

**REPORT BY THE PRISONER OMBUDSMAN INTO
COMPLAINTS FROM PRISONERS IN
THE SEPARATED ACCOMMODATION IN
ROE HOUSE MAGHABERRY PRISON
ABOUT STAFFING AND REGIME**

14 May 2013

FINAL

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NIPS Complaint Reference Numbers:

MY03171/12; MY03441/12; MY03463/12; MY03468/12; MY03469/12; MY03476/12;
MY00008/13; MY00025/13; MY00026/13; MY00059/13; MY00060/13; MY00061/13;
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MY00072/13; MY00073/13; MY00074/13; MY00076/13; MY00083/13; MY00084/13;
MY00085/13; MY00094/13; MY00106/13; MY00432/13

Introduction to the Investigation

1. This is a composite investigation report in response to 23 complaints received from separated Republican prisoners in Roe House Landing 4 and five complaints from separated Republican prisoners in Roe House Landing 3. The complaints all concern staffing and regime issues.
2. In light of the evidence examined, it was the view of the Prisoner Ombudsman that no one complaint necessitated an individual report. It was determined that it was appropriate and more helpful, in examining issues relevant to these complaints, to produce a composite report.
3. Other complaints from prisoners in Roe House 3 and 4 about individual issues will be dealt with separately through the normal reporting procedures.

Complaints

4. The complaints considered in this Report were submitted to the Prison Service in January 2013.
5. The key concerns raised by the complainants are as follows:
 - The ongoing presence of the Dedicated Search Team (DST) on Roe 4 landing following the end of the most recent protest.
 - The lateness of prisoner unlock in the mornings.
 - The slowness of controlled movement following unlock and throughout the day.
 - The number of prisoners allowed on a landing at the same time not being in line with the 12 August 2010 agreement
 - The Regime agreed on 12 August 2010 not being implemented.
 - Core day movement stopping between 16.45 and 17.30.
 - Staff on Roe 3 following the core day schedule but DST staff on Roe 4 not following the schedule.
 - Roe 4 prisoners housed on Roe 3 being prevented from using Roe 4 facilities.
 - Eligible separated prisoners, contrary to the compact agreement, not being permitted to reside in Roe House because there is no space.
 - Prisoners being charged and adjudicated for not locking early.

Methodology

6. Interviews were carried out with the complainants and relevant staff, governors and senior governors.
7. CCTV camera footage from the landings in Roe House was examined.
8. Relevant prison records and security information was examined.
9. In line with normal procedure, a draft report was provided to the Director General of the Prison Service who was asked to identify any issues of factual accuracy, for the Prisoner Ombudsman to consider.

Section 1

Background to the Roe House Prisoner Complaints

Roe House Separation Arrangements **February 2004 to November 2012**

Compact for Separated Prisoners - February 2004

10. It is reported in the NI Affairs Committee House of Commons - Second Report 2003 that:

HMP Maghaberry is situated near Lisburn in County Antrim. It opened in 1986. Following the closure of HMP Belfast in 1996 and HMP Maze in 2000, Maghaberry was required to absorb and accommodate a number of different prisoner groups including remand prisoners and those paramilitaries who were not released from prison early under the Belfast Agreement. HMP. Maghaberry has historically functioned as an integrated establishment, in which prisoners of all persuasions and backgrounds are required to live and work together. The management of an institution dealing with such varied groups is a considerable operational challenge.

In the summer of 2003 a number of protests were mounted by prisoners claiming that the integrationist policy was putting individuals' safety at risk. A series of events within and outside the prison, in which individuals from both sides of the community divide participated, culminated in a dirty protest conducted specifically by prisoners affiliated to dissident republican organisations. The publicity generated by these incidents prompted community leaders and organisations to place considerable pressure on the Government to address the safety concerns raised.

In response the Government commissioned a short review of conditions in the prison which was led by John Steele, a former head of the Northern Ireland Prison Service. The Steele Review concluded that a degree of separation was required within HMP Maghaberry, to protect paramilitaries of opposing factions from each other, and to protect the 'ordinary' prisoners from the paramilitaries as a group.

11. On 8 September 2003, the Government accepted the Steele Review Report recommendation that Republican and Loyalist prisoners with paramilitary affiliations should be accommodated separately from each other, and from the rest of the prison population, on a voluntary basis within Maghaberry Prison.
12. In February 2004, the Prison Service published a Compact for Separated Prisoners setting out the regime, facilities and privileges available to separated prisoners, as well as the arrangements for cell checks, movement and searching. The Compact specified that movement of prisoners was to be controlled by staff.
13. During periods of unlock the following facilities were to be made available to prisoners: access to exercise yard; access to the dining hall; access to laundry / ironing; access to landing kitchens; showering; in-cell association; access to education and development programmes (e.g. life skills, offending behaviour);

visits (domestic, legal, video link); access to the gymnasium; access to Healthcare.

14. In respect of cell sharing, the compact stated “we will try to provide a single cell for each prisoner but the amount of room for prisoners in separated conditions is limited just as the total available accommodation in the whole prison is limited. This means you may be required to share a cell.”

CJNI Inspection Report of Maghaberry Prison 2005

15. The Criminal Justice Inspection Northern Ireland (CJINI) and HM Inspector of Prisons carried out an announced inspection of Maghaberry Prison in October 2005. In the report of the inspection published in February 2006, it stated that:

"The decision to separate paramilitary prisoners within the main prison has had far-reaching consequences for the prison's management and culture, and for the treatment and conditions of the prisoners it holds. Significant resources and managerial time had been sucked in to provide the levels of security that were insisted on in order to manage 79 separated prisoners – who, nevertheless, had almost none of the activities and interventions required in order to address their offending.

This has reduced the staffing and support available for the great majority of prisoners; and set back plans to improve resettlement, offending behaviour work and educational provision. But, more importantly, it has also driven a security - led and defensive culture among staff, which does not seek to engage with prisoners proactively, or ensure that the resources that are available are properly used.

Security is crucial to the effective and safe management of Maghaberry, and the threats to prisoners and staff, both inside and outside the prison, are real. So are the memories of staff; and the effect of once again separating paramilitary prisoners has undoubtedly had a damaging effect on the morale of staff who are all too aware of the consequences of segregation in the Maze.

But the emphasis on physical security, embodied in the standby search team, and the fear of conditioning, had undermined the dynamic security – founded on appropriate staff - prisoner relationships - that is also necessary to manage a prison well and safely.

On the separated units the arrangements for movements were too restrictive, as they were in the rest of the prison except during a period of free-flow. Dynamic security was discouraged as a matter of policy on the separated units.

