



House of Commons  
Justice Committee

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# Appointment of HM Chief Inspector of Prisons

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**Fourth Report of Session 2009–10**

*Report, together with formal minutes and oral  
evidence*

*Ordered by the House of Commons  
to be printed 16 March 2010*

## The Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House.

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### Committee staff

The current staff of the Committee are Fergus Reid (Clerk); Dr Sarah Thatcher (Second Clerk); Gemma Buckland (Committee Specialist); Hannah Stewart (Committee Legal Specialist); Ana Ferreira (Senior Committee Assistant); Sonia Draper (Committee Assistant); Henry Ayi-Hyde (Committee Support Assistant); and Jessica Bridges-Palmer (Committee Media Officer).

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## Summary

The inspection of conditions and treatment of those in custody is a function stretching back to at least 1815. The post of HM Chief Inspector of Prisons, an independent statutory role, was created in 1982. We pay tribute to the work of the most recent incumbent, Dame Anne Owers DBE, who is stepping down at the end of her second period of office with unanimous acclaim for her contributions to the effectiveness of the prison service and the humane treatment of those in its care.

The preferred candidate for the post, put forward by the Justice Secretary, is Mr Nicholas Hardwick, founding Chairman of the Independent Police Complaints Authority.

We fully endorse Mr Hardwick's suitability for this appointment. We also endorse his preliminary view of the character and challenges of the role and that of the inspectorate overall. We welcome his demonstrable grasp of: the need for independence; the importance of a broad intelligence base to determine priorities; and the need for a watchful eye on the effects of the Government's policies on the reform, rehabilitation and resettlement of prisoners.

We look forward to a continuing dialogue with Mr Hardwick on progress in the Inspectorate's monitoring, assessment and promotion of best practice throughout the prison service. We wish Mr Hardwick success in this role.

## 1 Introduction

1. Pre-appointment hearings were recommended in the Liaison's Committee's report, *Shifting the Balance Sheet: Select Committees and the Executive*, published in 2000. Although initially rejected by the Government, the Governance of Britain green paper of 2007 proposed scrutiny of prospective appointments as follows: "...the hearing would be non-binding, but in the light of the report from [a] committee the Minister would decide whether to proceed. The hearings would cover issues such as the candidate's suitability for the role, his or her key priorities, and the process used in selection...". We note the recent review of this process by the Liaison Committee.<sup>1</sup>

2. A list of posts proposed by the Government as suitable for pre-appointment scrutiny was published (without endorsement) by the Liaison Committee in 2008. The appointments from that list under the aegis of the Ministry of Justice and the Attorney-General's Office are set out in Annex A and include HM Chief Inspector of Prisons. **We recommend that our successors, early in the next Parliament, examine this list against all the public appointments made by the Ministry of Justice and Attorney General's Office with a view to making recommendations as to whether any other post should be included.**

<sup>1</sup> Liaison Committee, Second Report, 2009-10, *The work of Committees in Session 2008-09*, HC 426

3. On 3 March 2010, the Secretary of State for Justice announced that Mr Nicholas Hardwick, Chairman of the Independent Police Complaints Commission, was his preferred candidate for the post of Chief Inspector of Prisons and he invited us to report on Mr Hardwick's suitability for the role. The Secretary of State described the process as follows:

The preferred candidate for the post is subject to scrutiny by Parliamentary select committee prior to appointment. Such hearings will be non-binding but the Government will consider the committee's conclusions before deciding whether to proceed with the appointment.<sup>2</sup>

4. This appointment is the fourth we have scrutinized under this initiative: the first was the Chair of the Office of Legal Complaints, then a new Information Commissioner and then a new Chief Inspector of the Crown Prosecution Service.<sup>3</sup>

5. This request was timely as we had recently published our findings in relation to: the role of the prison officer (which involved consideration of the objectives of the use of custody overall); and "justice reinvestment" (a broader look at potential contributions to the reduction of offending and re-offending from preventative measures outside the criminal justice system, and non-custodial sentences within it, in the light of planned spending on prison-building).<sup>4</sup>

6. In preparation for the hearing, we took oral evidence from the current Chief Inspector, Dame Anne Owers DBE, on 2 February 2010 and subsequently conducted a pre-appointment hearing with Mr Hardwick on 10 March 2010. This evidence is published with this report.

7. The Ministry of Justice submitted the information supplied to applicants in respect of the role. The background material is used throughout our report and the person specification and terms and conditions are summarised in Annex B.

## 2 Chief Inspector of Prisons

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### Background

8. In 1815 magistrates were given the responsibility of inspecting prisons. The Gaols Act 1835 introduced prison inspectors to advise local authorities. The Prisons Act 1878 created a national prison system run by a Prison Commission which also had a duty to inspect prisons and submit annual reports to Parliament. The Prisons Act 1952 required the Prison Commissioners, or their officers, inter alia, to:

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2 Applicants pack, post of HM Chief Inspector of Prisons, Ministry of Justice, January 2010

3 Seventh Report, 2007-08, *Appointment of the Chair of the Office for Legal Complaints*, HC 1122; Third Report, 2008-09, *The work of the Information Commissioner: appointment of a new Commissioner*, HC 146; Third Report, 2009-10, *Appointment of HM CPS Chief Inspector*, HC 244.

4 Twelfth Report, 2008-09, *Role of the Prison Officer*, HC361; and First Report, 2009-10, *Cutting crime: the case for justice reinvestment*, HC 94

visit all prisons and examine the state of buildings, the conduct of officers, the treatment and conduct of prisoners and all other matters concerning the management of prisons and ... ensure that ...this Act ... [is] complied with.” In addition, “The Prison Commissioners shall make ... an annual report on every prison ... (2) The report shall contain—(a) a statement of the accommodation of each prison and the daily average and highest number of prisoners confined therein; (b) such particulars of the work done by prisoners in each prison, including the kind and quantities of articles produced and the number of prisoners employed, as may in the opinion of the Secretary of State give the best information to Parliament; (c) a statement of the punishments inflicted in each prison, and of the offences for which they were inflicted, with particulars of every case in which an order for corporal punishment was made and of the grounds upon which it was made.

9. The Chief Inspector of Prisons, established by the Criminal Justice Act 1982, is a Crown appointment, on the advice of the Justice Secretary, reporting directly to Ministers.<sup>5</sup> The post operates independently of Government and the services under scrutiny.

10. HM Inspectorate of Prisons’ key remit is to inspect all prisons and young offender institutions in England and Wales, and all UK immigration detention facilities, and report to relevant Ministers on the treatment and conditions of detainees. The Inspectorate also inspects a range of equivalent institutions and some in other jurisdictions by invitation.<sup>6</sup> It also conducts studies into specific custodial issues, often jointly with education, health and other criminal justice inspectorates.<sup>7</sup> The Chief Inspector works particularly closely with the Chief Inspector of Probation to provide joint inspection of offender management arrangements in prisons.

## Purpose

11. The Inspectorate’s own statement of purpose is to: ensure independent inspection of places of detention to report on treatment and conditions and promote positive outcomes for those detained and the public. The Inspectorate’s key objectives are to: inspect effectively and report on the treatment of prisoners and detainees, and the conditions in which they are held; contribute to policy, practice and performance debates concerned with the treatment and conditions of prisoners and other detainees; deliver effective joint work with other inspectorates, as required by the respective Secretaries of State; refine the efficiency and effectiveness of the inspection process; and develop joint criminal justice planning, consultation and inspection arrangements.

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5 The statutory provisions, person specification for the role and the terms and conditions of the post are annexed to this report.

6 Under the Justice (Northern Ireland) Act 2000, HMCIP inspects prisons in Northern Ireland. By invitation, he or she also carries out inspections in the Channel Islands and Isle of Man. Police custody suites are inspected jointly with HMCI Constabulary (a treaty obligation) and the Chief Inspector inspects the military detention facility in Colchester and is developing criteria for inspecting military detention elsewhere.

7 For example, Ofsted, Estyn, the Education and Training Inspectorate (Northern Ireland), HM Inspectorate of Education (Scotland), the Care Quality Commission, Healthcare Inspectorate Wales, the Regulation and Quality Improvement Agency (Northern Ireland), the Royal Pharmaceutical Society, the NHS Business Services Authority (Dental Services Division) and the Prisons and Probation Ombudsman. The inspectorate also works with the Audit Commission on Comprehensive Area Assessments.

12. The work of the Inspectorate supports the Ministry of Justice's Departmental Strategic Objective 4 which aims for "a more effective, transparent and responsive criminal justice system for victims and the public". The Inspectorate also supports Home Office objectives relating to immigration and policing.

## Resources and workload

13. The Chief Inspector is supported by a deputy, about 45 inspectors and other permanent staff and 11 fee-paid inspectors and editors. In 2009-10, the total Inspectorate budget was £4.2 million, of which 87% came from the Ministry of Justice, 7% from the UK Borders Agency, 5% from the Home Office and 1% from the Youth Justice Board.

14. There are over 135 prisons and young offender institutions in England and Wales, currently holding over 84,000 people at a cost of about £2.2 billion per year. In addition there are 15 immigration detention facilities in the UK with planned capacity of nearly 4,500.

15. Inspections, full and short, currently total about 90 a year, including follow-up work focusing on areas of concern highlighted during earlier visits. Inspections may be announced as part of a published programme, or unannounced. Extra resources have recently been allocated for the latter following two cases of challenging prisoners being transferred temporarily from prisons due for inspection.

16. The prison population rose over 25%, from an average of 66,300 in 2001 to 83,151 on 22 January 2010. The policies of the two main parties both anticipate that numbers will continue to grow and capacity will have to be provided through the building of new prisons. In response to a recent parliamentary question, the Prisons Minister said that the Ministry of Justice aimed to increase capacity to 96,000 prison places by 2014, building 7,500 new places whilst closing up to 5,000 worn out and inefficient places. The first phase of the programme would deliver 3,000 new places and close 500.<sup>8</sup>

17. The Chief Inspector is responsible for determining how the work of the Inspectorate is best organised to provide sufficient coverage of all places of detention within a reasonable cycle agreed with Ministers, while ensuring that a focus on developing or acute areas of concern is not lost.

