

PRISON OVERCROWDING AND THE RESPONSE OF THE UK GOVERNMENT

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WHY, WHAT AND WHAT NEXT....?

- Why was action needed?

87,726 prisoners in England and Wales as at 30 June 2024

This represented a rise of 2% compared to the same period in the previous year.

18,344 first receptions into prison between January and March 2024

This was a rise of 7% compared to the same period in 2023.

7,415 licence recalls between January and March 2024

This was a 9% increase on the same quarter in 2023.

Prison capacity 2010-2024

- Between 2010 and 2024, just 400 new places were added to prisons' operational capacity

(MoJ ad hoc statistical release, October 2024)

- As of 23 August 2024, there were 84,596 adult male prisoners, with less than 100 prison places available

(BBC News Report: Under 100 spaces in men's prisons in England and Wales)

What was done?

- Prisoners in England and Wales receive either a Standard Determinate Sentence or a protective sentence (extended, indeterminate of life).
- SDS prisoners are automatically released on licence after serving 50% of the sentence (and can be recalled during the remaining 50%).
- The new legislation brought the initial custodial period down to 40%, with some exclusions for domestic violence, terrorism and sexual offences.

What was done, pt 2?

- The scheme came in two tranches – first for those serving under 5 years and subsequently for those serving 5 years or more.
- The scheme is likely to be time limited – initial indications are that it will be in place for 18 months.
- Initial prospective data show a reduction of 5.500 places.
- To help manage this early release, the ministry plans to recruit at least 1.000 new trainee probation officers (issue of length of the training)

Operation Early Dawn

- Only in some part of the north of England and in the Midlands: offenders will be summoned to court once it has been confirmed that a prison place is ready for them.
- Critical point: in the meantime they will be held in police station cells.

New places (or new prisons)

- The government also said that it would make 500 new places available.
- A new housing block at Stocken Prison in Rutland.
- The newly repurposed HMP Cookham Wood in Kent.

What next: long term measures

- Building new prisons (but even with the new prison, the projections consider that there will be a shortfall of 8,000 prison places by 2028).
- A new Sentencing Commission to review the current sentencing schemes.

David Gauke, former Justice Minister

“There are many factors that have contributed to this, but the fact that the average custodial sentence length stands at nearly 21 months, up from about 13 months 20 years ago, has undoubtedly had a profound impact.”

“Building prisons costs vast amounts of taxpayer money, and we cannot build at a fast enough rate to keep up with current levels of demand. We need to fundamentally look again at sentencing policy if we want to get control of the prison population.”

- *“Prison will always play a key role in our justice system, and for many offences it will always be the only answer, but we must face reality that the vast majority of offenders will be released. We need to make sure that when that happens, we have a probation system fully equipped to manage them, and that they are less likely to reoffend and create more victims of crime.”*

Re-evaluation of the sentencing framework

- A comprehensive re-evaluation of the sentencing framework. The goal is to ensure that the system will never be again in a position where the country has more prisoners than prison places, and the government is forced to rely on the emergency release of prisoners.

3 guiding principles:

- firstly, sentences must punish offenders and protect the public - there must always be space in prison for the most dangerous offenders
- secondly, sentences must encourage offenders to turn their backs on a life of crime, cutting crime by reducing reoffending
- thirdly, UK must expand and make greater use of punishment outside of prison

- In developing their recommendations, the independent Chair and panel must draw not only on national data but also **on international comparisons**. This sentencing framework must follow the evidence of what reduces offending.

Expert Panel

- To ensure the review considers all aspects of the justice system, including the impact of changes on victims, an expert panel has been appointed to support independent chair David Gauke.
- This includes former Chief Executives of the Crown Prosecution Service, Peter Lewis and HMPPS, Michael Spurr, as well as former Lord Chief Justice Lord Burnett and Executive Director of End Violence Against Women Andrea Simon.

Call for Evidence

- The review will be further informed by a call for evidence launched today [14 November 2024] with academics, experts and the public encouraged to share ideas for innovation and reform over the next eight weeks.
- The call for evidence will explore key themes including the structure of sentencing, use of technology as tough alternatives to custody, custodial and non-custodial sentences, as well as the individual needs of both victims and offenders.
- (International Experience: Sweden, The Netherlands and Texas)

Initial analysis

- A totally internal political choice
- Europe (ECtHR, CoE, soft law or hard law tools) NEVER mentioned
- Best practices and possible comparison: “from international (not european) experiences”

- “No Lord Chancellor should be put in the **invidious position** I was on taking office – faced with a **prison system on the verge of collapse**. We must make sure there are always a cell to lock up dangerous offenders”.
- Lord Chancellor and Secretary of State for Justice Shabana Mahmood