Movement around the site was very slow. This was particularly noticeable on the separated units where, even within the unit itself, the system of controlled

movement meant that only three prisoners were allowed out at any one time, with no less than five staff present. Prisoners could be 'rubdown' searched up to three times when covering a very short distance, still in full view of staff at all times. This procedure was excessively restrictive, and could be relaxed without any negative impact on security. We were told that these procedures were currently under review.

Individual accommodation was reasonable, but cells on Bush and Roe houses were too small for sharing. Recommendation: Cells on Bush and Roe Houses designed for one prisoner should not be shared.

The standby search team (SST) had a strong influence on the establishment, which was not wholly positive..... The SST was widely disliked and distrusted by prisoners at Maghaberry. We understood the need for a dedicated team of search specialists in an establishment like Maghaberry, but on occasions the manner in which they operated could be disrespectful and construed as intimidating."

Recommendation – "The prison should introduce less restrictive procedures for moving prisoners around internally, particularly on the separated units, where arrangements were unnecessarily restrictive."

Revised Compact for Separated Prisoners

16. In the summer of 2005, the NIPS began a review of the separated regime at Maghaberry and produced a report with 22 recommendations for change. A revised Compact was developed which took effect on 1 July 2006.
17. The Compact provided for the same daily routine in Roe House but introduced a two tier regime for prisoners to earn enhanced privileges, in return for good behaviour and passing drug tests. It was, however, the case that the refusal of separated Republican prisoners to take drugs tests meant that they could not progress to the upper tier privilege level, which provided for evening inter-cell association and other privileges, not available to those on the lower tier.
18. Between 2006 and 2008, further changes were made in Roe House resulting in improved access to education, improved out of cell time and enhanced recreational facilities. By 2008, separated facilities included: two classrooms; an astro-turf pitch; a gymnasium; a recreation room, a food servery and an exercise yard.
19. The frequency of rub-down searches was reduced and changes were made to the way in which controlled movement was operated. In 2008, it was specified that *"Staff will control all movement whereby 5 landing staff may have up to 3 prisoners in any one secure area on the landing (except the dining hall / recreation room and yards). When only 4 staff are available the ratio of staff to*

prisoners should be 4:2, similarly 3 staff for 1 prisoner. The 'slider' will be used to control movement to the recreation room / exercise yard.

20. Following an unannounced inspection of Maghaberry Prison in 2009, the CJINI/HMCIP repeated their finding made in 2005 that the arrangements for moving prisoners around internally on the separated wings “were unnecessarily restrictive”. Referring to the recommendation made previously, the Inspection Report said:

Life on the separated landings for loyalist and republican prisoners (Bush and Roe Houses) was more restrictive, with staffing levels of five staff to three prisoners out at any one time. The prison should introduce less restrictive procedures for moving prisoners around internally, particularly on the separated units, where the arrangements were unnecessarily restrictive.

Not achieved.

The restricted movement system used on the separated units had not changed. Only three prisoners were allowed out at any one time, with no less than five staff present. Prisoners could be rub-down searched up to three times when covering a very short distance, still in full view of staff at all times. This was in spite of the fact that we were told that instructions had been issued by HQ to prevent this.

We repeat the recommendation.”

21. The report also made the following comments in respect of the Standby Search Team:

“The Standby Search Team (SST) still had too forceful a presence in the prison and its activities were not subject to independent monitoring, nor had the many complaints about its conduct been properly investigated. As at the last inspection, the SST had a disproportionate presence and influence in the prison.

Prisoners said that ‘the search team are forceful, intimidating abusers and they fail to comply with prison procedure’ and ‘...the search team beat and pick on prisoners’. These views were reflected in many of our discussions and interviews with prisoners.

Recommendation: The search and standby team should be disbanded and its resources used to allow prison searching and incident management to be carried out by generic residential and security staff.”

22. The report also repeated another earlier recommendation: “Cells on Bush and Roe Houses designed for one prisoner should not be shared.”

Easter Sunday Protest - 4 April 2010

23. On Easter Sunday 4 April 2010, 28 separated prisoners in Roe House barricaded themselves in the Roe House recreation room. A protest followed during which prisoners destroyed their cells and poured urine under their cell doors.

Prisoner Ombudsman Investigation Report - 11 June 2010

24. On 11 June 2010, the Prisoner Ombudsman issued an investigation report following multiple complaints from a number of the protesting prisoners in the separated accommodation in Roe House. The complaints were in connection with regime and conditions before and during the protest, and full body search arrangements.
25. In her Investigation Report, the Ombudsman noted that: "*there appears to be general agreement that, up until February 2009, the Compact for Separated Prisoners was working reasonable well.*"

Commenting on the reasons for the protest, she said:

In the 30 days from 5 March 2010 to 4 April 2010, the date of the Roe separated prisoner protest, there were 34 lockdowns, over and above Sunday lockdowns, across the whole prison. Roe House was locked down for five evenings. Because of the dates of the lockdowns; because evening association is alternated between Roe 3 and Roe 4 landings and because everyone is locked down on Sunday night, this resulted in a situation where Roe 4 landing did not receive evening association for seven nights out of eight. The Compact provides that separated prisoners should receive association three evenings a week.

In the same period, day time inter-cell association and access to facilities and education, all of which are provided for in the Compact, were at times affected by the POA action. (The POA were, at the time, operating a "withdrawal of cooperation.")

On 4 April 2010, 28 prisoners in Roe House commenced a protest in the recreation room after Easter Mass. It would appear to be the case that, whatever has happened since, it was primarily frustration with ongoing shortfalls in the delivery of the regime specified in the Compact and unhappiness with the arrangements for taking meals, exacerbated by the lockdowns in the weeks before Easter, that led to the protest.

The Separated Prison Compact specifies clearly the regime and facilities that a prisoner moving to separated accommodation may expect. Given the

restrictions of separated conditions, prisoners have a reasonable expectation that the regime and facilities specified will, other than for exceptional reasons, be available.

26. The Prisoner Ombudsman noted also that:

Under the current controlled movement arrangements, when five officers are on duty, up to three prisoners are permitted to be in the laundry / kitchen and three in the shower area, at the same time as prisoners are in the ironing cell, hair cutting cell, exercise yard, gym and education classes. The extent to which this movement is realised is variable, depending upon the attitude and helpfulness of the officers on duty. It should be noted that there are officers in Bush and Roe Houses who make particular efforts to make controlled movement work well, but there is no doubt that staff using their discretion also unnecessarily limit the movement that can be achieved.

