



House of Commons
Northern Ireland Affairs
Committee

**The Separation of
Paramilitary Prisoners
at HMP Maghaberry:
Government's
Response to the
Committee's Second
Report of Session
2003–04**

**Third Special Report of Session
2003–04**

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The Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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Committee staff

The current staff of the Committee are Dr John Patterson (Clerk), Hugh Farren (Attached Clerk), Dr Aileen O'Neill (Committee Specialist), Tony Catinella (Committee Assistant), Camilla Brace (Secretary).

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Third Special Report

The Committee published its Second Report of Session 2003–04 on 11 February 2004. The response from Ian Pearson MP, Parliamentary Under-Secretary of State for Northern Ireland, was received in the form of a letter dated 20 April 2004, and is published as the Appendix to this report.

Appendix

I enclose the government's response to the NI Affairs Committee Second Report on the Separation of Paramilitary Prisoners at HMP Maghaberry. I particularly welcome the Committee's recognition of the many difficulties facing the Prison Service in seeking to provide a safe environment for both staff and prisoners and I think the report illustrates very well the complexity of the issues.

The Committee's report contained 29 principal conclusions and recommendations and a detailed response to each of these is set out in the attached Annex.

Annex

Northern Ireland Affairs Committee Second Report into The Separation of Paramilitary Prisoners at HMP Maghaberry

Conclusions and Recommendations

REPORT PARAGRAPH NUMBER	RECOMMENDATIONS	RESPONSE
Para 41	We feel it is important to establish the full facts of such decisions and this can only be done by questioning the officials concerned in No. 10	The Government notes the Committee's view that it should have access, in exceptional circumstances, to staff in No. 10.
Para 42	We welcome this sympathetic response from the Prime Minister, and his commitment to reassess the policy on the appearance of his staff, in exceptional circumstances, before committees such as ours.	The Prime Minister has informed the Liaison Committee that the Government are looking further at the Select Committee rules.
Para 44	We believe that the separation of paramilitary prisoners at HMP Maghaberry was demanded by dissidents for political reasons and acceded to by the Government for (other) political reasons. We accept that the prevailing political conditions in Northern Ireland in the summer of 2003 placed the Government in an extremely difficult position. Nonetheless we have to record our belief that the decision —taken, as we see it, contrary to the balance of the facts and arguments presented to us —was a dangerous one, most especially for the public servants who will have to implement it and live with its consequences.	The Government notes the Committee's conclusions. The Ministerial decision was taken, against the background of an extremely difficult situation faced by the Prison Service at Maghaberry and following an independent review, which recommended separation. The Government's view remains that, contrary to the Committee's belief, the decision to separate paramilitary prisoners was on balance the right one taking into account the political pressures for such a move, the challenges being presented by some prisoners and the need to provide a safe environment for all staff and inmates in the prison.
Para 45	In our judgement, it seems very likely that the new policy of separation will have to remain in place for as long as there are any prisoners in Northern Ireland who can reasonably claim a paramilitary affiliation. This may be a very long time. The Government's decision is therefore also a very significant one, regardless of the political environment of the time, although it was made very quickly. Having made that decision —from which we accept there is now no turning back —the Government must accept full responsibility for the implementation of separation, and the additional demands it will place on the resources of the Northern Ireland Prison Service.	The Government accepts that separation will place additional demands on the resources of the NIPS and accepts full responsibility for the implementation of this policy.

