positive responsibility that a prison has to protect life. In this and in other key human rights areas, inspection has a preventive function: it is designed to prevent

human rights abuses, not to chronicle them. So, the operation of the most closed or most intrusive areas of prison life, segregation and the use of force, are subject to particularly intensive scrutiny, not only to expose any abuses of such power – which are thankfully rare – but to ensure that systems and procedures exist to prevent them.

Diversity is another area in which inspection has been instrumental in pushing at the boundaries, and challenging received practice. Outcomes for foreign national prisoners, those from minority communities or faiths, and those with disabilities, are assessed explicitly and in detail. Prisoner surveys can also compare the views of different groups of prisoners: highlighting the fact that black and minority ethnic, Muslim and disabled prisoners usually report much worse experiences of prison life than their counterparts.

One measure of the effectiveness of inspection as a tool of reform is the response to the many recommendations in each inspection report. The Prison Service is required to produce an action plan, within three months of the publication of an inspection report, setting out which recommendations are accepted, and what action will be taken to implement them. In spite of the fact that inspection criteria do not mirror what the service is required to do, last year 97 per cent of recommendations were accepted, 83 per cent of them fully. Inspectorate teams return, usually within two years, and always without warning, to check whether those recommendations have in fact been implemented. Over the last three years, on average, 70 per cent of recommendations have been found to be achieved, either wholly or partially: that is around 5,500 things that were better, over a short period, as a result of prisons responding to inspection recommendations. Given the twin pressures of population and resources, this is a considerable achievement. More generally, awareness of what the Inspectorate expects, and the knowledge that we can arrive without warning, does permeate the service as a whole, and

provides ammunition for prison governors, area managers and even directors-general, to put pressure on those both below and above them.

Nevertheless, there are important things that inspection cannot change, and that result in repeated recommendations that are not achieved. They include, for example, the fact that two men should not share a cell meant for one, with an unscreened toilet, where they eat, sleep and sometimes spend most of the day; or that prisoners should not be reliant on flawed night sanitation systems that mean in practice they have to use buckets; or that all prisoners, especially in so-called training prisons, should have access to purposeful activity that provides training and increases employability. But it is essential that inspection continues to chronicle these entrenched failings of an overcrowded, under-resourced system – so that what has become normal does not become normative.

Some of these large systemic problems have been tackled in the Inspectorate's thematic reviews. They have been influential, over time, in changes to prison healthcare, the treatment of women and children, resettlement practice, race, age and other diversity issues, and segregation. They are 'slow burners' – requiring a change of approach, procedures and, sometimes, additional resources throughout the system. They also crucially influence and develop the Inspectorate's own criteria, and therefore the processes by which each individual establishment is inspected. Similarly, joint work with other criminal justice inspectorates can highlight gaps or weaknesses in the overall criminal justice system. The inspection of offender management, jointly with

the Probation Inspectorate, has served both to chronicle progress and to expose some of the inherent problems and conflicts within and between the prison and probation systems. Most recently, inspection of police custody has brought to light some hitherto unrecognised practices and issues, even in such a highly regulated system.

However, inspection on its own cannot achieve reform. Without any regulatory power, it is crucially dependent on the objectives and behaviour of those running and working in the prison system, and on the political will of those who oversee and finance it.

Within the Prison Service itself, the Inspectorate's 'healthy prison' tests – safety, respect, purposeful activity and resettlement – have been accepted as the foundations of a good prison and an effective prison system. Inspection assessments are now formally built in to the system by which prisons are graded.

But inspections do more than assist good managers to improve their prisons. Crucially, they expose to public and political gaze the reality of what is going on behind prison walls. Inspection is a key part of the public accountability of the prison system, together with the work done by other parts of civil society: such as the independent monitoring boards and the prison reform and human rights organisations. Poor inspection reports on individual prisons can provide the motivation that is needed for change and improvement, within the system as a whole as well as in the prisons concerned. The immense amount of data collected in inspections also provides a unique independent evidence base – most recently deployed to support

concerns from within and outside the prison system about the proposal to build huge Titan prisons.

However, the capacity for reform is likely to be severely tested over the next year or two. The prison population, though relatively stable over recent months, is still high and likely to rise, as a greater proportion of those in prison are serving long or indeterminate sentences. At the same time, resources are being cut, with every prison governor required to make substantial savings, and as part of the efficiency drive, all prison activities are being benchmarked. There is a degree of political embarrassment if prisons are seen to be too good, or to offer too much to those inside them.

This creates a clear danger of a regression to the mean: where prisons are discouraged, or even penalised, for performing too well, particularly in areas that are not key performance targets, but may be precisely the kind of regime or approach that makes a difference to the life chances of prisoners or the decent running of prisons. It threatens the considerable progress, over recent years, towards more humane and effective prisons. A prison system that ceases to aim for the best can too easily and swiftly drift towards a containment model that is inherently less safe, and does nothing to improve the lives of those within it, or to provide long-term protection for the public. In such a climate, the role and the leverage of independent inspection, and the principles and best practice on which it is based, become even more crucial. ■

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