27. Commenting on the need for more effective communications and problem solving, the Ombudsman said that:

I would encourage the development of the Prisoner Forums as a way of ensuring that there is local discussion about, and resolution of, problems. It is also very important that Prisoner Forums, in all houses, operate on the basis of mutual respect.

28. As a result of her findings, the Prisoner Ombudsman made 16 recommendations. These were all extended to Bush House (Loyalist Separated accommodation) and included: the requirement for action to ensure that unlock took place at the agreed time and prisoners received their agreed association periods; implementation of the controlled movement arrangement in a way that maximised the opportunity for prisoner movement / out of cell time; revised arrangements for prisoners to take their meals; extended use of the secure recreation room to increase association time and a review of the separated regime to be included in the forthcoming Prison Review, to be carried out under the chairmanship of Dame Anne Owers.
29. In making these recommendations, the Prisoner Ombudsman noted the impact that current working practices, shift arrangements and Industrial Relations Agreements were having on the ability of the NIPS to deliver an effective regime across the prison estate and encouraged action to address this.
30. In her Report, the Ombudsman fully recognised the need for effective search arrangements to help manage the supply of drugs into prison but, on the basis of her findings she made the following recommendations to apply Prison Service wide:

Recommendation 10: I recommend that arrangements are put in place, by the end of June 2010, for an independent prison wide review of the full body searching arrangements to examine each of the circumstances in which full

body searches are carried out, including entry and exit to the SSU and to the video link suite, and to check that the method and frequency of searches is necessary, proportionate and individually risk assessed where appropriate. Recommendations from the review should be implemented immediately.

Recommendation 12: I recommend that all staff are reminded of the need to carry out full body searches in a way that is respectful and, as much as possible, protects the dignity of those being searched. This is true for all prisoners, but the need for sensitivity may be especially important for prisoners with particular needs such as those with learning difficulties, mental health problems or other vulnerabilities.

31. The Prison Service accepted the Prisoner Ombudsman recommendations but the protest continued because prisoners remained unhappy with the manner in which controlled movement was operating and with full body searching procedures.

Agreement of 12 August 2010

32. The Prison Service and the Republican prisoners subsequently reached an agreement, published on 12 August 2010. Facilitators assisted the Prison Service and the Roe House prisoners in reaching the agreement.

The agreement stated the following:

A. Agreement Reached on Dispute at Roe House in Maghaberry Prison

Following a protest by Republican prisoners in Roe House, the Northern Ireland Prison Service (NIPS) and the prisoners agreed to engage in a facilitation process. A Joint Facilitation Group (Irish Congress of Trade Unions, Creggan Enterprises and Dialogue Advisory Group) met both parties on a number of occasions over the past several weeks. The discussions were underpinned at all times by the following principles:

B. Fundamental Principles

- 1. Arrangements are predicated on mutual respect;*
- 2. Prisoner and staff safety must not be put at risk;*
- 3. Arrangements should comply with human rights and equality requirements;*
- 4. Revised arrangements and procedures should be achievable and sustainable;*
- 5. Staff should be able to carry out their work professionally, free from harm, intimidation or threat;*
- 6. The security of the establishment should not be diluted; and*
- 7. The arrangements must strengthen public confidence in NIPS.*

C. Prisoner Forum

An effective Prisoners' Forum will be established, in addition to existing processes for complaints and requests. This should provide a meaningful mechanism to address issues of mutual concern and is designed to build trust.

D. Full body searching

1. *No random full body searching will take place on the way to domestic and legal visits and the videolink or from the SSU.*
2. *No "rubdown" searching internally, within Roe 3 and 4.*
3. *NIPS will introduce a new search facility and revised search policy for separated prisoners. The new facility will be located within the Bush and Roe complex and subject to CCTV and audio coverage. It will incorporate a combination of the latest technologies which will remove the requirement for routine full-body searching of separated prisoners within the prison. The search process for all separated prisoners entering the separated complex will be:*
 - *outer clothing, metal objects, belts and shoes removed and passed through scanner;*
 - *all prisoners undergo scanning by hand held metal detector;*
 - *all prisoners undergo thorough rub-down search; and*
 - *prisoners required to sit on BOSS chair (where outer clothing contains metal, prisoners may be required to remove this).*
4. *NIPS reserves the right, in exceptional cases, to require any prisoner to undergo a full-body search – under existing arrangements – if:*
 - *there is a positive indication by the technology and the cause cannot be identified; or*
 - *there is reason through intelligence or suspicion that a prisoner may be concealing prohibited items on their person.*
5. *In such cases the full-body search must be authorised and observed by a supervisor and carried out in a manner which is both sensitive and dignified. The process of searching will be audited and monitored to ensure it complies with human rights standards.*

E. Movement / association

- 1 *The Prisoner Ombudsman's report of June 11 2010 recommended that a review of the separated regime should be included in the current independent Prison Review and that the review team should examine the evidence considered by the CJINI/HMCIP when it concluded in 2006 and 2009 that the arrangements for the movement of separated prisoners "were unnecessarily restrictive". (The HMCIP finding states*
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that “there was severely restricted prisoner movement... this was particularly noticeable on the separated units where, even within the unit itself, the system of controlled movement meant that only three prisoners were allowed out at any one time, with no less than five staff present”). NIPS has fully accepted the Prisoner Ombudsman’s recommendation.

- 2. Subject to the fundamental principles set out at section B above, NIPS’s aim is to move from the existing arrangements towards a more progressive, supervised free-flow movement system within Roe House, on a phased basis, as follows:*

Phase 1 - commencing August 2010

NIPS will take steps to implement as quickly as possible from the date of this agreement:

- Association within the recreation room, yard and - when it is completed - the astro-turf pitch from 0830 until fifteen minutes before lock-up; and*
- Considering the wing – for the purposes of movement – as one unit, rather than two landings. This will permit a maximum of 6 prisoners on the landing at any one time, while other prisoners will have access to kitchen, laundry room, classrooms, showers, ironing and haircutting room.*

Phase 2 – commencing December 2010

The independent Prison Review Team is expected to report on the Maghaberry regime by December 2010 and, in the light of paragraph E1 above, it is expected that their report will include recommendations on less restrictive movement arrangements within Roe House. In addition to implementing the recommendations of the Prisoner Ombudsman’s report and this agreement, NIPS will take steps to implement agreed recommendations from the independent Review as quickly as possible.

Phase 3

Beyond Phase 2 NIPS will continue to review and assess ways to further progress supervised free flow movement of prisoners. This will include implementing agreed recommendations – if any – contained in the final independent Prison Review Report of early 2011.