Para 58	It is essential that the staff and Governors at HMP Maghaberry should receive the full and unwavering support of both Government and Prison Service Headquarters, now and in the future, in implementing the level of separation which has been determined following the Steele Review. This means that current Government policy on separation must be asserted publicly, unambiguously and transparently, and the line must be upheld by all concerned regardless of the pressure which will be exerted by the paramilitaries for further concessions.	The Government has publicly endorsed the development and publication of a prisoner compact, which sets the parameters of the regime in the separated facilities. On announcing the publication of the compact the Government expressed its determination that there would not be a return to Maze style regime. The additional security measures that have been incorporated at Maghaberry, taken together with the Compact will ensure that this does not happen.
Para 74	It is imperative that the only evidence of an individual's paramilitary affiliation which is accepted for the purposes of separation should be evidence received from, or verified by, police or intelligence sources. On no account should any individual be able simply to claim affiliation for himself or for others. Once the new arrangements are fully operational, if an individual claims affiliation for himself he should be placed in temporary special accommodation in the main prison, rather than in a separated cellblock, until his claim is either verified or rejected.	The Prison Service is in discussion with PSNI to assess the practicalities of this proposal.
Para 76	Since the start of the paramilitaries' campaign for separation, conditions for integrated prisoners in Maghaberry have progressively worsened, as staff resources have been diverted to deal with the protests and the new regime. This is creating a considerable amount of resentment which, we were warned, is prompting ordinary prisoners to seek "a bit of the pie" the paramilitaries are perceived to be getting. Unless this is addressed urgently, the separated regime will appear by simple contrast to be much more attractive than in reality it is.	<p>The integrated regime has been affected by the current challenges in the prison. However, despite the difficulties, both the visit complex and the gymnasium have functioned consistently throughout the year. Wing-based educational and recreational facilities and a significant amount of valuable programme work have also been provided.</p> <p>It is not accepted that others regard the separated inmates as being in some way favoured by the regime provided for them.</p>
Para 80	We believe that the proposal to transfer prisoners to other jurisdictions as a sanction of last resort is very dangerous, and could easily be manipulated by the paramilitaries in their campaign to undermine the Northern Ireland Prison Service and, ultimately, the British Government. We caution against its use in the strongest possible terms.	The Government recognises that the compulsory transfer powers should be used sparingly and only when all other options for dealing with the prisoner have been considered. The decision to transfer a prisoner will be a matter for Ministers not officials. Arrangements have been made to ensure that any prisoner transferred is not disadvantaged as regards the duration or number of visits he can receive. The Prison Service has undertaken to meet the reasonable travelling expenses of immediate family members visiting such a prisoner.

Para 84	While it is regrettable that the separated prisoners should be given what is currently the best accommodation in the prison, we recognise that this accommodation is best suited to the maintenance of control and of safety for both prisoners and staff. We welcome the enhanced security features which are being installed. If, once the separated houses open, it becomes apparent that further physical changes are required, the cost of these must also be met from outside the Prison Service annual budget.	The Prison Service will be adequately resourced to meet the cost of separating prisoners.
Para 89	The target to reduce the cost per prisoner place in Northern Ireland, and associated objectives, are inappropriate following the decision to implement separation and should be abandoned for the foreseeable future. Any attempt to impose further efficiency savings on the Prison Service while it is dealing with separation are likely to prove counter-productive and to undermine the already fragile relationships between the Government and Prison Service staff. Once separation is firmly established the requirements of the new regime, and the costs associated with it, will be clearer: a review should then be carried out to determine whether costs can be reduced without detriment to the safety of staff and the wellbeing of prisoners.	While separation has increased costs it has not removed the need to seek better value for money in the rest of the Service.
Para 90	We further believe that the direct capital and operational costs of running the separated regime should continue to be calculated, met and publicly recorded as items distinct from the Prison Service's main budget. This is, and will continue to be, vital if the regime for other prisoners is to be protected as the Steele Review recommended.	The Service will seek the most useful way to present the extra costs of separation.
Para 93	While we understand and have sympathy for the prison officers' concerns, we cannot condone industrial action, which jeopardises the safety and wellbeing of prisoners and other prison staff.	The agreement between the Secretary of State and the POA in January has created an opportunity to rebuild relationships. The Prison Service is now making progress on a number of issues in the improved environment for consultation and negotiation.