## Operations

18. Following statutory consultation on the Inspectorate's proposed programme, an annual business plan sets out work to meet its key objectives. The annual inspection programme is developed independently of Ministry of Justice and Home Office plans and targets. The priorities of the programme balance recent inspections with the results of risk assessment. Priorities for thematic reviews are a matter for the Chief Inspector informed by consultation, tending to follow recurring themes and problems.

19. The Inspectorate undertakes inspections according to its own methodology and published assessment criteria and standards (termed "expectations"). These are informed

by best practice within the inspected bodies, referenced against international human rights and penal norms. This methodology is documented and governs how it will conduct inspection activities, assess evidence, reach conclusions and communicate the outcomes of such activities. All of the work of the Inspectorate is underpinned by its own independently defined set of values. The main products of the Inspectorate's work are inspection reports, all of which are published, most of which include recommendations for action. Publication is at the discretion of the Chief Inspector and, although presented to the relevant Secretary of State, reports are not subject to clearance requirements.<sup>9</sup>

20. The Inspectorate does not have enforcement powers. Dame Anne Owers DBE, the current Chief Inspector of Prisons, told us that the job was much more about encouraging best practice than monitoring compliance in a tick-box manner. She said that over 95% of her recommendations were accepted, with evidence of about two thirds being implemented on inspection follow-up.

## 3 The hearing

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### Evidence from the current Chief Inspector

21. Dame Anne Owers, HM Chief Inspector of Prisons until 31 March 2010, gave evidence on 2 February 2010. The key points arising from her evidence are set out below.

- a) Resettlement had become a key and core part of what prisons do although its effectiveness is another story. Many prisons do not have enough education places. Some prisons have places but no culture of encouraging offenders to take them up.
- b) There was a danger, as the prison population rises and resources are constrained, that prisons would revert to being simply “containers” for offenders. There had been worrying signals to ‘good’ training prisons, that resources for purposeful activity would be reduced next year. One response to rising costs—clustering—needed to be looked at; especially where the combination of institutions was a “slightly odd” one.
- c) The need for healthcare and education services *inside* the prison system seemed to be an indicator of how those systems are failing people *outside* prison.
- d) Independence, and the perception of independence, was vital for the role of Chief Inspector, but there was a delicate balance to be struck between maintaining independence while remaining influential and effective. Dame Anne had never felt pressured to change a report. A bigger threat was the insidious temptation to enter ‘the tent’ and assist with change—creating the problem then of how to inspect properly what you had helped to create.
- e) In terms of *operational* independence, there was a risk that departmental officials would reset all the administrative gains, won by previous chief inspectors, back to the

default ‘Whitehall’ position (not the result of conspiracy but a bureaucratic “this is the way we do things” approach).

- f) Enforcement powers were not part of the Inspectorate’s approach. The Chief Inspector’s role has always had a welcome emphasis on *promoting best practice* rather than *ticking boxes on compliance* (as well as a focus on quality not quantity, and outcomes not processes).
- g) The Inspectorate should be accountable to Ministers and to Parliament in terms of the amount of inspection possible for a given allocation of resources, rather than be seen as part of the Ministry’s budget to be sliced up by departmental officials. On current plans, Dame Anne did not feel that the organisation had sufficient resources to provide assurance to Ministers or to the public about what was going on in prisons. On the existing resource base, each adult prison gets inspected twice in 5 years.
- h) Dame Anne had reservations about our recommendation that the Chief Inspector take on the inspection of the quality of prison officer training.<sup>10</sup> She drew a distinction between the conclusions of an inspection suggesting more, or better, or different staff training was needed and being responsible for inspecting the quality and effectiveness of that training provision. We understand her reservations, nevertheless we urge the new Chief Inspector to consider our original recommendation afresh, with a view to contributing to the joint inspection of prisoner officer training.
- i) The Chief Inspector’s role demanded a hands-on approach with time spent inside prisons unescorted making direct contact with inmates. Dame Anne told us that the crucial attributes for the post included: engagement with what actually happens in prisons; commitment to the inspectorate’s own set of standards; an ability to believe that people and institutions can change; and the willingness, and doggedness, to keep asking ‘why?’ (when the service and institutions are mostly focusing on ‘how?’).
- j) She recommended a closer relationship with Parliament, perhaps on the basis of, at least, a yearly session in front of this Committee on the Chief Inspector’s annual report.

## The candidate

22. The preferred candidate, Mr Nicholas Hardwick, is the founding Chairman of the Independent Police Complaints Commission (IPCC). The Commission became operational in April 2004 with the aim of increasing public confidence in the police complaints system in England and Wales. The Commission investigates the most serious complaints and allegations of misconduct against the police as well as handling appeals from those not satisfied with the way police have dealt with their complaint. In 2006, the Commission’s remit was extended to cover the Serious Organised Crime Agency and Her Majesty’s Revenue and Customs and, in 2008, its jurisdiction was extended further to include the UK Border Agency.

23. Prior to becoming Chairman of the IPCC, Mr Hardwick was Chief Executive of the Refugee Council (1995 to 2003) as well as being a member of: the Social Security Advisory

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<sup>10</sup> Twelfth Report, 2008-09, *Role of the Prison Officer*, HC 361, paragraph 117

Committee; the Prince's Trust Ethnic Minorities Advisory Group; and the Holocaust Memorial Day Steering Group. He was Chief Executive of Centrepiece (1986 to 1995) which included a secondment to the Department of the Environment for six months to advise on the implementation of the Government's Rough Sleepers Initiative. Mr Hardwick started his career at the National Association for the Care and Resettlement of Offenders (NACRO) (1980 to 1986) in its Youth Training Section.

24. Mr Hardwick clearly has relevant professional experience for the role of HM Chief Inspector of Prisons. He is familiar with the criminal justice landscape and he has experience of heading up a substantial and significant organisation undertaking investigative work and promulgating lessons learned.

## The candidate's approach

### *Independence*

25. Mr Hardwick recognised that the Inspectorate needed to be a fully independent operation, saying that this was “absolutely essential” both at a tactical, as well as a strategic—“big set piece”— level. He was determined that administrative gains established by previous chief inspectors would not be lost “on my watch”. We welcome his approach to the assertion of independence. He said: “You have to demonstrate [your independence] with the rigour of your evidence, so when challenged you can say, ‘Here is the evidence on which I base my conclusions. It stands up to scrutiny ... Here is the rationale for my decisions and judgements. It stands up to scrutiny’.”<sup>11</sup>

26. Mr Hardwick concurred with Dame Anne about the need for balancing independence with the need to remain effective in securing change where it is needed; but without becoming identified too closely with the service he was supposed to be inspecting or its sponsoring department. He agreed it was a delicate balance, saying that the inspectorate's criticisms had to be taken seriously, and acted upon, but also its positive findings had to be credible too without giving the impression to external observers that “you are in somebody's pocket”.<sup>12</sup>

27. The independence of the inspection function, and its unequivocal perception as such, is crucial for the conduct of objective scrutiny and for public confidence in the service. **We note that “annual appraisal” appears amongst the terms and conditions for this appointment, as it did for the role of Chief Inspector of the Crown Prosecution Service. We repeat our belief that the performance of the occupants of such independent posts is better assessed by feedback from stakeholders and periodic peer review than by a quasi-management process.**

### *Experience*

28. We asked Mr Hardwick where his past experience might have a bearing on his new role. He identified his earliest experiences of NACRO's community-based projects with

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11 Qq 50-53

12 Ibid

young offenders, where the supervisors had offered the first stable adult relationship in the experience of many of the young people. He compared this to the evidence we had gathered, in relation to the role of the prison officer, that prison officers were sometimes the first stable adult role model that an offender has come across with the potential to achieve a positive impact on offender behaviour just by the example set. Mr Hardwick also referred to his time at the Independent Police Complaints Commission: demonstrating leadership; working with the Crown Prosecution Service to bring serious offenders to justice; dealing with victims; and in addressing issues of incarceration in terms of conditions and procedures within police custody suites.<sup>13</sup>

### **Resources**

29. Mr Hardwick recognised that the public expenditure environment was heavily constrained and the resources at his disposal would have to be deployed to maximum effect. He said that a detailed conversation with the Ministry of Justice on the inspectorate's resources was one he had yet to have. His preliminary thinking—stemming from his experience in the voluntary or third sector—was that he needed to develop the broadest possible intelligence base with which to inform his risk assessments and identification of priorities for the application of available resources. He said “there are people going into prisons from different perspectives and we need to find a way of using the insight and information they get to inform us and to inform our picture of what is happening inside prisons.” He welcomed our suggestion that the network of prison Independent Monitoring Boards (formerly ‘Boards of Visitors’) could well contribute to this process.<sup>14</sup>

### **Role of prison and of the inspectorate**

30. We welcome Mr Hardwick's appreciation of the importance of there being a clear and shared strategic vision of the purpose of prison. He said: “...the purpose of prison? Ask 20 people and you get 40 different answers.” His view was that the punishment imposed by a prison sentence was essentially the deprivation of liberty rather than the regime inside and what happens to them. He said: “it must be the case that prison should aim, obviously to hold people securely and in a humane way, but work to reduce the risk of them re-offending when they come out ... you do not want prison to make people worse; you want prison to make people better.”<sup>15</sup> **We agree.**

31. We also discussed potential changes to the inspection function as it related to the criminal justice system, with particular reference to the abrupt abolition of HM Inspectorate of Courts Administration and past proposals for a single criminal justice inspectorate that may be resurrected in the future. Mr Hardwick said that he used to feel there was some logic to merging inspectorates to reduce regulatory burdens. However—while recognising that some functions or services might be shared—he told us: “Now, understanding a bit more, the fact that something is called an ‘inspectorate’ does not of course mean that it is doing the same job as something else called an ‘inspectorate’. I think

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13 Qq 42-3

14 Qq 57-8

15 Q 48

there is a particular function for the Prisons Inspectorate ... about telling people about the conditions and treatment of prisoners ... that I think would get lost ... in a wider criminal justice inspectorate.” He concluded that: “I would have a bias against that combination, but that does not mean I am not open to argument.”<sup>16</sup>

## Conclusion

**32. We fully endorse Mr Hardwick’s suitability for this appointment. We also endorse his preliminary view of the character and challenges of the role and that of the inspectorate overall. We welcome his demonstrable grasp of: the need for independence; the importance of a broad intelligence base to determine priorities; and the need for a watchful eye on the effects of the Government’s policies on the reform, rehabilitation and resettlement of prisoners.**

33. We look forward to a continuing dialogue—at least once a year—on progress in HM Inspectorate of Prison’s monitoring, assessment and, where necessary, driving of the take up of best practice throughout the prison service. We wish Mr Hardwick success in leading this team as Chief Inspector.