- 3. NIPS’s ability to progress, implement and maintain phased changes to movement procedures towards a lasting solution will be determined by adherence to the fundamental principles set out in section B above. Throughout this entire phased process independent assessments will be conducted by NIPS, JFG and the Minister’s representatives.*

F. Next Steps

1. *The protest in Roe House will cease immediately;*
2. *The prisoners commit to refrain from intimidating, threatening, or harming prison staff in carrying out their duties.*
3. *Continuous monitoring and evidencing of this agreement commences.*
4. *NIPS will begin infrastructural change linking the exercise yard with the astro-turf pitch.*
5. *NIPS will commence work to design and build an enhanced search facility for separated prisoners, in line with the proposals at section D.*
6. *An initial prisoners' forum will be convened to address areas of mutual concern and to resolve grievances through dialogue within this Forum.*
7. *The "Separated Compact" will be revised to reflect changes from this agreement and the Prisoner Ombudsman's report and also, in due course, to reflect changes arising from the recommendations in the independent Prison Review's report.*
8. *Review of "full body searching" will report by end of September 2010 and agreed recommendations implemented as soon as possible.*
9. *Independent Prison Review's report on the Maghaberry regime by December 2010.*
10. *Full compliance of all parties with this agreement is imperative to building confidence and achieving a lasting solution – one that delivers a safe, secure and humane prison regime.*

Issues Arising from the 12 August 2010 Agreement

33. Following the ending of the prisoner protest on 12 August 2010, it became apparent that there was a fundamental misunderstanding between the parties to the agreement in respect of one of the key provisions.
34. It was the case that the Roe House prisoners believed that the agreement reached on 12 August 2010 meant that they would not be required to undergo full body searches when exiting and entering the prison, unless (a) there was a positive indication by the technology and the cause could not be identified or (b) there was intelligence or suspicion that a prisoner may be concealing prohibited items on their person.
35. It was, however, the position of the Prison Service that the adjustments to full body search procedures agreed on 12 August, applied only in respect of movement within the prison and that the requirement for full body searching would continue to apply in circumstances where prisoners were exiting or entering the prison.

36. The Justice Minister subsequently appointed Independent Assessors to monitor and report on the progress in implementing the agreement between the Prison Service and the prisoners.

37. The following press release was issued:

David Ford MLA. Minister of Justice has requested assessments be undertaken objectively and impartially to ensure that the Agreement reached on the dispute at Roe House in Maghaberry Prison is being implemented in a positive and constructive spirit by all sides. The assessment methodology will include:

- *Interviews conducted with all prisoners and prison service staff within Roe House and relevant governors;*
- *Evidence of the progress made towards moving from the existing control arrangements towards a more progressive, supervised free-flow movement system within Roe House;*
- *Evidence of the infrastructural changes linking the exercise yard with the astro-turf pitch;*
- *Evidence of the progress made towards the implementation of a new search facility and revised search policy within Roe House;*
- *Evidence that the process for dealing with all the adjudications in connection with the protest started on Easter Sunday and ended 12 August 2010 were dealt with internally in line with recommendations and the understandings provided by NIPS management on the 12 August 2010 and the Prisoner Ombudsman's Report date 11 June 2010;*
- *Access to all relevant prison policies, orders, communication notices and minutes of the Prisoner Forum meetings that relate to the 12 August Roe House Agreement;*
- *Access to CCTV records to analyse the number of full body searches and to gauge progress of Phase 1 relating to the movement and association of prisoners; and*
- *The Assessment team will also consult with representatives of the prisoners' families, the NIPS headquarters staff, the Prison Officers' Association, the Prisoner Ombudsman, Criminal Justice Inspectorate and the Human Rights Commission.*

Prison Review Team Interim Report February 2011

38. The Prison Review Team was commissioned as a result of the Hillsborough Agreement and produced its interim report in February 2011. Extracts of comments in respect of the separated accommodation in Roe and Bush Houses are as follows:

“For separated prisoners, the general failure to provide a consistent and reasonable regime at Maghaberry (which we describe below) was magnified in the separated wings because of the high levels of staffing and control that had been negotiated with the POA. This was exacerbated by industrial action during 2009 and particularly in 2010, resulting in an extremely restrictive regime.

What followed - months of protest, including a ‘dirty protest’, on the Republican separated wing - created intolerable living and working conditions there and was extremely damaging to relationships between those prisoners and staff. It also affected the rest of the prison and indeed the whole prison system. It raised and appeared to validate prison officers’ continuing concerns about their personal security, particularly as it was accompanied by threats to individual officers; it has also dominated the time and energy both of local managers and also of headquarters and politicians, because of the still unresolved issues around separation and the potential links with sectarian violence outside the prison. As a consequence, 60 or so paramilitary prisoners have had a disproportionate effect on the prison system’s ability to move forward and deliver an effective service for the other 1450.

In the two ‘separated’ houses that hold prisoners with paramilitary affiliations, staffing levels have been set at five officers per three prisoners: these are levels that would not obtain in maximum security prisons in England, dealing with the most serious and dangerous prisoners - even in the special secure unit within Belmarsh, which holds high and exceptionally risky prisoners, including suspected would-be suicide bombers.

There is over-reliance on dedicated search teams to deal with routine, rather than exceptional, control issues, and, as we observed, this has resulted in a heavy-handed approach that has exacerbated tensions.

A key security issue is the operation of the regime for separated prisoners. The separation of paramilitary prisoners was a political decision, which needs to be operationally effective. That means that, as for all prisoners, there has to be a positive and decent regime for separated prisoners, without undermining the security of prisons or the safety of staff and without compromising the opportunities available to the great majority of other prisoners. All three of these aspects have been problematic. This requires resolution, otherwise it will

continue to be a drain on managers and staff and take up a disproportionate amount of ministerial and political energy.

For as long as politicians deem separation necessary, they also need to accept and mandate its consequences, the first of which is that it is necessarily expensive. It involves duplicating provision, such as searching, education and activities. Separated prisoners, like all others, have to be held in decent and humane conditions; simple containment would be neither.

Given the high risk level of some of those separated, they will also require higher staffing levels than for the majority population. However, as we have already stated, the currently agreed staffing levels, as elsewhere in Maghaberry, are far higher than any reasonable risk assessment would demand. Even now, they mean that it is in practice impossible to provide opportunities for free movement within the separated houses, or for any direct engagement between prisoners and staff – to do so on the current arrangements would require 45 staff on each house, which could not conceivably be resourced. Prisoners are therefore confined with each other in association rooms for lengthy periods, monitored by CCTV cameras but without any physical staff presence.