<p>Paras 104 & 105</p>	<p>While we understand entirely the reasons why the Government should have adopted blanket measures to tackle the immediate threat to prison officers' homes, we do not believe that any individual should ultimately receive a less careful assessment of his personal situation than he would have received in other circumstances. Priority must be given to the completion of the current programme of security installations for all staff affected: in the light of the Minister's comments, we expect to receive confirmation that this work has been completed, as indicated, by spring 2004. But once this has been done, any officer who so wishes should be entitled to apply additionally for a personal threat assessment which would indicate whether or not security at his home should be upgraded further. Clearly, if many officers avail themselves of this option there will be further delays in meeting the demand. A degree of patience on the part of prison officers and their families will therefore be required.</p>	<p>When the information was received that the personal details of prison officers had been compromised, Ministers immediately asked the Chief Constable to generally assess the level of threat pertaining to those involved. They agreed to a generic, rather than the normal individual, assessment in order to allow the Key Persons Protection Unit (KPPU) to deal with the situation as quickly as possible. All officers were considered to be under a significant level of threat. There is no disparity between prison officers and any other public servant assessed to be under the same level of threat. The measures that are being provided are exactly the same as is the amount of money that is available for each case.</p> <p>Due to the number of individuals involved the KPPU had no alternative but to carry out the work in a phased way to ensure that each officer was given a degree of protection and reassurance as quickly as possible. A three-phased programme of work commenced early in January 2003. To date phases one and two have been completed. Under phase 3 consultants have surveyed 530 homes. Work is either complete or well underway at over 200 of these and work is progressing as quickly as possible.</p> <p>During recent negotiations with the POA the Secretary of State agreed to reassess the package of measures that have been recommended for, or provided at, the homes of the 649 officers to determine if the protection of additional ground floor windows is necessary. To do this, the Secretary of State agreed to appoint, in agreement with the POA, an independent adviser. Two advisers have been appointed and commenced work on 1 March 2004.</p>
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Para 108	<p>We welcome the steps which have been taken by the Prison Service to address the problems of the inefficient shift system and high sickness absence at HMP Maghaberry. We believe that finding a solution to these problems would ultimately be beneficial for management, staff and prisoners alike and we are particularly pleased that the Prison Officers' Association have been willing to work on these problems with management. Nonetheless we accept that it will be difficult to make substantial progress in addressing the shift system in the short term, when other changes are already placing a significant new burden on the staff. While these changes may be put on hold, they have been a long time coming and we hope that all concerned will seek to make further progress at the earliest opportunity.</p>	Accepted.
Para 118	<p>Having investigated the claims put to us about problems with the provision of Time Off In Lieu (TOIL) at HMP Maghaberry, we have concluded that the amounts of TOIL currently owed to staff by the Prison Service, while not "earth shattering" (to use Mr Russell's words) are nonetheless unacceptably high. Urgent efforts must therefore be made to verify the amount of additional leave, which is owed to each member of staff, and to facilitate early repayment of at least a significant part of the debt. Attention should also be focused on how to ensure that this issue, which has damaged relations between management and staff, does not recur.</p>	<p>In recent months the trend in the average has been down and it is continuing to decrease. This is despite the difficulties in staffing due to the increased pressures brought about by separation and the poor industrial relations climate.</p> <p>The current situation is that only Maghaberry and the Prisoner Escort Group have AVH levels significantly above the Framework agreed levels. In the Prisoner Escort Group the current level is approximately 1/3 less than one year ago, while at Maghaberry it is the same level as one year ago.</p>
Para 121	<p>It is particularly poor management practice when individuals have direct and privileged access to Prison Service Headquarters and can thus bypass the management systems within the prison. The Minister has told us that the policy on telephone access is being reviewed. It must be changed.</p>	<p>New arrangements were put in place with effect from 29 January 2004. During office hours the representatives have been asked to contact the Prison Service Director of Services. Out of hours the representatives have been advised to contact the NIO duty officer. The new arrangements appear to be working satisfactorily.</p>