## Annex A: Posts for pre-appointment scrutiny (extract from Government's list)

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### Attorney General's Office

HM Chief Inspector of the Crown Prosecution Service (*subject of a pre-appointment hearing report, HC 244 of Session 2009-10*)

### Ministry of Justice

Chair of the Judicial Appointments Commission

Chair of the Office for Legal Complaints (*subject of a pre-appointment hearing report, HC 1122 of Session 2007-08*)

HM Chief Inspector of Prisons (*the subject of this report*)

HM Chief Inspector of Probation

Information Commissioner (*subject of a pre-appointment hearing report, HC 146 of Session 2008-09*)

Prison and Probation Ombudsman

## Annex B: Statutory basis; person specification; and terms and conditions

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### Statutory provisions (Prison Act 1952)

#### *5A. Appointment and functions of Her Majesty's Chief Inspector of Prisons<sup>17</sup>*

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons.
- (2) It shall be the duty of the Chief Inspector to inspect or arrange for the inspection of prisons in England and Wales and to report to the Secretary of State on them.
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in England and Wales and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.
- (5A) Subsections (2) to (5) apply to detention centres (as defined by section 147 of the Immigration and Asylum Act 1999 and including any in Scotland) and persons detained in such detention centres as they apply to prisons and prisoners.<sup>18</sup>

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<sup>17</sup> 5A inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 57(1)

<sup>18</sup> 5A (5A) inserted (2.4.2001) by 1999 c. 33, s. 152(5); S.I. 2001/239, art. 2, Sch.

(6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

### Person Specification

The post holder is not expected to have a background within the criminal justice or immigration systems, but will have an appreciation of the issues affecting these areas, and be able to demonstrate strong performance across the range of competencies set out below.

### Core competencies

Leadership and Performance	Proven ability to lead effectively a multi-disciplinary team, including experienced professional staff. Ability to develop and maintain demonstrable and perceived independence from the inspected agencies.
Stakeholder Management	The ability to establish credibility with the public, Ministers and other stakeholders. Authority and influence at very senior levels across a broad range of stakeholders and delivery partners. Highly developed inter-personal skills and the willingness to work collaboratively with others, with the ability to feel at ease with prisoners, prison staff, senior managers in the criminal justice system and their counterparts in other areas inspected.
Strategic Thinking and Judgement	An ability to process and interpret complex information and to offer well-developed analytical reasoning skills and judgment based on evidence. The ability to provide impartial, objective and pragmatic advice with excellent judgement in both operational and political matters. High integrity and a genuine commitment to helping raise standards within prisons, immigration detention and other places of custody and to furthering the contribution prisons can make to reducing re-offending. An incisive and independent mind and highly developed analytical skills. Excellent judgement in both operational and political matters.
Communication	Excellent communication skills and proven ability to handle the media. Experience of formulating and presenting technical advice and reports to others at senior levels.

### Terms and conditions

Tenure	The post is offered as a fixed term appointment, initially of five years, with the possibility of extension by agreement between the post-holder and the Justice Secretary. If selected for appointment, a serving civil servant will not be required to change their terms and conditions of employment.
Salary	The salary for this post is £110,000 per annum based on a 36 hour working week (excluding meal breaks) but flexible working arrangements will be available. The salary will be fixed for three years, after which time it will be subject to review. Performance will be assessed annually. Abatement of salary may apply if the post holder is in receipt of a public service pension.
Annual Leave	Annual leave allowance will be 30 days with pay. In addition, there are 8 days' bank and public holidays and 2½ privilege days to be taken at fixed times of the year.

# Formal Minutes

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**Tuesday 16 March 2010**

Members present:

Sir Alan Beith, in the Chair

Alun Michael  
Jessica Morden  
Julie Morgan

Andrew Turner  
Andrew Tyrie  
Alan Whitehead

Draft Report *Appointment of HM Chief Inspector of Prisons*, proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 33 read and agreed to.

Summary and annexes agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134 and guidance from the Liaison Committee.

[Adjourned till Tuesday 23 March at 4.00 pm]

# Witnesses

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## Tuesday 2 February 2010

*Page*

**Dame Anne Owers DBE**, HM Chief Inspector, HM Inspectorate of Prisons

Ev 1

## Wednesday 10 March 2010

**Nicholas Hardwick**, preferred candidate for the post of HM Chief Inspector of Prisons

Ev 9

# Oral evidence

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## Taken before the Justice Committee on Tuesday 2 February 2010

Members present

Sir Alan Beith, in the Chair

Rosie Cooper  
Mr David Heath  
Mrs Siân C James  
Jessica Morden

Julie Morgan  
Mr Andrew Turner  
Dr Alan Whitehead

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In the absence of the Chairman, Rt Hon Alun Michael was called to the Chair.

*Witness:* **Dame Anne Owers DBE**, HM Chief Inspector, HMI Prisons, gave evidence.

**Q1 Alun Michael:** Good afternoon to the Chief Inspector of Prisons. We are looking forward very much to your evidence. We gather that you will be producing a final report shortly, and indeed there was a suggestion that we should interview you after that report but, when the logistics were looked at, it did not work. We look forward with interest to reading that in the light of the discussion with you this afternoon. It is actually quite a long stint, is it not, in many ways? I should also explain that the Chairman is attending another meeting, the meeting of the Liaison Committee, and will take over the Chair when he joins us. If you happen to look down and then look up again you may see a difference in the Chair. Apologies for any confusion that causes! A reflective point to start off on. What would you say have been the biggest changes in the prison system, for good or for bad, during your time as Chief Inspector?

**Dame Anne Owers:** I suppose the big changes that you would notice would be the changes in healthcare in prisons, given that it is now commissioned and paid for by the NHS in almost all prisons, and the improvements that has made in the quality, the professionalism and the governance of healthcare. I think that you can tell a similar story in education. More of it and more of it delivered professionally, funded through Learning and Skills Councils, provided by trained instructors and teachers. One of the big changes is in the focus on resettlement, on reintegration, as a core part of prisons' role. I do not think that it was seen as very much of a core role when I started. It was a kind of add-on that you did if you managed to get some charitable money or a bit of European social funding; whereas it is now seen as a key part of what prisons do.

**Q2 Alun Michael:** Are you saying this is seen as key in each prisoner and institutionally?

**Dame Anne Owers:** Yes, in theory certainly; *i.e.* you do not go to a prison now where you do not find a head of resettlement or a head of reducing reoffending. The effectiveness of what is done is a different story; the extent to which it can be effective is a different story; but the fact that prisons think

they should be doing it and that it is not just a thing that you do if you have a bit of spare money or a bit of spare time is, I think, different. I would say too—what was growing before my time but has continued to grow—the Prison Service's own focus on decency; on getting to grips with and trying to stop negative cultures within prisons. I think it is very welcome that that has continued and has fed into a system that is, by and large, well managed and that tries when it can to take action against things where action needs to be taken. These changes also reflect a prison system that is more looking outwards and is more inviting the outside in. The things that I see improving in prisons often improve because you work with outside agencies, whether that is local authorities, the voluntary sector, healthcare or education. You bring a fresh light and you bring a fresh perspective. What has changed for the worse? Of course, the adult male prison population continues to grow. It has stabilised a bit in recent months but each year it reaches a fresh high. There are drivers within it, like the indeterminate sentence for public protection, which continue to be troubling; and of course it is a double problem, because it is growing at a time when resources are already starting to decrease and, I think inevitably, will be further at risk. You therefore have a system with more people that is trying to do more and having less money. Also, some of the things that I mentioned earlier—healthcare, education and so on—while they are better in prisons, they are also evidence of what is not happening outside prisons. The focus, the correct focus, on providing better healthcare to prisoners, better education opportunities to people who have not accessed them, is indicative of the fact that it is not happening to them outside. We should not be thinking of prisons as the place where we look after our mentally ill or where we educate our children. There is therefore a risk that people will feel more comfortable about things not happening in the community because they are happening in prisons. Finally on this point, there are still clearly examples of poor practice in prisons. We still find them; we report on them. Those are things that within a big system like the prison system, under the pressure it is, will continue to require people looking at them very carefully.

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**Q3 Alun Michael:** That is very interesting. Some of my colleagues may want to pick up some of those points as we go through the later questions. Perhaps looking at the immediate future, what do you see as the biggest challenges that will face the new Chief Inspector?

**Dame Anne Owers:** I have just talked about population and resources. A couple of years ago, the prison system was in real crisis. It really was “musical beds”; it was people scratching their heads to find a place to put anybody. We are not in that situation now—not quite in that situation now—but what we have is an equally worrying hidden crisis, an incremental issue, where prisons will struggle to find the resources that they need to do their job properly and the outcome of that struggle could be prisons that are containers, rather than places that are resourced to change people in the way that we need. Whatever happens, whenever the general election is, there will clearly be pressures on public finances. That is evident and that will obviously affect prisons. I think the other challenge will be that, during my time, we have developed a very clear and published, transparent methodology based upon our healthy prison tests—safety, respect, purposeful activity and resettlement—the characteristics of what we expect a prison to do. Those are continually being revised and will need to continue to be developed in the light of new thinking. The critical difficulty and difficulty that all Chief Inspectors have is this delicate balance of maintaining independence while ensuring that you have influence and that you are effective, and that is a balance that I struggle with. However, I think that the inspectorate team, the methodology and the criteria, are very strong and the team is a very committed team, and it will be a great sadness to leave them.