The agreement reached with the Roe House separated Republican prisoners in August 2010 (and applicable also to the separated Loyalist prisoners in Bush House) is predicated on certain principles. They include: mutual respect and safety of staff and prisoners; that the security of the prison should not be compromised; that staff should be free from threats and intimidation. There remain some unresolved issues about strip searching on entry to and exit from the prison and these need to be resolved in the light of evidenced essential security requirements. Provided that those principles are agreed and demonstrated, the agreement foresaw movement to a less restricted regime. Though this review is mentioned in the agreement, we were not party to it and do not consider ourselves bound by it. Its implementation is therefore the responsibility of the signatories. However, we do consider that the arrangements for staff supervision, and the regime available on the separated houses, can and should be revised, to allow for freer movement of prisoners and for appropriate supervision by and interaction with staff, with clear and understood boundaries.

In this, we recognise staff's legitimate apprehension – but we also note that the current arrangements, though they were stipulated by staff, are in practice fuelling fears of a 'return to the Maze'. We are clear that the changes we recommend will require supervision and support from managers, and the kind of staff development and rotation which is common in units of this kind in other jurisdictions.

A freer regime should be entirely contingent on the behaviour of the separated prisoners themselves, and the absence of threats or intimidation, whether direct or indirect. Experience in other jurisdictions, including with those

convicted of terrorist-related offences, has been that appropriate and professional behaviour by, and interaction with, staff reduces risks. We recognise the particular issues, sensitivities and history of Northern Ireland, and the risks posed by the interaction between prisons and the community; however, prisons need to be part of the reduction of risk in this as in other areas.

In May 2006, Ministers confirmed changes to the regime and a revised compact was published on 1 July 2006. POA industrial action during 2009 increased the number of lockdowns and significantly limited time spent in the separated gym. Industrial action during March - April 2010 resulted in still further lockdowns and restrictions to the regime. Protests, culminating in a 'dirty protest', followed.

The Prisoner Ombudsman's report into complaints by Republican separated prisoners, published on 11 June 2010, gives an analysis of events leading up to the unrest and made recommendations for improvement which were accepted. Intense negotiations were held between NIPS management, the prisoners and facilitators to reach an agreement on a way forward and the text of an agreement was signed on 12 August 2010.

Since devolution, it remains the responsibility of the Secretary of State to decide whether a prisoner is to be accommodated in separated conditions or to cease to be accommodated there, and to set the criteria on which any such decision is to be based. However, the Northern Ireland Minister of Justice and the Executive are responsible for deciding, in consultation with the Secretary of State, whether separated accommodation as an entity should continue and the regime to be provided."

39. The review team produced its final report in October 2011. One related recommendation was:

Recommendation 8 - Efforts should be continued to see whether there is an effective and less intrusive method than full body-searching of ensuring that prisoners leaving and entering prison are not bringing in contraband.

Further Protest 6 May 2011

40. On 4/5 May 2011, the separated prisoners in Roe House were told by prison management about plans to introduce an earlier lockdown time of 7.45, rather than 8.00, across the prison estate, in support of new working arrangements.
41. On 6 May 2011, a further protest commenced in Roe House. The prisoners on Roe 4 said that this was because of the disagreement over full body searching and because of lack of progress in implementing changes to the operation of controlled movement in line with the 12 August 2010 Agreement. Following the

implementation of the earlier lockdown arrangements by the Prison Service, prisoners on Roe 3 also commenced a protest.

42. The Roe 3 prisoners refused to cooperate with the earlier lock down time and were eventually forced to comply when the DST was called to escort them to their cells.
43. The protest on both landings escalated into a dirty protest and continued until 21 November 2012. During the nineteen months of the protest prisoners were inevitably subject to an extremely limited regime with very limited opportunity to leave their cells.

The Murder of Officer David Black

44. On 1 November 2012, Prison Officer David Black was murdered by a Dissident Republican Group on his way to work at Maghaberry. This act was a breach of the spirit and intent of the underpinning fundamental principles of the 12 August 2010 Agreement and was widely condemned by the people and political representatives in Northern Ireland. As well as devastating Officer Black's family, the appalling circumstances of his death caused hurt and anger for the prison staff who had lost a greatly valued and respected colleague.

The End of the Protest – 21 November 2012

45. The separated Republican prisoners on Roe House Landing 4 ended their dirty protest on 21 November 2012. They issued the following statement:

Following the signing of the August 2010 agreement with the Prison Service, Republican prisoners continually attempted to resolve all outstanding issues. Despite the continued use offorced strip searches we regularly engaged with political parties and groups who showed an interest in bringing a resolution to the impasse.

This process of dialogue lasted nine months. The amount of time and effort put into this process cannot be over stated.....The resumption of protest action became inevitable. On May 6th 2011 we commenced our current phase of protest action. We are now into our 19th month of this phase of protest. Our resolve and commitment are unquestionable.we are prepared to meet head on any attempt to reintroduce failed policies of the past. This should never have to be the case.

Following intense and detailed discussion and analysis, we.... on Roe 4 have decided on a unilateral initiative which we believe will provide the space required for a resolution of the current impasse. As from Wednesday 21st

November 2012 all Republican prisoners on Roe 4 landing will cease our current protest action. This initiative should be viewed as a genuine and sincere attempt to create the conditions in which a conflict free environment can flourish whereby all are treated with respect and dignity is guaranteed.

A dialectical process of engagement to resolve all issues should be the order of the day. Confrontation need not be part of the environment that we all have to live and work in. Upon launching this initiative we call upon all those political parties and groups who profess to share our stated aim of a conflict free environment to immediately seize upon this initiative. We call upon you to use your political influence and position to bring about the progressive change that is required. We call upon the prison service management at all levels to jettison the failed policies of the past and to move forward progressively.....”

46. Some separated Republican prisoners in a different grouping on Landing 3 also ended their protest on 21 November 2012, whilst another grouping on Roe 3 ended their protest on 26 November 2012. The grouping who ended their protest on 26 November 2012 issued a statement saying:

“After a long period of deliberation, it has been decided that wewill suspend our current phase of protest from Monday 26 November 2012 in order to give the prison regime another opportunity to acknowledge and implement the agreement all parties signed up to in August 2010.....”

