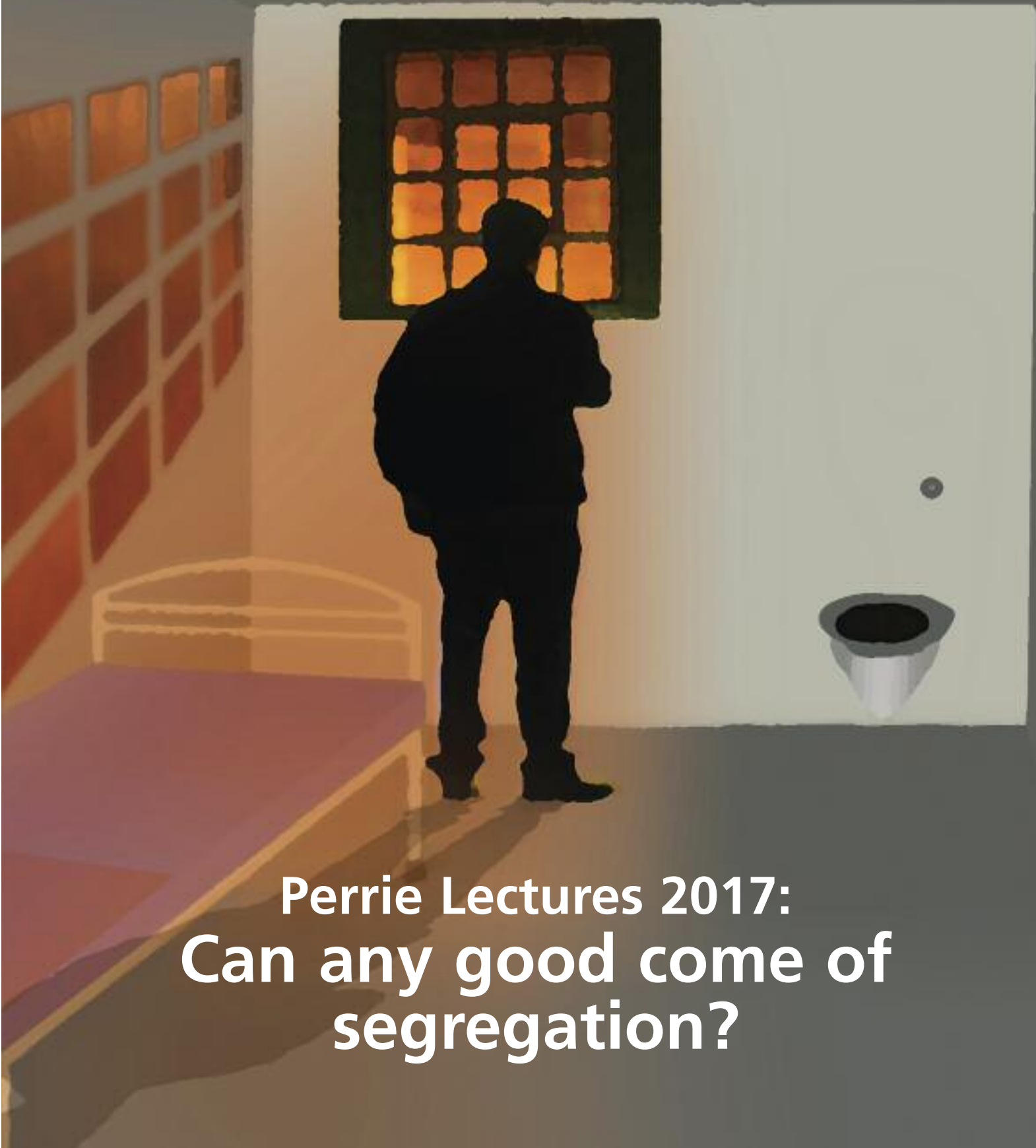


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**Perrie Lectures 2017:  
Can any good come of  
segregation?**

# Segregated by Choice

*Dr Kimmitt Edgar<sup>1</sup> is Head of Research at the Prison Reform Trust.*

## **Jean Genet described life in French jails in his book, *The Miracle of the Rose*:**

*The windows are forbidden us. And sometimes we commit an offence so as to be sent to the hole where at night we can see through the skylight . . . a patch of starry sky and, even more rarely, a piece of moon.<sup>2</sup>*

Prisoners deliberately used the punishment block for their own ends, in this case to catch a glimpse of the moon. Perhaps the benefit was that seeing a distant object gave them a sense of freedom the walls denied them. But getting segregated is a strange choice, because segregation units are punitive, and because they are far more controlling than normal location.