<p>Para 122</p>	<p>Disputes and a lack of confidence between Prison Service staff and management play directly into the paramilitaries' hands. Urgent steps must be taken to resolve the breakdown in communication as quickly as possible.</p>	<p>We accept that communications have been unsatisfactory in recent times. Following the discussions made on 15 January with the POA, discussions are progressing using the Labour Relations Agency (LRA) to develop a better structure for the conduct of negotiations and communications with the POA. Both parties have now detailed to the LRA those issues they would wish to be addressed. The LRA are considering these at present and are expected to convene a further meeting of both parties in the near future.</p> <p>Informal meetings with representatives of the other Trade Unions have been introduced to improve the flow of information and to enable the identification of potential issues at an early stage. We believe these are working well and an improvement in communication has been acknowledged by NIPSA.</p>
<p>Para 125</p>	<p>Peter Leonard, the Director of Operations, gave us a clear undertaking that all staff would receive the initial package of training before working in the separated areas. It is essential that this undertaking is fulfilled. On the question of continuing psychological support, we welcome the provision of regular group 'debriefing' sessions for staff in the separated wings, but we believe that officers must be able to have individual meetings with psychologists as and when they need them. We look to the Government for assurances that this will be the case.</p>	<p>Training for staff working in separated conditions has been delivered to 252 staff at the Prison Service College. Further training is being developed for a second week, which will include Control & Restraint.</p> <p>The present arrangements to provide Staff Support have been reviewed. The Prison Service, through its Occupational Support Unit has now extended counselling availability to include an out-of-hours Emergency Counselling Helpline.</p>
<p>Para 130</p>	<p>Given the staffing problems at Maghaberry, any increase in resources must be welcome. We accept of course that there must be a proper restraint in the spending of public monies. But we remain concerned that the employment of support staff rather than fully trained prison officers — which is freely acknowledged to be a measure of economy — may be a false economy which will create difficulties for the effective rotation of prison officers and the provision of respite, where necessary, to those coming out of the separated areas. The Government must keep this under review over the first two to three years of separation and, if necessary, provide the resources to enable appropriate support staff to be retrained as prison officers, and remove the barrier to rotation.</p>	<p>The Prison Service acknowledges the need for the rotation of prison officers. That is still practical with the introduction of support staff.</p>

Para 138	<p>We welcome the Minister's indication that strategic oversight for the integrated regime has not been forgotten. Nonetheless, we had hoped for a more specific assurance that governors have the full and active support of dedicated staff within Prison Service Headquarters in taking forward what is still the mainstream work of the service. We expect the Minister to provide further detail of the work being carried out by Prison Service Headquarters in support of integration in the Response to this Report. It is vital that the vision of Prison Service Headquarters does not become over-focused on the paramilitaries, as seems often to have happened before 1998.</p>	<p>The Prison Service is committed to fulfilling its responsibilities properly in relation to integrated prisoners. We have received positive endorsement of our draft Resettlement Strategy from colleagues in criminal justice and other service providers such as DEL, SSA and the NIHE. We aim to publish the strategy in the next few months.</p>
Para 139	<p>We agree with the Steele Review panel that the restoration and maintenance of a full regime for ordinary prisoners is vital for the safe and effective management of HMP Maghaberry. Without it, the Prison Service is failing in its duty towards those in its care. The absence of a constructive regime is also liable to prompt a return of the unrest which has troubled the prison in recent months, albeit for different reasons. The Government must therefore provide any additional support and resources necessary in order to restore this regime as an immediate priority.</p>	<p>It is accepted that the only way forward for Maghaberry Prison is through the provision of a meaningful constructive regime for all prisoners and that a constructive and predictable regime is important.</p>
Para 142	<p>We welcome the Prison Service's decision to maintain separate provision for remand prisoners.</p>	<p>Within the normal (integrated) population the Prison Service maintains separate provision for remand prisoners. Within the separated regime, however it is inevitable that there will be a degree of amalgamation. This is a direct result of the limited accommodation available for the holding of separated prisoners.</p>
Para 147	<p>We endorse the recommendation of the Steele Review, and other witnesses to our inquiry, that immigration detainees should be dealt with outside the prison system.</p>	<p>The responsibility for immigration detainees falls to the Home Office Immigration and Nationality Directorate and it is their decision which directs where detainees are held in Northern Ireland. The Prison Service is currently legally obliged to hold in safe custody those detained on foot of warrants from the Immigration Authorities.</p>