Section 2

Investigation into Current Complaints

Investigation and Findings

Operation of Controlled Movement following the August 2010 Agreement

47. The August 2010 Agreement stated that, with immediate effect, Roe 3 and Roe 4 landings would, for the purpose of movement, be treated *“as one unit, rather than two landings. This will permit a maximum of 6 prisoners on the landing at any one time, while other prisoners will have access to kitchen, laundry room, classrooms, showers, ironing and haircutting room.”*
48. Notwithstanding the disputed interpretation of the August 2010 Agreement in connection with the intentions regarding revised full body search arrangements, it is the case that the Prison Service has, from the start, struggled to implement the provisions of the Agreement relating to controlled movement.
49. The Prisoner Ombudsman examined Roe House CCTV, in connection with other complaint investigations, after August 2010 and found that the Prison Service were having difficulty implementing the 8.30am unlock and that controlled movement on the landings was not operating as intended by the Agreement.
50. The Prisoner Ombudsman met with Maghaberry management in early September 2010 to discuss the difficulties the Prison Service was having in supporting the new regime. The management said that they were having *“teething problems.”* They said that: *“We have continued to attempt to maintain the 10:6 ratio, (required by the Agreement) however, as you can appreciate it is difficult to maintain consistency given the staffing difficulties.”*
51. The Prisoner Ombudsman spoke again with the Maghaberry management team in early November 2010 after a Prisoner Ombudsman investigator visited Roe 3 and 4 and witnessed the prisoner morning unlock not happening until 09.10am. At that time, the prisoners had also said that they were *“increasingly frustrated that there had only been a few days since the 12 August agreement when there had been six prisoners allowed out on the landing, as agreed.”* In respect of the 8.30am unlock, the prisoners said: *“This is not happening on a regular basis, although further representations by the Prisoner Ombudsman has improved the situation in recent days.”*
52. The evidence suggests that, whilst the revised controlled movement arrangements included in the 12 August Agreement were agreed in good faith, staffing pressures have made it very difficult to provide the number of officers required to support the arrangement under current controlled movement ratio requirements. In effect, the Prison Service made an agreement that they were always going to struggle to deliver.

Current Regime in Roe House

53. Since the end of the protest in November 2012, it is the case that prisoners on Roe 3 landing and Roe 4 landing are not willing to share association and other facilities with one another. There is, however, one group of prisoners on Roe 3 who say they are willing to share facilities with other prisoners on Roe 3 and prisoners on Roe 4. They are not currently permitted to do so.
54. Three prisoners who are part of the Roe 4 grouping were, until recently, located on Roe 3 landing because of a lack of available cells on Roe 4. The three prisoners were included in the Roe 4 regime and shared association with the Roe 4 prisoners, but were required to use landing based facilities on Roe 3. Recently, two of the three prisoners moved to Roe 4 landing, when cells became available. Three more prisoners, who were housed elsewhere, but assessed to be eligible for separated accommodation on Roe 4, were then moved onto Roe 3 landing. There are, therefore, currently four prisoners aligned to Roe 4, located on Roe 3.
55. The Prison Service continue to require the four Roe 4 prisoners located on Roe 3 to use landing based facilities (telephones, showers etc) on Roe 3 landing. The prisoners have asked to use the Roe 4 landing facilities. Roe 3 prisoners say that the four prisoners deliberately take their time when using landing facilities, in order to inconvenience Roe 3 prisoners.
56. The Prison Service say that prisoners from Roe 3 and Roe 4 landings need to be kept apart for their own protection. They say that there have been arguments between prisoners on one or two occasions. The Prisoners on both landings say that, whilst it is "*regrettably*" true that a few individuals "*had words*" it is and always will be the case that no Republican prisoner would ever physically assault another Republican prisoner. It is the case that there has never been any incident of prisoner on prisoner attack in the Republican separated facilities since Roe 3 and 4 opened.
57. The refusal by Roe 3 and Roe 4 prisoners to share association and other facilities has prevented a return to the full use of the recreation room, yard and astro-turf by all prisoners every day. The Prison Service has, therefore, had no choice but to introduce a "good day / bad day" regime. This involves, on one day, Roe 3 prisoners being allowed to make full use of the recreation room area and astro-turf throughout the day, while Roe 4 prisoners can only access the yard (which has been separated from the recreation room), spend some time in the separated gym and use landing based phone, shower and kitchen facilities, subject to controlled movement restrictions. The next day, the arrangement for accessing facilities is reversed.
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Presence of the Dedicated Search Team (DST) on Roe House 4 and Operation of Controlled Movement

58. The investigation established that, following the end of the protest on 21 November 2012, the DST continued to staff Roe 4 landing. By March 2013 this continued to be the case except that from 17.30 through to lockdown, two DST staff are now supplemented by two residential staff.
59. In their complaints, the prisoners typically said:
- “Since 7 May 2011, the DST have been operating as landing staff on Roe 4. This is the only part of the jail that this happens. I want to know when they will be replaced.”*
- “DST on landing. They need to be scrutinised and investigated for their deliberate obstructiveness to the point where movement on this wing is slowed to an almost stop.”*
60. The Prison Service responded, saying:
- “The Governing Governor decides what staff will work where. The landing is returning to a more ‘normal’ regime after a prolonged protest and trust and respect are a big part of that. The Governor will also dictate if and when the DST will be replaced. Please be advised the DST are normal prison staff who at times have to carry out different functions within the prison. Any member of staff can be seconded to work on the DST at any time.”*
- “The staff are under instructions to control movement on the landings. However, as I have said previously we will be taking steps to ensure that we live up to our commitments in the 12 August agreement in relation to movement.”*
61. At interview on 13 February 2013, individual separated prisoners on Roe 4 landing said that, whilst *“there were no preconditions for us ending the protest. There were expectations from the prisoners to moving to a conflict free environment within the jail – as set out in our statement.”* The prisoners said it was their expectation, based upon their discussions with governors, that after the protest ended in November 2012, the landing would *“quickly return to normal.”*
62. The Roe 4 prisoners said also that it was their expectation that the DST, who had been staffing the landing during the protest, would leave Roe 4 landing. They said: *“We spoke to the two residential governors the day before we ended the protest (20.11.12) to tell them that we would be issuing a statement about stopping the protest. The governors said that everything would return back to normality. We thought that the DST would be off the landing but no-one of management actually said the DST would be off the landing, it was our expectation.”*