Segregation regimes restrict the person's scope for decision-making to the bare minimum: yes or no to shower, phone call, and exercise. The risk of institutionalisation is amplified many times over by the degree to which the person is controlled. As Sharon Shalev wrote in her *Sourcebook on Solitary Confinement*:

*The 'totality of control' means that some prisoners become so reliant on the prison to organise their lives and daily routines that they lose the capacity to exercise personal autonomy.<sup>3</sup>*

*Deep Custody*, a study of segregation units and close supervision centres, was based on visits to 15 prisons and interviews with 67 segregated people (50 in segregation units; 17 in close supervision centres); 25 managers; and 49 officers.<sup>4</sup> Sharon Shalev and I found that 19 of the 50 of the prisoners we interviewed in segregation units (over a third) had deliberately done something to get themselves segregated. Further analysis of their situations will shed light on the reasons some people choose segregation.

Yvonne Jewkes wrote that:

*Even the most rigorous forms of discipline cannot dissipate human agency altogether.<sup>5</sup>*

Engineered segregation is an example worth exploring.

As segregation is harmful, doing everything possible to minimise stays in segregation necessarily includes finding better ways to respond to those who choose to be segregated.

## **Personal story**

Sam was serving a life sentence, so being segregated damaged his chances of progression. Yet he engineered his segregation by climbing onto the netting on the wing. So why did Sam risk his progress as a life sentence prisoner to get to the segregation unit? Sam's explanation was backed up by the staff we spoke to.

Having done well in a category C training prison he was offered a progressive move to an open prison. But he would have to spend a two-week stop-over in a local prison. He accepted the offer.

Two and a half years later, he was still in that local prison. He regularly put in applications for a transfer. He discussed a move with governors and officers. Although most were sympathetic, he remained in the local prison. He explained:

*When I went on the netting, I'd been pushed to my max. They keep giving me different answers. And every week I was seeing other prisoners get shipped out with worse behaviour than me.*

He was determined not to return to a wing on normal location.

*I'm prepared to be down here five or six months. I've done the route, 'go back to the wing'. Nothing has happened. When I dropped on the netting, all of a sudden, everyone asked*

1. Thanks to Tom Guiney, Ryan Harman, Ian O'Donnell, and Sharon Shalev for their input to this lecture.

2. Genet, Jean (1994) *Miracle of the Rose*, Grove Press.

3. Shalev, Sharon (2008) *A Sourcebook on Solitary Confinement*, London: LSE Mannheim Centre for Criminology.

4. Shalev, Sharon and Edgar, Kimmitt (2015) *Deep Custody: Segregation units and close supervision centres in England and Wales*, London: Prison Reform Trust.

5. Jewkes, Yvonne (2008) 'Structure/Agency ('Resistance') in Jewkes, Y and Bennett, J eds., *Dictionary of Prisons and Punishment*, Cullompton: Willan Publishing, pages 280-281.

*me what I wanted — Supervisory Officers, wing managers: . . . I had their full attention.*

Asked if he got any benefit to being in segregation, he replied, 'Only benefit is to get shipped out.'

### Why did these 19 people choose segregation?

Few of the 19 thought their segregation would be permanent; most intended to return to normal location eventually. Only five expected to serve out their sentence segregated, and two of these had an imminent release date.

The reasons people choose segregation are often to do with conditions on the main wings and in the system as a whole. Preventing segregation by choice cannot be achieved simply by changes in the segregation unit. Solutions must tackle the deliberate use of segregation at different levels, including: prison service structure, how conflicts are managed by governors and prisoners, and the individual level.

### Structural incentives to engineered segregation

Managers' options are limited by factors outside their direct control, such as overcrowding, a decline in safety, and reduced time out of cell.

A manager described the impact that delays in transfers had on the unit:

*I have five who have been in [segregation] over three months and four in over six months. I don't want prisoners down the seg that long, but trying to move them is difficult. Moving involves the whole estate and I don't have the authority.*

At a time when the system is hugely overcrowded, requests for transfers are one of the most common reasons people contact the Prison Reform Trust's advice and information service. Prisoners who want to go nearer home are prevented by the fact that those prisons are already overcrowded; and by delays in arranging for transport.