**Q4 Mrs James:** I was interested in your term “containers”. Are you particularly concerned about out-of-cell hours, activities, education facilities? Would you like to clarify that a little?

**Dame Anne Owers:** Yes. Already in this financial year we have seen prisons restricting the core day, the amount of time available for activities on Friday afternoons. That has already had an effect. What we are seeing next year, that we know about already, is decreasing resources and a process of benchmarking, where some of the key activities within prisons are being looked at in the light not of “What ought we to do here?” but “What can we do within existing resources?”. I think that carries a real risk of a regression to the mean: prisons being very specifically told, “You don’t have to hit the gold standard. You only need to hit the bronze standard”. Some of those activities around the edges, that we know are important because they are innovative, are the ones that are being looked at and threatened. Things like parenting courses, family days—even in women’s prisons. Those are the soft skills that make a difference, that build self-esteem. Those are the things that you cannot easily measure but are terribly important. I was in a training prison not very long ago, one of the very few training prisons that was able to offer really purposeful activity for nearly

all its prisoners, which was being told, “You won’t be able to do that next year”. I think those are worrying signs.

**Q5 Mrs James:** Are staff concerned that they cannot develop these models of good practice, which would be beneficial across the estate?

**Dame Anne Owers:** Exactly so. If the message you are sending to staff is, “You just need to be good enough” or else, as I came across in one prison, a staff group had of its own accord got together and got themselves training in public speaking so that they could deliver an induction course better—as we all know, those early days in prison are very crucial for setting prisoners on the right track but also for safety and people knowing what is going on—having done that and being really proud of it, along comes a benchmarking team saying, “You won’t be able to afford to do that. It can be done by prisoners”. It is not exactly motivational.

**Q6 Alun Michael:** In that context, and we are looking at it in terms of the challenge to the new Chief Inspector, are difficulties caused due to the lack of enforcement powers for the inspector and the inspectorate, or is that not important to the role?

**Dame Anne Owers:** It has not been and I do not think an inspectorate set up as this inspectorate is reasonably could have enforcement powers. It is not a regulator in that sense. I have always been quite pleased not to have enforcement powers because, if I had them, I would only be able to recommend that prisons do what they can do now within existing resources. We have always seen ourselves as promoting best practice rather than compliance, and quality rather than quantity. You end up tick-boxing if you are a regulator, inevitably. An example I often use is that we carry on saying that you should not cram two men in a cell meant for one. Prisons do not want to do that. It has become normal but if we stop saying that we should not be doing it, it will become normative. I think it is important therefore, given the human rights basis and so on of what we do, that we can do that. Having said that, however, it is also important that we are not penal voyeurs: that we are actually able to be effective. We measure our effectiveness in terms of the number of our recommendations that are accepted and the number that are implemented.

**Q7 Alun Michael:** Your emphasis would be on the promotion of best practice rather than an enforcement role?

**Dame Anne Owers:** Rather than an enforcement role, yes; but we would need to be sure that we were having an effect. So, at a point when I can say to you that 96% of our recommendations are accepted and, when we go back to check, just over two-thirds have been implemented, then I think that is effective. If that stopped being the case, that would be worrying—because you need to be doing an effective job.

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**Q8 Alun Michael:** We have looked at a number of issues relating to prisons as well as the wider criminal justice system recently: one being the report that the Committee produced on the *Role of the Prison Officer*, which inevitably went a little wider than that in considering that role; secondly, the report on *Justice Reinvestment*. Would you regard those as required reading for a new inspector?

**Dame Anne Owers:** Yes, definitely.

**Alun Michael:** I thought that might be the answer.

**Q9 Mrs James:** Said with alacrity!

**Dame Anne Owers:** Of course! I think the role of the prison officer is absolutely key, because there is a tendency to think that changing somebody's life around—which is what the prisons and the Probation Service are trying to do—is a measurable equation. You take a person; you add in a literacy certificate, plus an Offending Behaviour Programme, plus you find them some sort of low-rent accommodation to live in and you give them a detox; and, out the other end, pops a reformed personality who will suddenly have a quite different life from the one that they had before they came in. In fact, what we know very clearly is that people change because of relationships very often; because they are motivated and challenged; because they are given a model of a different way of behaving than the one that they have been accustomed to. The role of the residential staff in the units is absolutely critical to that. I see too many prisons where, for example—I was signing off a report recently—two-thirds of the education places were not filled. We have enough prisons that do not have enough education places, but when people do not get to those that there are, it is because nobody is encouraging them, challenging them, even taking them there or even noticing that you have empty spaces. That role is therefore absolutely critical, and I think some good things can be said about that. In terms of *Justice Reinvestment*, some of what I was saying about healthcare and education fits into that. I am absolutely committed, and my successor I am sure will be equally committed, to having good, safe, decent, effective prisons, properly resourced to do their job; but I am equally sure that, no matter how well you resource prisons, they will not be able to do their job if you do not resource what comes either side of prisons and you do not resource things that can be done instead of prison—because what goes wrong in society we have to put right in society.

**Alun Michael:** I think that fits very well with the question that Siân James is going to ask.

**Q10 Mrs James:** It is about the thematic reviews. What are the relationships like with other inspectorates, both within and outside the criminal justice system?

**Dame Anne Owers:** I think they are good and co-operative relationships that work when co-operation and joining together can add value. There can be a temptation to think that doing something jointly is always better than doing it singly. It is, as long as the “jointness” adds value. In the criminal justice inspectorates, for example, you will be aware

that I was not one of those who was wildly in favour of a single criminal justice inspectorate, because I did not believe that would play to the strengths of the inspectorates separately and severally, and in particular I was worried about my inspectorate. However, having said that, the work that we can do jointly with our colleagues in the Inspectorate of Constabulary looking at police custody, which we are now doing, and the joint work we do on each prison inspection now with my colleague the Chief Inspector of Probation on offender management, adds great value to what we can do. Also, we do joint thematic work with other criminal justice inspectorates—we will be producing our second joint report in March on the indeterminate sentence for public protection—and we had one on approved premises. Those bits of joint work can add value, therefore. The other way that joint work is very effective, I believe, is in terms of prison inspection itself, where, when we inspect each prison, we do so together with Ofsted or Estyn in Wales, and we also do it jointly with the Care Quality Commission and the Welsh equivalent. We are getting a holistic picture of what is going on in the prison but we are not overburdening the prison by each inspectorate turning up separately. I think that those joint endeavours work very well.

**Q11 Mrs James:** How does the Ministry of Justice respond to your reports, to your thematic reviews? Would you like to see a more formal response to them?

**Dame Anne Owers:** That is interesting. In terms of joint thematic work, one of the things that the criminal justice chief inspectors as a group have been keen on is that there is some response and some follow-through. It has not always been clear how that happens but we have been discussing that with ministers recently. In terms of our other thematic work, we do get a response: sometimes a formal one, sometimes not a formal one. Those thematics which are about big issues, like mental health, disability, race and so on, are what I call “slow burners”, in that they take quite a long time to implement. It requires resources, changes in policy, sometimes the intervention of other departments; but they do have an effect over time. What is more, what we do in order to push that is that, when we have done a thematic report, we incorporate its findings into our own criteria and expectations. We are therefore expecting those things to happen prison by prison, as we go round.

**Q12 Julie Morgan:** You have talked about the rise in the prison population and I think that future governments are expecting there being even more prisoners. Do you think that the new Chief Inspector will have enough resources to do her or his role, with such a big prison population?

**Dame Anne Owers:** I think that we do not currently have the resources that we would like, to be able to do the job as my inspectors would want, to be sure that we are in prisons often enough to reassure ourselves or ministers or the public about what is going on there. Resources are always an issue, but we

are not unaware of the pressure on resources in departments and Government; so we try and use them as effectively as possible. I am very pleased that ministers have agreed an uplift to my budget to allow me to do more unannounced inspections. That came on the back of the rather well-publicised attempts of Wandsworth and Pentonville prisons to do a prisoner swap before inspections. Unannounced inspections are more costly because we have to do the preliminary work that otherwise the prison does for us, but by the same token it reduces the burden on prisons and I think it gives us more flexibility. We are very pleased about that. I am particularly grateful for that, obviously, at a time when resources are pretty stretched. I think that my successor will need to look at the resources that are available in the light of the amount of work that has to be done. Prisons are bigger, more complex. Even when there are not more of them, the business of inspecting them is more complex. There is an agreement with ministers about how often we inspect and one of the outcomes of independence, as far as I am concerned, is that essentially it is for the minister to say whether he or she wants more or less inspection, rather than seeing an inspectorate's budget as simply part of the departmental budget which can be sliced by bits of the department. We do not answer to the department, essentially; we answer to the ministers. Clearly, if ministers decide that they cannot afford as much inspection or they can only afford so much inspection, then that is a proper political decision; but that is the place at which those decisions should be made.

**Q13 Julie Morgan:** If you had had more resources, what do you feel you should have done that you have not been able to do?

**Dame Anne Owers:** I certainly think I would have looked at the inspection cycle. At the moment we can only undertake to inspect every adult prison twice in a five-year period. A lot can happen within that. One of those inspections will be a short, follow-up inspection—which is always tricky and is particularly tricky in big prisons—to make sure that you have really covered all the territory. I would want to look at those resources, therefore. I think also the ability to do more in the way of flying visits or investigations, for example. I think it is quite proper for ministers to ask inspectorates to do investigations into, not individual cases but matters that go to the way that a prison or prisons are run. It has not happened in my time and I think that it has just fallen into disuse. I do not know that I would have the resources to do it if asked, but I do think we should have something in our back pocket which allows us to do a quick exercise of that kind.

**Q14 Julie Morgan:** Also, in our report on the *Role of the Prison Officer* we do think that the Chief Inspector should have the power to inspect the training provided to prison officers. Would you be able to do that under the resources you have now?