63. Roe 4 prisoners said that the DST was at the heart of issues that had resulted in the recent protest and that they were *“confrontational from the moment they open our doors.”* They said also that the DST had a *“bad attitude”* towards prisoners; exacerbated the consequences of controlled movement; *“slow down movement all the time;”* were *“hostile to anything progressive”* and *“just make the situation worse.”* *Even going to the shower you are surrounded by three DST, even now since protest ended. We just want to move on the landing to go and get a bowl of cereal in the morning without hassle.”*
64. Prisoners on Roe 3 landing, who subsequently ended their protest after the Roe 4 prisoners protest ended, said that they had been told by Residential Governors that if they *“also ended their protest, the 12 August 2010 Agreement would kick in and the landing and regime would quickly get back to normal. That’s why we came off protest. But the regime has gone backwards ever since.*
- Prior to the protest there was the 12 August Agreement. Post protest there is nothing. NIPS are now also considering the two landings as separate but before, in line with the agreement, they considered the landings as one unit.*
- There was supposed to be six prisoners out on the landing to 10 staff. There should be three prisoners in the laundry room, three in the kitchen, three out using other facilities. Now there is usually only one prisoner out at a time as management can’t staff it properly and even the staff are confused. We, the prisoners, are the pawns in the middle as NIPS cannot provide the staff to make the 12 August 2010 Agreement work.”*
65. The Roe House residential governors said at interview that they gave no immediate assurances to Roe 4 prisoners that the DST would leave the landing, but that they had said that *“the landing should return to normal as soon as possible.”*
66. Prisoners, staff and governors interviewed said that the fact that DST staff are called off Roe 4 landing quite regularly to carry out their responsibility to respond to alarms and assist with the carrying out of full body searches, does restrict prisoner movement under the current controlled movement arrangements.
67. The investigation found that there are particular difficulties in staffing Roe 4 in the morning when DST staff are engaged in court searches, before they make their way to Roe 4.
68. The investigation established also that, if an alarm goes off on Roe 1 or 2 landings, DST staff move over to deal with the incident, and this has consequences for staff prisoner ratios and adversely affects the operation of controlled movement. It was, in fact, established that, if the alarm goes off, the whole house is locked down.
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69. It was further established that when, as sometimes happens, there are only four staff on Roe 4 and one member of staff goes to operate the second slider to the yard, the three remaining staff on the landing can only, in accordance with the controlled movement arrangements, let one prisoner at a time out of their cell to move down the landing.
70. At interview, the residential governors said that *"We are still letting six prisoners out on Landing 3 and 4 at any one time, within the confines of the staff/prisoner ratio. It is not easy to manage but we are doing our best. The situation with staff has slowly improved in the last couple of weeks with new recruits coming on board. During the day, there are normally five staff on Landing 4, all are DST staff."*
71. Prisoners on Roe 3 and Roe 4 said that: *"Some staff use commonsense and relax movement and let three prisoners move on the landing but the bad ones slow everything down deliberately. Some staff are a lot more helpful." "The DST staff tell you the breakfast room/kitchen or showers are full with three people when they are not. The prisoners said also that: "We have never ever had six prisoners out at any one time – never."*
72. During their visits to Roe landing, Prisoner Ombudsman investigators witnessed some staff adopting a more flexible approach to the operation of the controlled movement arrangements and witnessed also examples of very constructive engagement between some members of staff and prisoners, particularly on Roe 3.
73. The attitude and behaviour of three named DST officers was mentioned by a number of prisoners, as being particularly unhelpful and causing significant difficulties. Prisoners said that other members of the search team were *"okay, but only when (the three named officers) are not on duty."*
74. The prisoners said also that an officer currently under investigation in connection with an alleged assault on a Republican prisoner, who had previously been removed from Roe House whilst a PSNI investigation was ongoing, was brought back to Roe 4 during this period. They said that they felt that this was unhelpful and *"provocative."*
75. The investigation confirmed that the officer had been returned to the landing as alleged. Prison Service Management pointed out that this is permissible under prison rules, provided the prisoner alleging assault by a member of staff is no longer located on the landing to which the officer is assigned.
76. The prisoners alleged also that members of the DST were, at times, rude to other landing staff and details of an alleged incident where a female senior officer was spoken to in a way that was described as aggressive and inappropriate, within ear shot of a prisoner, was provided. The Prisoner Ombudsman investigation requested Staff Communication Sheets submitted to
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Prison Service management by the senior officer and noted that her account confirmed the inappropriate treatment alleged by prisoners.

In her account, the senior officer did say that *"(officer name redacted) apologised for the team, agreeing that they treated me badly."*

77. The allegations made by the senior officer are now under investigation by the NIPS.
78. Prison management told the Prisoner Ombudsman that, where staff shortages made this necessary, the DST had to take the place of regular staff on landings and that it was for this reason, that the DST were being deployed on Roe 4. When asked whether, in all the circumstances, consideration had been given to deploying DST staff to another landing and deploying other landing staff to Roe 4, the managers said that the behaviour of prisoners on Roe 4 justified deploying the DST staff there, rather than elsewhere.
79. At a meeting in January 2013, the Governor of Maghaberry told the investigation that efforts were being made to return to normal regime since the protest ended on 21 November but that management were worried about the attitude of the prisoners on Roe 4 *"with intimidation and conditioning of staff."* The governor said that it was the case that the Prison Service had issues in connection with staff deployment which had affected unlock times and movement. He said also that several meetings about moving the DST off landing 4 had taken place and that it *"has always been the Prison Service's intention to return Roe 4 to normal staffing"* but that, at the current time, *"if the prisoners didn't have the black and white discipline approach used by the DST, the Prison Service would be worried that normal staff might be open to more conditioning. The prisoners are focussing on undermining staff."*

The governor said also that *"the regime operating in Roe 3 and 4 is a good day / bad day regime, to try to operate some kind of regime for all the factions. If the factions were not split they would all be in the recreation room getting their full regime and association."* He added that *"the prisoners and their factions are also continuing to issue threats to staff outside and this is all contrary to the 12th August agreement."*

The governor said that the three Roe 4 prisoners currently housed on Roe 3 were using the facilities on Roe 3 but were trying to slow the processes down on Roe 3 *"by taking longer on the phone, in the kitchen and showers, blocking the facilities from the other groups and trying to grind things to a halt."*

80. At a further meeting in April 2013, the Governor of Maghaberry informed the investigation that, following an operational review, he had taken a decision to deploy the DST back to their normal duties and would be deploying other staff to Roe 4.

81. An examination of CCTV of Roe landings 3 and 4 was examined for two dates in February 2013. The examination showed that:
- There was significantly less movement on Roe 4 than Roe 3 on the “bad day” regime even though staff were available. Movement on Roe 3 was seen to be more relaxed, constant and quicker on Roe 3. There were regularly three, sometimes four and on occasion five prisoners moving to different areas on the landing at any one time, when prisoners were on the bad day regime.
 - Controlled movement on Roe 4 during the bad day regime suggests that the opportunity for movement was not being optimised; in fact quite the opposite was seen to be the case. There is evidence regularly of five staff on Roe 4 and only letting one prisoner move on the landing. It is, however, important to note that CCTV does not show prisoners requesting moves and it is not, therefore, possible to say the extent to which prisoners had requested access to facilities.
 - There was more movement on Roe 4 on the good day regime as prisoners were escorted one by one to the recreation room.
 - Prisoners on the “bad day” regime are now routinely locked down between 16.45 and 17.30.
82. On 28 February 2012, Prisoner Ombudsman staff were interviewing on Roe 4 landing and saw the DST arrive on duty at 17.45. The landing was supposed to restart movement at 17.30 but, as the DST were delayed by other duties, no movement could take place until they arrived.

