



National Audit Office

Report

by the Comptroller
and Auditor General

Ministry of Justice, HM Prison & Probation Service

Improving the prison estate

Key facts

98%

proportion of adult prison places in use in December 2019 (around 82,300) against HM Prison & Probation Service's (HMPPS's) usable operational capacity of around 84,200

60%

proportion of adult prisons in England and Wales which were crowded, as at December 2019

41%

estimated proportion of prisons needing major repair or replacement in the next three years to remain operational, as at January 2019, with 2% of prisons running a serious risk of 'imminent breakdown'

Maintaining the estate

1,730	prison cells taken permanently out of use between 2009-10 and 2019-20
£450 million	estimated annual investment needed in the public sector estate over the next 25 years, as at January 2019 (in 2018-19 prices)
63,200	maintenance jobs outstanding in prisons, as at April 2019
£143 million	payments to facilities management providers by 2018-19 for reactive maintenance jobs above HMPPS's expectations at business case stage in real terms (in 2018-19 prices)

Transforming the estate

3,566	new prison places HMPPS expects to deliver by 2023-24 against its target of 10,000 new-for-old prison places by 2020
£104 million	sales receipts achieved by HMPPS by 2018-19, out of an original target of £321 million by 2020-21
13%	of the Prison Estate Transformation Programme's capital budget spent (£119 million) by end of 2018-19, against its original budget of £928 million in real terms (in 2018-19 prices)
10,000	new prison places announced by the government in August 2019, in addition to the 3,566 planned to date

Summary

1 HM Prison & Probation Service (HMPPS) is the executive agency of the Ministry of Justice (the Ministry) responsible for managing the prison estate in England and Wales. The Ministry is responsible for allocating HMPPS's budget, balancing financial pressures across its portfolio which also includes, among other areas: courts and tribunals; legal aid; and youth justice. In 2018-19, HMPPS spent around £1.69 billion to operate prisons and £184 million on capital spending, comprising of £113 million on maintenance and £71 million on constructing prisons and reorganising the estate. The prison estate comprises 117 prisons, of which 104 are publicly operated.

2 Since 2015, against a backdrop of worsening living conditions for prisoners, HMPPS changed the way in which it maintains prisons and launched a programme to improve the condition and suitability of prison accommodation. It opted to contract out facilities management, create 10,000 new-for-old prison places and reconfigure the estate to better meet the needs of prisoners.

3 This report examines how HMPPS handled these changes and what it achieved. Our report:

- sets out the condition of the estate and the capacity within prisons to accommodate the prison population (Part One);
- examines HMPPS's approach to managing the maintenance of its prisons (Part Two); and
- assesses HMPPS's performance in transforming its estate by building new prisons, selling unsuitable prisons and reorganising prison places (Part Three).

4 This report builds on our 2013 report *Managing the prison estate*, where we concluded that while HMPPS's (then the National Offender Management Service) capital investment had provided good-quality accommodation, its strategy resulted in the closure of several high-performing prisons whose performance was not yet matched by new establishments.¹

¹ Comptroller and Auditor General, *Managing the prison estate*, Session 2013-14, HC 735, National Audit Office, December 2013.

Key findings

The condition and capacity of the prison estate

5 Prisoners are being held in unsafe and crowded conditions. HM Inspectorate of Prisons rated more than 40% of inspected prisons as 'poor' or 'not sufficiently good' for 'safety' between 2015-16 and 2019-20. Research commissioned by HMPPS found that the prison environment, including the condition of accommodation, plays a role in how prisoners behave. Between 2015 and 2018, among adult prisoners, key indicators of poor safety in prisons reached all-time highs. There was:

- a 110% increase in prisoner assaults on staff;
- a 63% increase in prisoner-on-prisoner assaults; and
- a 73% increase in self-harm incidents.

In addition, between 2015 and 2018, there were 378 self-inflicted deaths in prison custody (paragraphs 1.4 to 1.6, Figures 2 and 3).

6 HMPPS faces prison population and capacity pressures because of increased demand for prison places. As at December 2019, the prison population was around 82,300, equating to 98% of the usable operational capacity of the estate, but the population is distributed unevenly. HMPPS considers that 60% of prisons are crowded with the remainder at or close to capacity. The 10 most crowded prisons are running at or above 147% of their uncrowded capacity, meaning that prisoners are sharing cells designed for fewer people. Demand for places is largely driven by external pressures, which include a shift towards longer sentences. But demand is also shaped by factors partly within HMPPS's influence such as the fall in the use of community sentences (paragraphs 1.7 to 1.9, Figure 4).

7 Many prisoners are held in inappropriate settings without access to the services they need. There is a mismatch between supply and demand for different types of prison places, with a surplus of 18,700 places in local prisons serving local courts and a shortfall of 15,000 training and resettlement places. Local prisons are intended to accommodate prisoners serving short sentences or those on remand awaiting sentencing. However, they are increasingly holding longer-sentenced prisoners because of shortfalls in places to support prisoners' transition into the community. This means that many prisoners live in unnecessarily stringent security conditions while others live in low-security environments relative to their higher risks. HMPPS is attempting to reconfigure its estate so that prisons are better suited to the needs of the population (paragraph 1.10 and Appendix Three).