**Dame Anne Owers:** Certainly not, no; nor would I be able to do it with the staff skill set I have now—and I am not sure that inspecting training is something

that fits well within my inspectorate. Certainly in conjunction, say, with Ofsted we would be able to do something. It is quite a way away from the remit, however, which does not include anything about staff or the organisation of the service. The remit is very specific to conditions in prisons and the treatment of prisoners. If there were more resources available, certainly one could look more at the way the service operates, which would give a very different feel to inspection but would not be impossible.

**Q15 Julie Morgan:** I think that you have talked a bit about the impact of efficiency savings on the prison regime. I do not know whether you have anything more to add in terms of what is happening?

**Dame Anne Owers:** Not really. As I said earlier, I fear both the actual effect of this on what will be delivered in prisons but also the messages it sends to staff and to prisons. There must be a concern about that—about the way resources are being spread. I speak to a lot of governors now who I think are more worried than they have been in their service about what kind of prisons they will be able to run in the next couple of years.

**Q16 Alun Michael:** Could I ask you one thing there? You referred earlier on to the importance of the relationships and the role of the prison officer in building a constructive relationship with prisoners. You have also referred to the importance of the training and development of staff in order to be able to provide that. Then you have suggested that the inspectorate is concerned more narrowly with the role of the prison. One of the things we have made a comment on recently is the question on how all of the criminal justice system contributes to the whole, particularly in reducing offending and reoffending, rather than having compartmentalised slices. Is there an inconsistency in what you have said there?

**Dame Anne Owers:** An inconsistency about not being able to look at the whole prison, you mean?

**Q17 Alun Michael:** Yes.

**Dame Anne Owers:** I do not think it is inconsistent. I think it is valid in the sense that obviously, by looking at what is happening to prisoners and in prisons, you identify those things which are not happening with staff. I am not inhibited from making recommendations that more staff training is needed in mental health, in race awareness, diversity or whatever. I do not feel any inhibition from doing that. However, if you were to get into the actual organisational running of the service, that would be a rather different thing.

**Alun Michael:** I understand the distinction.

**Q18 Dr Whitehead:** This afternoon you have mentioned and emphasised your independence, and that obviously is independence in fact. How do you make sure you are seen to be independent, or do you regard those as essentially the same exercises?

**Dame Anne Owers:** No, I do not think it is the same exercise. The perception of independence is very important and is something that you need to work at

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and, if you like, police the boundaries of all the time. There is clearly a statutory independence and a reporting, in that you report to ministers but you have a statutory duty and statutory creation. I can honestly say that in the nearly eight and a half years now that I have been doing the job I have never felt under pressure from any prisons minister to alter, to change what I have said, to do anything differently. I think that ministers have been very aware of independence. One of the ways I think that is crucial for an inspectorate of prisons in particular is the fact that we have our own standards. We have our own independent standards. They are in many ways coterminous with the standards that NOMS and the Prison Service set. However, as I said before in answer to questions, we are looking at quality rather than quantity; we are looking at best practice rather than compliance; we are looking at outcomes rather than processes. I think that part of the work is very much helped by the fact that my inspectorate is now the co-ordinator of something called the National Preventive Mechanism, which has been set up because of the UK's international obligations under the protocol to the UN Convention Against Torture, which requires state parties to have in place a National Preventive Mechanism which provides for independent and expert inspection, regular inspection, of all places of custody. In the UK, because of the composition of the four nations of the UK, that consists of 18 different bodies looking at all kinds of detention in all four parts of the United Kingdom. We co-ordinate it. I think that anchoring that notion of custodial inspection in international obligations and therefore international human rights standards is very helpful, and I think that is very much a part of independence. Three things that I did when I first took on the job, which I think went to my perception and others' perception of the actual independence of the inspectorate, were, first, that I arranged a protocol with ministers which made it clear that we decided on the date and timing of publication of reports. We publish everything and we publish it in the form that we wish, unless ministers were ever to instruct me not to—which they never have—and we publish at a time that we choose. Also, and again I think that for perception purposes it was important, we moved out of what was then the Home Office building. I think that it is important not to have the same address as the department or the service that you inspect. There were also some issues about appraisal when I was first appointed, and it never actually happened. I was very clear, as was my then colleague the Chief Inspector of Probation, that this should happen with an independent element. There should not be any sense in which a Chief Inspector's performance, or pay particularly, is linked to a civil servant's perception of the way that you have done the job. I think that those things are all very important, therefore.

**Q19 Dr Whitehead:** Would you say to your successor "Carry on", or are there particular things you would like to consider that he or she might do differently to ensure that that independence is safeguarded?

**Dame Anne Owers:** One of the things that does not happen as much as I would have liked it to be reporting to Parliament. In most independent systems, in other countries' ombudsmen and their equivalents, it would be statutory reporting to Parliament and not to ministers in the first place, but there would certainly be a very strong link with Parliament. I hesitate to put it before this Committee, whose workload is very heavy I know but, being examined on my annual report by a parliamentary committee, having that degree of accountability to Parliament, is something that I would certainly have welcomed and I feel that my successor might, because I think that does establish that kind of accountability. I do not know that otherwise I have many lessons, except to beware of invitations to come into the big tent. The threats to independence are very often not people beating you over the head with something or demanding that you do or do not do something; it is often "Why don't you help us do this?" and "Why don't you advise us on this?". Once you start becoming part of the process then you cannot credibly independently inspect that which you have helped to create or been part of. I think that maintaining a distance is one of those things, as I say, where you need to make decisions on a case-by-case basis.

**Q20 Dr Whitehead:** You have mentioned strengthening the relationship of the inspectorate and Parliament as a possible suggestion to your successor. What other forms do you think that strengthening of the relationship might take? At the moment, for example, the inspector of prisons effectively, you might say, reports for pay and rations to the Justice Department. Are there thoughts that might flow in that direction concerning how the relationship with the inspectorate to Parliament might follow in the future?

**Dame Anne Owers:** Yes, there are. I confess that I have not thought this through very clearly. When there was the talk of having a single criminal justice inspectorate, there was discussion whether that should be a non-departmental public body, for example. There is a reluctance to create non-departmental public bodies. There is an issue because, clearly, while a department or a minister would not dream of telling a chief inspector what to do or what not to do, the fact of setting the budget is a very powerful form of determining certainly what you cannot do, given that you have certain statutory responsibilities. I do not know what alternative system there could be but I would certainly be of the view that anything that strengthens and emphasises the fact that chief inspectors are not part of departments, do not report to departments—those are some of the most difficult battles I have had, to be honest, in my time as Chief Inspector—in terms of how I appoint staff, how I manage my own finances within my budget, all those kinds of things, where the temptation is to try to fit you into a template, not for any wicked reason but simply because that is the way things work in departments.

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**Q21 Dr Whitehead:** Would you put that down to a hardwired predilection to approach you as an inspector from the department in that way, or are there different forms of relationship that perhaps could be envisaged, certainly with the Ministry of Justice or with other government departments?

**Dame Anne Owers:** One of the things that I am pleased we have done, after a lot of effort—and I hope this is something that I will be able to hand on to my successor and they will not need to do—is that we have now developed a framework document, which will be backed up by protocols with the Ministry of Justice that precisely delineate the limits of independence and the areas where we can and must have freedom of movement. That has never happened before and that will be very helpful. It is not because the Ministry of Justice is peopled with individuals who are desperate to control chief inspectors; it is simply because that is the way things work in departments. When someone new comes in, they press the “normal” button. They tell you that you cannot have your reports printed by a cheaper printer, because you must use the one they use. Or you must appoint people who would make extremely good civil servants but who may not make brilliant inspectors—I mean the job competencies that are laid out, not the individuals. Setting those protocols out, getting agreement and sign-off from them, which we have now just about done, will be enormously helpful, both in preventing some of the aggravation and annoyance that can happen between inspectorates and departments but also just making clear, for the avoidance of doubt, where the boundaries lie.

**Q22 Alun Michael:** On that point, you showed how the greater accountability to Parliament would be of help to the inspector. Are there messages for us as a Committee? We do look to you for evidence very often in inquiries and I was trying to remember whether it is automatic that we have you before us to talk about your reports. It has happened at least once, if I remember correctly.

**Dame Anne Owers:** I think it has happened once in my nine years, certainly.

**Q23 Alun Michael:** So it is a question of that being automatic so that everybody understands?

**Dame Anne Owers:** I would certainly like to see it. I am aware, as I say, of the volume of business the Committee has to deal with but I think it would help chief inspectors to have an annual opportunity to reflect with the parliamentary committee on the overall picture that the inspectorate is finding.

**Q24 Alun Michael:** That would not be instead of you making a contribution to a particular inquiry—

**Dame Anne Owers:** No, not at all.

**Q25 Alun Michael:** . . . but as a sort of once-a-year stock-take?

**Dame Anne Owers:** Just as a short session like this, for example. A sort of state-of-the-nation session, a state-of-our-prisons session.

**Q26 Jessica Morden:** You also have immigration holding and removal centres and military detention centres within your remit. How do you ensure that you are giving those the attention that they deserve? Also, what would you say to your successor about how you think these centres fit in together with the prisons?

**Dame Anne Owers:** Perhaps I can take the second half of your question first. I think what has happened during my time at the inspectorate, and I very much welcome this, is that we have become an inspectorate of custody—immigration you mentioned, military and also, of course, police now as well. That, I think, is very welcome because essentially the same kind of criteria apply once you lock somebody up or once you force someone to be in a place. Obviously we have developed the methodology differently for those different settings, but the same kind of principles, the same kind of tests, apply. Prisons, of course, is by far the biggest part of our work and will remain so, and we must ensure that that carries on, but the others are important. I do not at the moment have sufficient resources to cover the amount of immigration inspection agreed with ministers whereas my budget for prisons has continued to match the workload; and, as I say, I am very grateful for the relatively small but very welcome amount of additional resources I have for unannounced inspections. The inspection of immigration removal centres does not match the workload.