A manager explained:

*Some is down to population pressures. We had a lad here in segregation for several months. When you spoke to him he would say 'I'm a London lad, I want to go back to London'. He's been through a lot of prisons. He would misbehave, be placed in segregation, transferred and the same would happen over and over again.*

Overcrowding also tends to lower the quality of life on the wings as it increases demand for gym, freshly cooked food, the showers, and education. A prisoner told us, 'If you want to reduce people coming to seg in order to get a transfer, then provide them with what they're entitled to on normal location.'

### Safety

A second factor that creates incentives to seek segregation is the decline in social order on normal location. The Chief Inspector of Prisons' Annual Report stated that, 'we found prisoners at several prisons . . . self-isolating in fear for their safety.'<sup>6</sup>

One prisoner who chose segregation told us, 'I took myself away from the drugs, the fights...' A lack of order on the wings leaves many prisoners with reduced options for avoiding disputes and aggression. A third of the 19 gave reasons they would be at risk of assault on normal location, including debt, outside feuds, and behaviour that provoked threats from others.

### Time out of cell

Long periods of inactivity and bang-up reduce the difference between normal location and conditions in segregation. The Chief Inspector's Annual Report revealed that 18 of 37 male prisons were not sufficiently good or poor on purposeful activity.<sup>7</sup> Their survey found that 31 per cent of people in local prisons said they spent less than two hours out of cell per day. If those on main location are confined to cell for 22 hours a day, segregation is not such a deprivation. One said, 'If I had a tv I'd do my whole sentence in a seg.'

These structural factors also constrain the prisoner. The 'choice' of segregation was often forced on them by situations on normal location that (a) limited their options and (b) indicated a possible failure of the prison's duty of care.

A woman told us:

*I'm here through choice but they have to find a solution. This is the only place where I feel safe. . . . I don't want to spend all my time here.*

And a man who believed his segregation was not fair explained:

*Not what I had to do. I broke the rules, so I should have been placed on report. But they say they don't have a duty to keep us safe. They do.*

Segregation provides a very poor quality of life — 23 hours behind a door, a minimal choice of activities, and

6. HM Chief Inspector of Prisons for England and Wales (2017) *Annual Report, 2016-17*, London: HM Inspectorate of Prisons.

7. *Ibid.*

almost no social interaction. Given that, the fact that people choose segregation as a least worst option should alarm everyone. Segregation is not a place of safety, but perhaps the damage it causes is less visible than violence, robbery, exploitation or drug misuse on the wings.

### Engineered segregation viewed as a conflict

By occupying a segregation unit cell, a prisoner put pressure on managers to meet their interests. Despite the hardships, the negative health effects, and the implications of having segregation on their record, occupying a segregation cell could enable the person to win some concession from the management. Prisoners were well aware of this:

*When the seg's full, they come and start to make offers, because the power is in your hands.*

*If the prisoner has the ability to cope with seg, then management will have to give him what he wants.*

Six of the 19, like Sam, were occupying a segregation cell to force the prison to transfer them.

*I want to be here. The longer I'm here, the more they have to move me. They don't want people here for a long time... I should be in my local.*

*For me it's here [segregation unit] or be shipped out.*

Using segregation to force a transfer is complicated. For a start, being held in segregation does not look good on a transfer request. Three people were convinced that they had been sent to the wrong prison. But the prison assessed that the allocation was correct. For two others, the prison they wanted to go to appeared to reject the request, giving rise to negotiations between prisons about accepting them, and with the prisoner about which transfers he or she was willing to accept.

A few of the people who chose segregation used more confrontative tactics. Active resistance is a technique to cope with solitary confinement which Ian O'Donnell has analysed. He quoted a prisoner who saw his segregation as a conflict:<sup>8</sup>

By occupying a segregation unit cell, a prisoner put pressure on managers to meet their interests.

*I am stronger than the punishment. The only way to beat it, to rise above it, is to regard the punishment as a challenge and see my ability to endure it while others cannot as a victory.*

Examples include any illicit activity, litigation against the governor, and assault.<sup>9</sup> Our research found acts of resistance among a few of the people we interviewed, including some who self-segregated.

While Liam was segregated, he caused hundreds of pounds damage to cells, verbally threatened staff and managers, and conducted a number of dirty protests.

One officer told us, 'It was affecting our regime. We couldn't unlock anyone.'