8 HMPPS has not maintained its estate to the necessary standard, which is impacting on available capacity.

Between 2009-10 and 2019-20, HMPPS took 1,730 cells permanently out of use, losing 939 of these in the past three years. It expects to lose 500 places a year because of the scale of disrepair. There are severe maintenance backlogs and HMPPS estimates that:

- 41% of the estate needs major repair or replacement in the next three years; and
- 2% of prisons are running a serious risk of ‘imminent breakdown’.

As at April 2019, there were 63,200 outstanding maintenance jobs and, as at November 2019, HMPPS estimates it could cost £916 million to address its major works backlog (paragraphs 1.12 and 1.13).

9 HMPPS’s capital budget allocations for prisons have been well below the level needed. It spent £78 million annually, on average, on maintenance between 2016-17 and 2018-19 and had a net £24 million underspend against its budgets across the period. However, it estimates that it needs to spend £194 million on maintenance in the public sector estate each year for 25 years. To date, HMPPS has focused its limited funds on improving statutory compliance and safety by addressing issues such as fire safety, water hygiene and asbestos (paragraphs 1.13 to 1.15, 2.11 and 2.12, Figure 8).

Maintaining the prison estate

10 HMPPS did not have a clear picture of facilities management services in prisons before outsourcing the service. In 2015, HMPPS opted to outsource facilities management in prisons. HMPPS expected to achieve savings of £79 million by contracting-out to Amey and Carillion but has failed to achieve these. Its approach contained common mistakes made in first-generation outsourcing. It had an inaccurate and incomplete understanding of its assets, their condition and required services. Due diligence was not sufficiently robust and HMPPS severely underestimated the demand for reactive maintenance work arising from vandalism and failing assets. It expected to pay providers £17.7 million for variable costs (reactive maintenance costs above an approved threshold of £750 for each job, excluding vandalism) by 2018-19 – the fourth year of the contracts – but has paid £160.4 million, a difference of £142.6 million (paragraphs 2.1, 2.2, 2.5 to 2.7, 2.9 and 2.10, Figure 7).

11 Providers’ performance against targets has been below HMPPS’s expectations. HMPPS measures Amey’s (and prior to its collapse, Carillion’s) performance against 16 key performance indicators. For the two areas which have the biggest impact on prison maintenance – high-priority planned and reactive maintenance jobs – they did not meet HMPPS’s expectations. However, Amey performed the strongest overall and its performance is improving. Carillion’s performance was poor and highly variable. Gov Facility Services Limited (GFSL) was set up by the Ministry following Carillion’s collapse. It has focused on establishing its operations and transferring staff, ensuring continuity in service delivery and addressing shortcomings inherited from Carillion (paragraphs 2.4 and 2.5, Figure 6).

12 HMPPS is acting to improve its asset information and recorded compliance.

It started an asset survey programme in April 2019, nearly four years after its facilities management contracts commenced. By July 2019, it had completed pilot surveys across three prisons (2.5% of the estate) and expects to complete the programme by August 2020. HMPPS has also recently developed a set of standards setting out mandatory and statutory requirements and is undertaking audits to improve compliance across the estate. As at December 2019, rates of compliance vary considerably, from 48% to 98% (paragraphs 2.12 to 2.14, Figure 8).

Transforming the prison estate

13 Changes in the operating environment combined with wider financial pressures in the Ministry meant that HMPPS could not deliver the Prison Estate Transformation Programme (the programme) as planned.

It was slow to start new prison construction because of delays agreeing funding with HM Treasury. Ultimately, the wider financial pressures in the Ministry resulted in it surrendering £235 million of its capital budget for 2017-18. This meant HMPPS had to scale back on the number of new places and, with rising prisoner populations, it was unable to close old prisons. The programme ran from 2016 until August 2019 when it was superseded by a government announcement for 10,000 new prison places. HMPPS spent £119 million in real terms (in 2018-19 prices), just 13% of the original planned capital spend of £928 million by 2018-19, although more will be spent to complete ongoing projects (paragraphs 3.3 to 3.17 and Figures 10, 11 and 12).

14 The programme's performance was well below expectations mainly because of reduced and uncertain funding:

- HMPPS expects to create 3,566 new prison places by 2023-24, against a target of 10,000 new-for-old places by 2020.** So far, it has built 206, with a further 3,360 under construction. This excludes plans for 10,000 new places in response to the government's announcement in August 2019. The funding model for new prisons changed four times between October 2016 and December 2018, which reduced public capital funding and delayed the programme. HMPPS is now due to complete two new prisons which will provide 3,360 new places, plus the 206 places already created by a new residential block. It spent around £99 million on creating new prison places by 2018-19 (paragraph 3.3, Figure 12 and Appendix Three).
- HMPPS sold one prison site, generating receipts of £104 million by 2018-19 against a target of £321 million by 2020-21.** Lack of sales receipts further reduced the funds available to invest in the programme. HMPPS could not dispose of unsuitable accommodation as planned because of the lack of new prison places becoming available, and prison population and capacity pressures. HMPPS initially identified 20 possible prison closures. This assumed new prisons replacing some closures. However, the rising prison population meant HMPPS could not close or repurpose accommodation. For example, it changed its decision to close HMP Hindley and HMP Rochester, and it paused further prison closures until there was space in the estate to meet demand (paragraphs 3.3, 3.14 and 3.15).