**Q27 Jessica Morden:** Does that mean you have had to cut back on your inspections?

**Dame Anne Owers:** It means that, if there are not more resources, I cannot do the work.

**Q28 Jessica Morden:** What is your current requirement for inspecting them?

**Dame Anne Owers:** I cannot remember the exact figure but I am certainly happy to let the Committee have it. I would hate to pluck a figure out of the air and for it to be wrong.

**Q29 Mr Heath:** I ought to know the answer to this, but you have no responsibility for military detention overseas, do you?

**Dame Anne Owers:** Not at the moment, no.

**Q30 Mr Heath:** Is it specifically excluded?

**Dame Anne Owers:** I do not have any statutory responsibility for the military detention at all. I inspect by invitation of the Ministry of Defence. We therefore inspect the Military Corrective Training Centre in Colchester and, under the National Preventive Mechanism that I referred to earlier, I think there will be a requirement for somebody certainly to look at the guardhouses and so on, where others are held. It is not a statutory responsibility, however, although of course it is now mandatory.

**Q31 Rosie Cooper:** The job description and person spec for your role—have you had any involvement at all in the drawing up of it?

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**Dame Anne Owers:** Not in the drawing up of it, but I was able to see it and make comments on it.

**Q32 Rosie Cooper:** Were those comments listened to?

**Dame Anne Owers:** I think they were, yes. I did not sign it off, however. I was not involved in the signing-off of it.

**Q33 Rosie Cooper:** Do you think it is about right now?

**Dame Anne Owers:** I think it covers the work that I do, yes. It emphasises the broad custodial part of the role. It also reflects the National Preventive Mechanism role that I have described, and the fact that one of the main tasks of the Chief Inspector is to set standards and ensure a consistent inspection methodology—so that is the role.

**Q34 Rosie Cooper:** Which are the crucial qualities do you think that are required?

**Dame Anne Owers:** It is very difficult for me to say, not least because, if you look at my two immediate predecessors, the three of us do not exactly share a list of personality qualities. However, having said that, it is surprising that we have all seen the job in much the same way. In some ways the job defines the person. The huge advantage, I think, of the job of being Chief Inspector of Prisons is the amount of hands-on time you get in prisons themselves. It is not a chief inspector job where you sit at a desk all day and imagine what a good prison might look like. It is a job where, two or three times a month, I walk the landings of a prison and discuss with my team what *this* prison should look like and whether it looks like that. I think that you therefore need that curiosity about why things happen and what happens. You need to be able to pull together and the teams have to pull together, a huge amount of information, to make a pattern, to make an analysis of what is really happening here, and you need not necessarily to be satisfied with the first answer you get. That nose for “Hmm, this doesn’t quite look right” and then the supplementary questions. However, I am almost describing the role of an inspector. Of course, the Chief Inspector is important but the inspectorate could not work, I could not do my job, without, now, six really good inspection teams who will not rest until they find out what is happening in a place.

**Rosie Cooper:** Huge leadership. Can I say that you have had a fairly positive response from the press. Why do you think that is?

**Q35 Alun Michael:** What can you teach us?

**Dame Anne Owers:** I have had a reasonably positive response, I suppose. There obviously have been times when things have been pulled out of reports that various sections of the press have thought was not quite right. The answer is that I truly do not know. One of the things that I have always been very sure about and very clear with my inspectorate colleagues, which I suppose comes out of my experience in the non-governmental sector, where nobody needs to take any notice of you at all if you are not relevant and accurate, is that everything we

say should be evidence-based; that we produce information which relies upon as consistent and as accurate as possible evidence from the institutions that we inspect. I think that helps, because we are not flying kites; we are not really out to make a splash in that sense, unless a splash needs to be made. Also, being aware of the problems, the inherent difficulties in managing something like the Prison Service, you need to be aware of those things. Apart from that, I do think it helps—and I think it is something that probably ministers would love to be able to do more of—to have actually been there; to know yourself what is happening. You are not simply presenting a report which you have read, but you are presenting the tip of quite a large iceberg and you know a lot about what is underneath. The advantage of the focus of the job is that you can do that. I do think it is something that is valuable not just in relation to the media but also in relation to the conversations that you are able to have with ministers and those running the service.

**Q36 Rosie Cooper:** Would they be the tips you would pass on to your successor?

**Dame Anne Owers:** I would be very reluctant to pass on tips to anybody, in the sense that I think everybody does the job differently. The contours of the job are the same but you actually have to make it yours. I certainly would not want to be implicitly trying to decide for somebody else how they do the job. But the critical parts of it are the engagement with what is actually happening in prison; the commitment to the standards and values that the inspectorate had before my time and I would hope will continue to have. When we got together the whole inspectorate to develop a statement of values—which sounded as if it might be quite woolly and one of those quite difficult things to do but turned out to be a very good exercise—one of the things we put in that was an ability to believe that people and institutions can change, and I think that is absolutely at the root of what we do.

**Q37 Mr Heath:** I notice one thing in the personal specification is that the post-holder is not expected to have a background within criminal justice or immigration service. Some inspectors have and some inspectors have not. Do you think it is essentially a disadvantage to be identified with a branch of the judicial system or the wider criminal justice system, or is it a help because you know your way around?

**Dame Anne Owers:** That is a very tricky question, given that I have no idea who you will have in front of you in a month’s time! Let me turn the question round a bit, if I may. I do not think it is a huge disadvantage not to have direct operational experience within any of those services. Neither myself nor any of my predecessors have—David Ramsbotham coming from the Army, Stephen Tumim coming from being a circuit judge. I think that, as long as you are able fairly rapidly to master the technical language of what is going on, it is about using your eyes, ears and brain to work out what is happening. Like all specialist roles, as I say, it carries its own language; it carries its own way of working;

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but I do think there is something about bringing a fresh eye to things. Prisons almost by definition tend to be self-referential. Things tend to be done because they have always been done that way and because that is the way things are. It is the ability always to ask the question “Why?”. Too often, institutions are only asking themselves “How?” and it is the role of the inspectorate to ask “Why?”. However, I am not saying that you cannot do that if you have experience in one of those areas. I meet prison governors who are quite capable of asking themselves the question “Why?”—and they are the best ones.

**Q38 Mr Turner:** What has been the impact on prisons of the clustering programme?

**Dame Anne Owers:** It is difficult to say yet because it is still fairly new, and of course there have been different models of clustering. There are the clusters like that on the Isle of Sheppey, where there are still three different governors, with a kind of super-governor or chief executive on top. There are clusters like the cluster at Hewell, which is run as a single prison with a single governor. Then there are these slightly odd clusters, like Blantyre House male resettlement prison and East Sutton Park women’s open prison, which are run together, and New Hall closed women’s prison, Askham Grange women’s open prison, now run together. Those kind of clusters are essentially money-saving devices. It means that you can chop off a layer of top management. We do have some concerns about clusters, partly because of the size of what you are creating and partly because of the management lines. So much in a prison depends upon the governor and the senior management team. Knowing what is going on in your prison, being able to walk around it and keep an eye on what is happening, is so important in terms of running the prison. I think that we have concerns, therefore, but we really have not yet been able to inspect some of those different kinds of clusters enough to be able to give you a definitive answer. It is certainly something that needs to be looked at. A lot depends also on the size of the individual units within the cluster.

**Q39 Alun Michael:** It has been a very useful evidence session in my view and perhaps, in practical terms, makes the case for a sort of annual cross-examination of the Chief Inspector that you were suggesting. Can I invite you to add anything that we have not managed to tease out of you up until now? Is there anything that we have not covered in our questioning that you would like to add? Secondly, is there anything specific that you would like to offer us, as you depart, as advice to us as a Committee in fulfilling our role?

**Dame Anne Owers:** Goodness, that is a challenge! I think we have covered most of the ground. The challenge for the Committee, for ministers, for the National Offender Management Service, in the next couple of years will be considerable, because of the demand for the service increasing, the expectation of what is wanted from it increasing, at a time when resources are diminishing. I think that these will be difficult and tricky times, therefore. Because prisons have not been very much on the political radar for at least a couple of years, I think there is a temptation to think that everything is fine and to forget that prisons are inherently fragile environments that need managing very carefully day by day, week by week, and that places a huge strain on the people who are charged with doing that. You asked me about the media and the press and, inevitably, those matters that get attention within the media are the reports that are bad and what goes wrong; that is par for the course and we know that. I would hate that to obscure the fact that, by and large, we are very lucky in the Prison Service we have, in the way it is managed and the values by which it is managed, and in the general safety and good running of our prisons. People come from overseas and ask about the work of the Inspectorate and the point at which their jaws drop is the point at which I say that all of my inspectors, including myself and including our relatively young researchers, have their own keys, walk around prisons on their own, unlock cell doors, go in and talk to prisoners, even in our high security prisons. I do not think there are many countries in the world where that would be thought feasible or possible safely to do, so I think that is something to be preserved. Also the willingness and the attempts of the Service to do something positive with the people within prisons. That needs to be protected, and I think will be difficult to protect in the years ahead.

The Chairman resumed the Chair.

**Q40 Chairman:** Dame Anne, can I give my apologies, I was across the corridor questioning the Prime Minister and I am very grateful to Alun Michael for taking the chair, but can I also thank you for assisting this afternoon and for all the work you have done. We have tried in our own recent reports to demonstrate both things that are not good in prisons but even more the many good things which happen in prisons, and we have tried to perhaps redress the balance to some extent by recognising a great deal of good work, but your service in the capacity of HM Chief Inspector is a very good tradition and you have admirably fulfilled that tradition, so thank you very much.

**Dame Anne Owers:** Thank you very much.

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## Wednesday 10 March 2010

Members present:

Sir Alan Beith, in the Chair

Mr David Heath  
Mr Douglas Hogg  
Mrs Siân C James  
Alun Michael

Julie Morgan  
Mr Andrew Turner  
Mr Andrew Tyrie

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*Witness:* **Mr Nicholas Hardwick**, current Chair of the Independent Police Complaints Commission (preferred candidate), gave evidence.