Liam described his behaviour as a reaction to his treatment:

*I went on a dirty protest and pulled out the electrics, because I wanted a move and no one did anything — not the governors, the doctors, the IMB [Independent Monitoring Board]. So that is the frame of mind they've bullied me into. How you treat someone is the reaction you will get. They say, 'You control your behaviour.' I say, 'No. I'm your dog. You can't keep blaming the dog.' I went on a dirty protest to tell them, 'You're not going to keep taking me for a fool or it will cost you.*

Martin also used segregation as active resistance. He declined a radio on the basis that he didn't want anything the authorities could take from him. He criticised the way institutions under pressure responded to conflict:

*The ridiculous thing about the prison service is that it teaches me to be violent to get what I want. When a prisoner complies, he should be rewarded. But every time I do a dirty protest or press the alarm bell, I get everything I want. When I comply, I get fobbed off. They see polite as a form of weakness. If you use the correct channels you'll be fobbed off. If you're causing major problems, it creates paperwork, so they'll give you what you want. My violence is rewarded. Every time I go on a dirty protest, it is for their refusal to give me what I am entitled to. Every time, they bow to my demands.*

8. O'Donnell, Ian (2014) *Prisoners, Solitude and Time*, Oxford: Clarendon Studies in Criminology.

9. O'Donnell, Ian (2016) 'The Survival Secrets of Solitaries,' *The Psychologist*, March, 2016, pages 184-187.

Managing Martin's and Liam's conflicts about their treatment were examples of what is called a zero-sum game. Both the prisoner and managers turned the dispute into a win-or-lose confrontation. The only outcome they saw was that one side would get everything they wanted and the other side would lose everything. The prison recorded every time Liam or Martin broke a rule or said something in anger. The prisoner remembered every sign of disrespect, every callous response, every time the authorities attempted to bend the rules.

The ways governors managed negotiations over engineered segregation covered a continuum, from offering concessions to being coercive and punitive. We spent too little time in each unit to be able to determine whether either style of negotiation worked better. Most recognised that forcibly removing someone to normal location would be counter-productive. As one governor told us:

*Unless they agree to return, you're stuck with them. But it's chip away slowly. 'Why do you not want to go?' Maybe a structured phase. It's inter-personal: talk them into it.*

This governor's advice leads to the third arena for understanding engineered segregation: the individual.

### Individual factors

Jean Genet provided a profound clue about the reasons a person might choose segregation: in a world where the block was officially defined as a punishment, Genet found a personal meaning, which was at odds with the official purpose.

This reflects one of the techniques described by Ian O'Donnell: re-interpretation — finding a meaning to one's time in solitary that makes sense and carries personal value. The person might interpret segregation in terms of benefits it achieves for them, their capacity to absorb deprivations, levels of decency and fairness, or other meanings.

An individual's perspective on segregation is fundamental to segregation by choice. Our interviews with the 19 men and women who engineered their segregation revealed a bit of the individuality of their segregation experience.

Consider, for example, Daniel and Stuart. Daniel got into debt and chose segregation to gain time to repay the money. Stuart — in the neighbouring cell — thought he was about to be placed on basic and chose punishment in the unit as the better option. Stuart felt that segregation should be made far more austere so it could be a more

effective deterrent. Daniel felt that people in segregation should have access to television, education and work opportunities.

Khalil described segregation units as dehumanising and degrading for everyone, including staff. His sense of purpose came from enduring that atmosphere as a protest against what he called the fascist regime.

Nathan was awaiting a transfer, and he perceived his time in segregation as a kind of limbo. He commented: 'I am in no-man's-land — waiting.'

These quotes illustrate the fact that people define segregation and respond to it in unique ways. In contrast, segregation policy sets tightly defined categories and functions, such as Good Order, Cellular Confinement, Own Interest, or awaiting adjudication. As Stephen Pryor, a former prison governor, observed:

*We create massive mechanisms which allow us to label, stereotype, classify, and separate prisoners, and we design our prisons around them. We have security categories, and sub-categories within them, and whole prisons designed around a perception of what that type of prisoner needs.<sup>10</sup>*

For many, the segregation unit offered respite from pressures on normal location. People faced situations on normal location — conflict or chaos, debt, drugs and fights — which meant that the segregation unit was a sanctuary.