- **HMPPS had reconfigured two prisons with the rest due two years later than planned.** As at November 2019, it had reconfigured 2,208 places, against an original target of 37,000 places by the end of 2020 (6%). The project aimed to rebalance prison places for men by reducing the surplus of local places and increasing the number of training and resettlement places. HMPPS underestimated the complexity of this task in a challenging operational environment and was slow to approve building works. It spent around £21 million on reconfiguration work by 2018-19 (paragraph 3.3, Figure 12 and Appendix Three).

Challenges to delivering an effective prison strategy

15 HMPPS's focus on reacting to immediate maintenance problems and population pressures meant it was slow to develop a long-term strategy for the prison estate. In December 2018, it began to develop a long-term strategy for the prison estate but this is not yet approved. HMPPS is yet to determine how it will secure sustainable funding, or how it will balance the need to maintain existing prisons against plans to construct new ones (paragraphs 1.16 and 1.17).

16 The continued uncertainty around how new prisons should be funded impacts on HMPPS's ability to plan and start construction. Between 2016 and 2018, while HMPPS was attempting to secure public capital funding for new prisons – committed by HM Treasury in the 2015 Spending Review – the policy on capital financing changed. HMPPS moved from a public funding model to considering private financing. The subsequent withdrawal of the Private Finance Initiative in late 2018 created further uncertainty. HM Treasury is currently consulting on private finance through the Infrastructure Review and expects to publish results alongside the National Infrastructure Strategy (paragraphs 3.6 to 3.10, Figures 10 and 11).

17 HMPPS now faces a significant challenge to meet the new commitment to create 10,000 additional prison places. In August 2019, the government committed to create an additional 10,000 places to meet expected higher demand caused by the planned increase of 20,000 police officers. It has not yet announced the timetable for delivering the 10,000 new places, which are additional to the 3,566 new prison places planned under the programme. HMPPS has carried out analysis to understand the operational impact of this policy. The forecasts are highly uncertain but suggest that, without intervention beyond new places under construction, demand for prison places could exceed supply between October 2022 and June 2023. Government also plans to increase the minimum sentence length for the most serious offences which will likely place further pressure on prison capacity (paragraphs 1.11, 3.16, 3.17 and Figure 5).

Conclusion on value for money

18 HMPPS has committed to providing a safe, secure and decent prison estate, but its plans to achieve this are failing. It has not been able to provide enough prison places, in the right type of prisons, and at the right time, to meet demand. The Prison Estate Transformation Programme's plans to create up to 10,000 new prison places to replace ageing, ineffective prisons proved undeliverable and outsourcing prison facilities management has not delivered expected efficiencies. If successful, these initiatives could have made a difference, but as it stands the prison estate is not meeting the needs of prisoners or those working in the prison system. It represents poor value for money.

19 HMPPS is taking welcome steps to improve its understanding of the condition of the prison estate, and now better understands the significant gap between its ambitions and the available resources. Learning lessons from its experience in delivering the programme will be crucial as it responds to the government's new commitment to create 10,000 new prison places. But HMPPS must resist a reactive approach and put its long-term plans on a secure footing. Achieving value for money will ultimately depend on HMPPS working with the Ministry and HM Treasury to develop a long-term, deliverable strategy that will provide a prison estate that is fit for purpose.

Recommendations

- a** HMPPS should develop a coherent, long-term strategy for the prison estate that extends beyond in-year and Spending Review budget cycles. This should include setting out:
- a clearer articulation of expected conditions for prisoners and facilities;
 - minimum levels of capital investment needed to ensure a safe, decent and compliant estate, balancing future maintenance needs against constructing new prison places;
 - how its estates strategy aligns with its other strategies to ensure its plans are supported by the right resources and skills;
 - how it can reduce demand for prison places in areas within its influence; and
 - how it will monitor the operational consequences of emerging policies and practices, as well as its capacity and capability to respond.

- b** HMPPS should use this strategy to work with HM Treasury to agree in principle a multi-year funding envelope for the prison estate, to provide stability for longer-term planning by:

 - establishing long-term funding commitments for the prison estate beyond the current Spending Review period; and
 - clarifying the position on alternative financing options as soon as possible.
- c** HMPPS should apply the learning from its facilities management contracts in the lead-up to Amey's contract coming to an end in May 2020. Specifically, if it decides to re-let contracts, it should assure itself that it:

 - has a detailed understanding of asset volumes and conditions;
 - allows enough time for due diligence;
 - uses appropriate data to estimate future maintenance liabilities; and
 - establishes its risk appetite for variations in providers' performance and compliance.