**Q41 Chair:** Welcome, Mr Hardwick. You are the preferred candidate for the post of Her Majesty's Chief Inspector of Prisons. Many of us have come across you in person or through correspondence in your previous roles, particularly at the Independent Police Complaints Authority. That is a different background, is it not, from an inspection role? How do you see the transition from managing a 'complaints' machinery to that of a prison inspectorate role?

**Mr Hardwick:** There are a number of differences. First of all, at the IPCC I am the Chairman, so essentially my job is co-ordinating the work of the other commissioners and the staff, who are led by the chief executive, who is the accounting officer. In a sense, it is a co-ordinating collegiate role, whereas as the Chief Inspector you are very much directly, personally and individually, in charge. There is obviously a difference between the two organisations, in that one is dealing with individual incidents and complaints that are located in particular times, where there is often conflict between two individuals, and the inspection role is looking at systems and processes. There are real differences and I would say there are some similarities as well. For both roles, demonstrating and achieving real independence is crucial to how people perceive it and crucial to how the job is done. Both roles need to be evidence-based in their conclusions and to show real clarity about that. Both require you to demonstrate leadership as opposed to direct management, you are leading not just the organisation but the wider system of which you are a part. I hope that my career to date will show that I have the qualities to do that.

**Q42 Chair:** It is a career which has brought you full circle from offenders, via the police, back to offenders again.

**Mr Hardwick:** It has, indeed. That is one of the attractions. I started my working life as a very small cog in the NACRO machine, but that made a very big impression on me. Two things in particular. First, I was a very junior member of staff at NACRO, but was inspired by what I saw Vivien Stern doing at the time. That was a real demonstration of leadership from which I have learned since. Second, I was working at NACRO on what were then called Youth Opportunities Programmes, doing community-based projects with young offenders. What worked in that were the relationships the supervisors had

with the young people. The supervisors were older men, normally, who had been in industry, had been made redundant, and then came to supervise our projects. For a lot of these young people, this was one of the first stable adult relationships they had had. It really worked. I remembered that when I read your report on the role of the prison officer, when you said that for some of the people in prisons the role of the prison officer, the example they set, the personal and individual relationships they have with the people for whom they are responsible, is a crucial element in the success or failure of the system. That was something that I learned at NACRO that is transferable to this role. The other thing to say about my experience is that working with young offenders gave you a particular perspective at that time. In my current role I am responsible for working with the Crown Prosecution Service, bringing to justice people who have committed serious offences, putting them before the courts and trying to ensure that they are held accountable for the crimes they have committed. It is in a particular circumstance, but that is part of it. I also in this job have a lot of contact with victims. With victims, sometimes you can do something and sometimes you just cannot help them to deal with the losses they have suffered. All of those things together hopefully give me a rounded view of the sorts of issues the Prison Service has to get to, and I do not just come to it from one perspective.

**Q43 Alun Michael:** Staying with the question of the comparison between the role in the Police Complaints Commission and this role, you have had some experience with complaints relating to police custody suites.

**Mr Hardwick:** Yes.

**Q44 Alun Michael:** Obviously that is one of the areas of complaint that have come in. Are there lessons from that, do you think, that would read across to the role of the Inspector of Prisons?

**Mr Hardwick:** Yes. There are two things there. One of the things I am pleased about that we have achieved at the IPCC is that we have contributed to a reduction in the numbers of deaths in police custody. That has been important. For me, the crucial factor in a successful police custody suite is the role of the police custody officer. You could have all the systems and procedures that you like, but having an experienced officer, often a sergeant, in charge of the

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custody suite, who can say to the constable who brings somebody in, "I don't like the look of him. I'm not having him here, take him to hospital", or who can ensure that often the contracted staff under his or her direction do the proper checks on rousing that they should. Again, that goes back to leadership, to the role of the individual staff, as much as it does to systems. The other thing which is really important from that is we are just beginning, with the Chief Inspector, with the two organisations, to work together, to exchange information, to feed into each other's work, and I think there is lots more scope to develop that.

**Q45 Alun Michael:** I was pleased to hear you make reference to our report on the role of the prison officer. There were two things really that were at the heart of that for me. One was that issue of the relationship, which you have touched on, and the other one was clarity of purpose.

**Mr Hardwick:** Absolutely.

**Q46 Alun Michael:** If the whole criminal justice system is not clear about that, it is difficult for prisons to be clear within it.

**Mr Hardwick:** Yes.

**Q47 Alun Michael:** As you seem to accept the value of our contribution in that report, I wonder how that might inform the way you would approach your role as Inspector.

**Mr Hardwick:** That is absolutely correct. One of the things I have discovered in researching this role, when you start to apply, is that the obvious question to ask is: what do people say is the purpose of prison? Ask 20 people and you get 40 different answers. As I understood it, that was the point of your report almost to say there was not clarity of purpose and there needed to be. I am still learning, so I am tentative in my views, but I am very struck by the argument that says, if you like, that it is imprisonment that is the punishment. It is the decision to deprive somebody of their liberty and the opportunities they have while they are inside that is the punishment, not prison and what happens to them. It seems to me it must be the case that prison should aim, obviously, to hold people securely and in a humane way, but work to reduce the risk of them re-offending when they come out. I would have thought that wherever you are on the spectrum of punishment you do not want prison to make people worse; you want prison to make people better. That seems not a strong point, but that clarity, I am sure, is essential.

**Q48 Alun Michael:** Pursuing that, the big difference is that with your current role in the Police Complaints Commission you are responding specifically to complaints, whereas the role of the Inspector of Prisons, in terms of improving the way those things happen, is a bit different. Would you like to comment about that difference?

**Mr Hardwick:** I think that is absolutely right. One of the frustrations of the current role is that you are responding to events, and one of the attractions of

the Inspectorate role is that we can be more proactive. Of course there is a programme of inspections to go through but it is important that we have the widest possible intelligence base to direct how we use our limited inspection base. I am not clear how, currently, the Inspectorate does its risk assessments to establish where it should focus, both on particular institutions and potentially on thematic issues that cut across a number of different institutions. It seems to me that is an important thing for us to be able to do.

**Q49 Julie Morgan:** How important do you think it is to be seen as completely independent in this role?

**Mr Hardwick:** It is absolutely essential. It is absolutely essential. I have read what Ann Owers said to you about this and I have spoken to Ann and I would have a very similar view to her. Independence is not just in the big set piece, the sort occasional fights you might get into where you have to assert your independence robustly. She says, and I would agree from my experience, that independence is sometimes most difficult to defend when people say to you in a positive way, "Come into the tent with us and help us solve this problem" or "Here is a set of procedures that are really about bookkeeping and personnel and HR that we want you to follow because it makes life easier for us, the Department". Unless you police those boundaries really carefully, you wake up one morning and find that you are indistinguishable from your parent body. It is asserting your independence there. The second thing is, in the end, how do you demonstrate your independence? You have to demonstrate it with the rigour of your evidence, so that when you are challenged you can say, "Here is the evidence on which I base my conclusions. It stands up to scrutiny. I welcome that scrutiny. Here is the rationale for my decisions and judgments. It stands up to scrutiny. I am open and transparent, come and look".

**Q50 Julie Morgan:** Dame Ann Owers did suggest there was a danger of perhaps getting too involved in operational things rather than staying a bit back. Do you think that is a danger?

**Mr Hardwick:** Dame Ann Owers is going to be a very hard act to follow, but she is absolutely right about that. It is very tempting to say, "Right, we will inspect this management process. We will take a view on this management process", be it training, which I know came up in your hearing, be it the contractual arrangements for the estate. If you do that, over time, when you do that on a number of different issues, you start to be responsible as part of the management of the process, and when you are part of the management of the process, it is that much more difficult then to criticise what you have been part of putting in place. I think, however tempting it is, you need to keep that distance.

**Q51 Julie Morgan:** It is a delicate balance, is it not?

**Mr Hardwick:** It is. You could be as independent as you like, but if you were not effective, if you were not making any difference, then what would be the point. I was reading the evidence Ann Owers gave to

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you about training of prison officers. It seems to me the difference is I do not think the Inspectorate should be inspecting, on its own, the training of prison officers. I do think, as a result of its inspection of prisons, it might be commenting on the training those officers had received and suggesting how it could be improved or what the problems with that might be. You would come to it from the inspection process and the lessons and recommendations that come out of that, rather than, in a sense, taking a proactive role in the management issues.

**Q52 Julie Morgan:** I think she does fear that there might be a loss from some of those gains she has made by the sort of skirmishes she has had and may revert after she leaves. Would you be discussing with her how you would address that issue?

**Mr Hardwick:** Not on my watch they will not be lost. I have learned some of this the hard way. You have to police the boundaries; you have to be clear, even if that makes life uncomfortable for people. You have to be very clear about your independence, otherwise you are no good to anyone because when you are making your criticisms they are not taken seriously. Also, when you say, "Actually, this has been done well, the prison here is doing a good job," that needs to be credible too and if they think you are in somebody's pocket then that will not be effective.

**Q53 Julie Morgan:** How do you see your relationship with Parliament?

**Mr Hardwick:** I think that is very important. I do not think that is just an issue for the Inspectorate; it is an issue for wider, for these sorts of bodies. I have thought about this a lot. First of all, I think this is an important place. Hopefully you will support my candidature, but I think it is important to try to get that endorsement of a cross-party Committee and I would like to see some continuing relationship. You have a heavy workload, but the idea came up that once a year you would come back and talk to the Committee about your report and your work over the year and what you have found, so that you build up, over time, expertise. In the police complaints system I know that has happened in Australia. There are models in Australia where there has been that ongoing relationship, and it means that parliamentarians are better informed, it means the challenges they can give to you are very constructive and very helpful. I think that longer-term relationship with a committee such as this would be good for the Inspectorate and good for other bodies of its type. You still need to have the relationship with the Department, of course, because you are trying to influence what they are doing. It is not a question of either/or, but, with respect, I think this relationship should be strengthened.