Eight told us they had mental health problems on normal location:

*'I needed quiet, because I was mentally beaten up on the wing.'*

*'Mentally [segregation] benefits me — haven't got weight of the world on my shoulders, can just be myself, don't have to worry about anything, no anxiety, nothing like that. [I] prefer being in seg to being in main prison.'*

Three of these said the unpredictable behaviour of others was bad for their mental state and two explicitly linked the chaos on normal location to 'spice'.

A few people, having chosen segregation, conceded that their mental wellbeing would suffer as a result.

*I've been in isolation for 4.5 years without a break. Was sent to Health Care to 'see how I get on with people'. Was overwhelmed — panic, anxiety, picking up on the nuances of people's behaviour...*

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10. Pryor, Stephen (2001) *The Responsible Prisoner*, London: HMCIP.



*I try to keep it together — the more I'm here the more my behaviour will deteriorate.*

For some seeking respite, it was intended to be short term: Daniel only wanted to stay long enough to sort out his debts. For others, like Martin, it was long-term or indefinite. He chose to isolate himself for the duration of his sentence.

In *Deep Custody*, Sharon and I described the reception given to a man who was moved from one segregation unit to another. The sending prison had used five officers in full protective equipment to force him into the van. The officers who welcomed him to the new segregation unit spent time with him, reassuring him, listening to his anger and concerns, meeting his immediate needs, and ensuring he was promptly seen by a governor. He responded by discussing his situation calmly with the staff. From our point of view, these officers demonstrated humane practice by consistently looking for the unique person who had arrived in prison uniform.

### Conclusion

Structural crisis, conflict management and individual meanings help to suggest better ways to respond to engineered segregation. Solutions are not original — but then, good practice in reintegrating prisoners from segregation was very sporadic.

Six of the 19 engineered their segregation as a means of forcing a transfer. It is little consolation for a governor to be told that a third of the problem of engineered segregation could be solved by a more humane and efficient system of transferring prisoners, especially since this is something the government must first tackle by reducing the population. However, the evidence suggests that as the estate becomes less able to take people's needs into account in allocation, the numbers on engineered segregation will increase.

Conflict management has greater potential to convince self-segregated prisoners to consider re-integration. As one segregation unit governor told us:

*A lot of seg units are still about containment; consequences for inappropriate behaviour. They haven't got it — segregation must be about so much more. ... Some seg units only provide discipline and managing risk — they don't do re-integration. You need conflict resolution.*

When someone deliberately chooses to be segregated, the solutions require the prison to develop ways of sharing responsibility. Governors need to work out in each individual case how to share decision-making with

the self-segregated person. The relationship should be modelled on doing things with the person, rather than to them, or for them.

Prisoners' sense of responsibility will be strengthened when:

- ☐ The person is fully informed of policies and practical options
- ☐ Opportunities are provided to make use of the person's strengths
- ☐ A range of options are offered to them to resolve the obstacles to reintegration
- ☐ Efforts are made to build up the person's self-confidence and
- ☐ When the person is considered in their wider web of relationships.

Two examples of practice that should be much more widely applied, especially in response to segregation by choice:

1. Wing staff maintaining responsibility for the segregated person. In the 1990s, in Wormwood Scrubs, the Senior Officer from the relevant wing visited each person prior to reintegration. The SO and the prisoner discussed how reintegration would work, what the wing would expect of him, and what support he could expect from staff on the wing. It demonstrated that prisoners who choose segregation are likely to have some legitimate expectations of prison staff which can be defined and agreed upon.

2. In HMP Oakwood, a group of respected prisoners visit the segregation unit to negotiate with each resident. They agree on what the person is willing to do to achieve a successful reintegration. This might mean some voluntary work, accepting some mentoring, or a personal apology. The approach shows that prisoners are accountable to each other for maintaining a decent and supportive community on the wings. It's possible that similar schemes involving dialogue with other prisoners could reduce the demand posed by engineered segregation.

Professionals working in prison can choose to create environments in which prisoners can find meaning. To do so, managers and officers need to respect the person's capacity to make decisions about their future lives. They need to be prepared to listen to the person, be open to criticisms, and — crucially — to explore with that person what their segregation means to them.

In certain situations, people decide that being segregated is an efficient way to meet their current needs. Therefore, encouraging them to return to normal location is made easier when those needs are tackled. Finding legitimate options to fulfil the functions segregation performs, unique to that individual, is perhaps the most effective response to engineered segregation.