Para 148	<p>We cannot endorse any of the Government's proposals for the continued retention of immigration detainees within Northern Ireland's prisons. It would be wholly wrong to integrate them into the prisoner population at HMP Maghaberry; the other options each have drawbacks. We urge the Government to reconsider whether further options may be available.</p>	<p>The Prison Service are actively reviewing the options, given the requirement to hold the detainees.</p>
Para 155	<p>We welcome the proposal to build additional new accommodation at HMP Maghaberry. We acknowledge the conclusions of both Her Majesty's Inspector and the Steele Review panel concerning the problems with accommodation in the prison: we therefore recommend that, in filling this new accommodation, priority should be given to reducing the level of doubling up among prisoners serving longer term sentences within the integrated regime. The Government should review its timetable for redevelopment of HMP Maghaberry. Redevelopment of those parts of the estate Her Majesty's Inspector found to be potentially unsafe should be accelerated. In addition, it is unacceptable that significant security systems within the prison should be out of order. The Minister should discuss maintenance schedules with the prison's Governors and NIPS senior management, and resolve any problems with this routine requirement.</p>	<p>A review of the security systems at Maghaberry Prison will be undertaken later this year and any improvements identified as necessary will be carried out as soon as practicable. Redevelopment of the prison will be taken forward as part of the capital works programme, progress on which is dependent on a range of factors including the availability of resources. If, due to an increase in the prisoner population, cell sharing becomes unavoidable, due regard will be had to the Committee's recommendation in deciding the criteria for sharing.</p>
Paras 161 & 162	<p>We therefore recommend that a new review of the prison estate should be carried out, to determine whether it would now be prudent either to open a third adult institution in Northern Ireland or to upgrade HMP Magilligan to a higher security level.</p>	<p>There is no immediate need for a further review but if prisoner numbers continue to rise the position may change.</p>
Paras 166 & 167	<p>The precise format of the meetings with prisoner support groups clearly has to change. There is an urgent need for senior management to consider how the reasonable fears of staff about these meetings can be allayed. Future meetings should not be conducted by the Director of Operations of the Prison Service, but by one or more junior members of staff removed from any operational role who will report back to the Director of Operations and the Director-General of the Prison Service.</p>	<p>With effect from 29 January 2004 meetings have been conducted by the Director of Services. The new procedures appear to be working satisfactorily.</p>

<p>Para 168</p>	<p>The Service should also consider what further steps might be taken to improve the transparency of the process. Ideally, the minutes of the meetings should be published; we recognise that in the current climate in Northern Ireland this may prove difficult to agree. However, there are alternatives: for example, as in other comparable situations an independent observer agreeable to both the Service and the political groups might be invited to monitor the discussion. Given the obvious problems in communication within the service, the NIO and Prison Service Headquarters should also consider running a parallel chain of briefings with representatives of the officers and governors: this would ensure that the content communicated to the political groups was understood within the Service itself.</p>	<p>The Service welcomes the view that greater transparency is desirable, but is anxious to avoid anything, which might reduce the usefulness of the meetings. All of the groups with whom the proposal of publishing the minutes has been discussed were very strongly opposed to it. Further, the Service would have concerns about publishing material which, even if names were deleted, could lead to individuals being identified and placed at risk. The Service will consider other options for communication.</p>
<p>Para 171</p>	<p>The creation of a Prisons Ombudsman for Northern Ireland was agreed to in principle by the Government in 1999, and must now be made a priority. We expect to see an Ombudsman appointed by the end of the Parliamentary session 2004 –05.</p>	<p>The Prison Service has agreed with Ministers the principles of the scheme, and a public consultation document will be issued shortly seeking comment on the operation of the scheme. The intention is to appoint an ombudsman within the 2004/05 year.</p>