**Julie Morgan:** Thank you.

**Q54 Mr Hogg:** Mr Hardwick, perhaps I could just say a word about my background for these purposes. I was Prison Minister 20 years ago, and I worked with Judge Stephen Tumim, and I do go to prisons quite frequently because I am also a criminal barrister and I go and see my clients. I am conscious

from both of those facts and, indeed, from reading generally that there is an awful lot wrong with the prisons in many very separate ways, and that the public generally speaking does not give a damn, thinking that on the whole prisons are there to keep people in custody and that is the end of the matter. I can see two roles for an inspector. They overlap but they are, essentially, I think different. One is just to identify faults within the parameters of existing policy. That is a somewhat passive but not unimportant role. Second, and quite different—and it is the one that Stephen Tumim and Lord Ramsbotham to a slightly different degree espoused—is to champion the cause of the prisoner, to try to alert the public as to what is going wrong, to try to get public sympathy for constructive change, for robust, intrusive, and constructive criticism of the establishment. I accept that there is a degree of overlap between the two, but would you accept that there are these two rather distinct roles and, if so, which do you espouse?

**Mr Hardwick:** I do not think they are incompatible roles.

**Q55 Mr Hogg:** No, they are not incompatible.

**Mr Hardwick:** I do not think they are incompatible. I certainly think—and I have thought a lot about this—prisons, by their nature, are dark places, where people are shut away, where things that on the whole most people would prefer not to think about happen, and where people look after people that we would all rather not think about. Part of the job of the Inspectorate is to shine a light on that, to make it clear to people what is happening in an objective and factual way, to say, "We are as a society responsible collectively, we need to know what is happening". You have to shine a light on those dark places, if I do not sound too sentimental about it. It goes back, I think, to the point about effectiveness. You also want to change and improve. My experience of researching for this is that there is a pretty common analysis of what some of the problems are. I saw a comment from you, Chairman, in your justice reinvestment report, that the current prison expansion programme is unsustainable. We are trying to do more with more people with fewer resources. That is not a workable equation, is it? Therefore, I think there is a role for the Inspectorate to try, in an evidence-based way, to get broader public support and education for the sorts of changes which anyone who does have knowledge of the system, it seems to me, wants to see.

**Q56 Mr Hogg:** I have two prisons close to me, one in the constituency and one in Lincoln. I am conscious that, with the exception of your reports, which are fairly intermittent for obvious reasons, we have to rely on the Independent Monitoring Boards (which I used to know as the Board of Prison Visitors) for each prison. I think they are very valuable but I think they are rather ignored. One of the things, it seems to me, that you could do through the Inspectorate would be to use the Independent Monitoring Boards as part of your arsenal to review prisons and to alert you when things may be going wrong, but that

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would mean that you would have to work with them, and I am not sure the Inspectorate does at the moment.

**Mr Hardwick:** I think that is exactly right. That was what I meant when I said earlier that we need to broaden our intelligence base for how we use our resources. There are other people going into prisons from different perspectives and we need to find a way of using the insight and information they get both to inform us and to inform our picture of what is happening inside prisons. I come out of a background of working in the third sector. One of the positive things that has happened in prisons recently, as I understand it, is that there is now more third sector involvement in prisons and, like the Independent Monitoring Boards, I think they can provide information to the inspectorate both to inform our risk assessments and where we do our inspections, but also to inform the broader picture that we are putting out about what is happening in a constructive evidence-based way.

**Q57 Mr Hogg:** Do you see yourself working with them or merely passively receiving their reports and trying to understand them?

**Mr Hardwick:** No, I do. Absolutely, I see that. It is already on my list of things to do if you support my application. I am a very strong believer in the role of that kind of voluntary, citizen-based engagement, through the Independent Monitoring Boards, through the third sector, and what it can do. I think it is a mutually beneficial arrangement and I would like to see how we strengthen it and support their roles. I think that is crucial.

**Q58 Mrs James:** You have described prisons as “dark places”. In my experience of working in the Prison Service they are very far from dark places. The people who are there, who are incarcerated, have very dark lives.

**Mr Hardwick:** Yes.

**Q59 Mrs James:** And they come with a raft of problems. One of your roles—and I am going slightly off piste on this one now—would be dealing with press and publicity, because there is a press department within the Service. What do you think the public thinks a prison is? We have heard a little bit about what you think the prison system is, but in my experience there are two types of people. There are people who say “Hang ‘em and flog ‘em” or there are people who say, “There’s a pity. They are terrible products of their background.”

**Mr Hardwick:** When I said “dark places” I was speaking metaphorically. I meant “out of the public gaze”. I think it is true you will have those two extremes of view and it is the extremes of view often that will get the most attention. Extremes of view are more interesting than a middle-of-the-road view. My experience of similar sorts of issues is that, quite often, people will take a particular hard-line view, but if you explain things to them and you get into a dialogue with them they are not as rigid in that view as you expect. There is often a great middle ground. Those who do not have their minds made up in that

same way are more open to argument and the facts than sometimes we give them credit for. There are polarised sides of the debate, but I am an optimist about this. I think people are capable of being persuaded, if you present people with the facts in a sensible way, of coming to more rational views. To give you an example, when I worked at the refugee camp—something about which people have very polarised views—when you started to get into a sensible discussion with people, there was a lot more commonsense in their views than sometimes you would have thought by just reading the newspaper headlines.

**Q60 Mrs James:** You would be the person who would have to give them that lead.

**Mr Hardwick:** Yes.

**Q61 Mrs James:** And enthuse the staff, because I think the staff is the best resource. Do you think there is a clear strategic vision of the role of prison on the part of NOMS and the MoJ, or is it just a matter of coping day-to-day with prison numbers, lock-ups, bed drills, et cetera?

**Mr Hardwick:** Clearly people are trying very hard and Dame Ann Owers recognised the improvements that have been made. It seems to me you cannot have a clear strategic vision if you do not have a clear view about what prison is there for in the first place. You have to be clear about that. As I do say, it comes across to me still as an outsider that people feel their backs are against the wall. It must be demotivating if you are told, “Don’t do the best you can but just do good enough”. I would be surprised if there were not problems with morale and frustration and a lack of sense of direction. As I say, I think the Inspector has a role as part of that wider leadership to try to motivate people.

**Q62 Mrs James:** Getting that strategic vision, the clear set of objectives, down to the rank and file, down to the prison officers themselves, keeping them motivated?

**Mr Hardwick:** That is an essential thing to do. The motivation of the staff is a management issue. That is what the Prison Service and NOMS are responsible for, but it is important from the way in which the Inspector does that job that it is seen as a constructive support to that process. The role of inspectorates should be to help a service to do it better, not simply to catch them out when they do it wrong.

**Q63 Chair:** Have you had any discussion with the MoJ about the resources of the inspectorate?

**Mr Hardwick:** I have had very limited discussions with the MoJ about the resources of the Inspectorate. They are keen to impress upon me how tight resources are and I have said to them I think that is a discussion we will need to come back to.

**Q64 Mr Heath:** I am going to ask you about something else you may or may not have discussed with the Department and that is the future

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relationships between the various inspectorates. We have seen the Her Majesty's Inspectorate of Courts Administration suddenly disappearing.

**Mr Hardwick:** Yes.

**Q65 Mr Heath:** Without any apparent foresight. Have you had any conversations about the future relationships at all?

**Mr Hardwick:** Only a very limited conversation. I have not presumed I have got the job, so I have had only limited conversation. My own view on that particular issue is that if you had asked me that question before I had thought of applying for this I would have thought there does seem to be some logic in combining some of the inspectorates. Reducing regulatory burden seems to me to be a sensible thing to do and, without thinking about it very deeply, I would have been sympathetic to it. Now, understanding a bit more, the fact that something is called an inspectorate does not of course mean that it is doing the same job as something else called an inspectorate. I think there is a particular function for the Prisons Inspectorate, which goes into the first point that Mr Hogg made about telling people about the conditions and treatment of prisoners per se rather than the machinery of the Prison Service that I think would risk getting lost if it was simply incorporated in some wider criminal justice inspectorate. My view is that I am not neutral on it, I would have a bias against that combination, but that does not mean I am not open to argument. I have not heard all the discussions on it yet and I would be, I am sure, after the election—whatever happens, the scenery will shift a bit—open to the evidence, but my bias would be that that critical role about telling people what is happening in closed institutions must not be lost.

**Q66 Mr Heath:** Your view would be not to support a single criminal justice inspectorate but perhaps to be open to suggestions of joint working?

**Mr Hardwick:** Yes. I am sure there are savings, I am sure there are some functions that can be combined. My experience of the way that people are working

together on the police custody inspections has been very positive, so I think there are certainly grounds for co-operation.

**Mr Heath:** I am grateful.

**Chair:** Thank you very much indeed, unless any of my colleagues have any further points they want to put to you.

**Q67 Mr Hogg:** May I strongly reinforce what you said, Mr Hardwick, at the end about an independent inspectorate. Clearly this Committee may have its own views, but I can only express my view, which is that I think it is desperately important for the Prisons Inspectorate to be separate and distinct from any other inspectorate simply for the reason you have mentioned, somebody has to shine a light into prisons, and it must not be captured by other lesser functions.

**Mr Hardwick:** Yes. This role is not inspecting the Prison Service and reassuring you about the mechanics of the delivery; it is telling you about the treatment and conditions in prisons.

**Q68 Mr Hogg:** Absolutely, so the public knows what is going on in their name.

**Mr Hardwick:** Yes.

**Q69 Mr Hogg:** And can be, if possible, brought to care about it.

**Mr Hardwick:** Yes. Quite.

**Q70 Alun Michael:** Could I reinforce that, because we are giving you advice about it at this stage, about the emphasis you placed on being evidence-based but looking wider than the Inspectorate's own inspections because it seems to me that is very much the approach that is needed. There is a danger—and we have seen this in the past—of sometimes independence not being evidence-based but more headline-based.

**Mr Hardwick:** It is essential if you are dealing in a controversial area that what you say is evidence-based. Independence does not mean not talking to people. I would certainly want to have lots of conversations with people with lots of different views in coming to my own.

**Chair:** Mr Hardwick, thank you very much indeed.