Lateness of Unlock

83. The August 2010 Agreement stated that prisoners on Roe 3 and 4 would be unlocked at 08.30 in the morning to get breakfast and attend the recreation room. This arrangement was not consistently being implemented prior to the protest.
84. This was confirmed during a Prisoner Ombudsman complaint investigation in October 2012 when CCTV was viewed.
85. In one of the complaints currently under investigation, a prisoner said: *“After the protest ended on 21.11.12, morning unlocks have been happening between 20 – 60 minutes later than the time stipulated on the core day circular... Monday to Friday we are being unlocked around 09.00am instead of 08.30am. On Saturday and Sunday we are being unlocked closer to 09.30am instead of the 09.00am stipulated. Yet not one single evening have we been locked later to compensate.”*
86. Prison management responded, saying:
- “Insufficient staff are available to me to facilitate unlock at specified times. Staff from other areas are being re-detailed on a daily basis to Roe House in order to permit unlocks and regime delivery. It is hoped that this will be a short term problem... As you are aware the DST staff are currently manning Roe 4. On occasions they can be delayed getting to the house as they may be fulfilling other duties first.*
- We are currently trying to address this and hope that the situation may be resolved soon. Due to staffing shortages in the prison, staff have to be cross deployed to all areas of the prison or have other duties to carry out prior to taking up post. This sadly can impact on unlock times. That said, the disruption on Roe 3 & 4 is kept to a minimum compared to other areas as NIPS does not want to step outside of the 12 August agreement.”*
- “I can assure you that there most definitely is no attempt to provoke prisoners by delaying the unlock. We have been experiencing some difficulties including staff shortages due to the large number of officers leaving the service recently.”*
87. At interview on 13 February 2013, the separated prisoners on Roe 4 said that, since the end of the protest on 21 November 2012, they had not been unlocked at 08.30 on any day. One prisoner said that, on one occasion, he had been unlocked as late as 09.26.
88. The investigation established that because, on occasions, some DST staff attend to other duties before they go to the landing, this contributes to delays. A member of prison management told the investigation also that *“there is a view that some DST staff take their time when carrying out morning unlock.”*
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89. CCTV of Roe 4 on 28 February 2013 shows staff starting to take the breakfast trolley around cell doors at 08.40. The first cell is then opened and the prisoner lifts his breakfast, leaves the cell and goes to the slider entrance to the recreation room. Only after that prisoner is cleared through the slider, is the next prisoner's cell opened. This process continues until 08.51 when the last prisoner is unlocked.

Impact of Lock Downs on the Agreed Core Day

90. Prisoners said that, since the end of the protest:

"There is a de-facto lockdown period between 16.45 and 17.30 so you can't get in from the yard or recreation room if you need anything. Also you can be out in the yard getting soaked if it is raining. Coming back from the gym and having to get dinner is a problem too. We need to get dinner by 16.45 with all the controlled movement."

91. Prison management responded, saying:

"The reason for movement slowing down or stopping on occasions at this time is due to the changeover of staff. Some day staff may be finishing their duty and others being redeployed from other areas for the association period. All areas of the prison are affected between 16:45 and 17.30. This is due to the need to move large volumes of staff from their day post to their association post."

92. The investigation established that, new shift patterns implemented to be more responsive to prisoner regime needs, now require staff to be moved between areas at 16.45 in order to provide the required staffing for areas where prisoners are due evening association. Roe House is affected by this requirement, in common with all other areas of Maghaberry.

93. For prisoners subject to the "good day" regime the effects of the evening lockdown are minimal but mean that prisoners must remain in the recreation room / yard because there are no staff available to escort them to their cells.

94. For prisoners on the "bad day" regime, the evening lock down will result in them being confined to cell or the exercise yard, which can be problematic in inclement weather.

95. At interview, the residential governors said:

"The 16.45 to 17.30 lockdown started when the core day changed back on 4 October 2012 with the introduction of the new Target Operating Model. The main day staff go off duty at 16.45 so we are left with a skeleton staff depending

on what staff are on short days and what staff are on a long day. Other staff come onto the house at 17.30 to make up the numbers so movement can start again. Movement starts again at 17.30, but those already in the yard or recreation room can stay out there over that period. It really only affects those that have stayed on the landing to use facilities or inter-cell. They will be locked down over that period.”

96. Whilst the reasons for the new 16.45 to 17.30 lockdown are related to developments that have taken place since the August 2010 agreement, it is the case that the new arrangement is not in line with the agreed core day. It is, however, the case that if prisoners had continued to share the recreation room facility the effect of this new lock down would be less significant.

Prisoner Forums

97. The August 2010 agreement included the following:

“C. Prisoner Forum

An effective Prisoners’ Forum will be established, in addition to existing processes for complaints and requests. This should provide a meaningful mechanism to address issues of mutual concern and is designed to build trust.”

98. The investigation established that there has only been one Prisoner Forum meeting since 2010. This was held on 18 December 2012.

99. At interview, prisoners said that:

“The last Forum was on 18.12.12 but it is only a talking shop. It’s no use. It took over two weeks to get toilet brushes costing 50p. We haven’t even got anything to cover our windows so that we can sleep, so we use a towel.”

“On the last Forum meeting on 18.12.12 we went through the issues like controlled movement but NIPS showed a reluctance to engage on the issues. They haven’t come back to hold another forum. There is supposed to be one a month.”

The prisoners said that, at 28 February, they still had not received the minutes of the Forum meeting which they said they had been requesting.

100. Asked about Prisoner Forum meetings, prison management said that: *“Up until November 2012, all prisoners said that were not participating in the Forum but after the protest ended the 4s said they would and did on 18.12.12. The 3s are currently indicating that they won’t be participating.”* Prison management said that the minutes of the December meeting were not yet available, because they were being considered by the Prison Governor.

101. A Roe 3 prisoner said: *"We won't be participating in the Forum as it is a waste of time and doesn't deal with the main issues. It can't even solve a handicrafts issue never mind controlled movement."*

Access to Education

102. Prisoners said at interview that they currently have no access to education facilities or provision. The prisoners said that this was a problem because: *"We rate access to education as a priority."*
103. The Prisoner Ombudsman investigation established that, at the time of writing this report, the classrooms on both Roe 3 and 4 landings are closed. The investigation was informed that the classroom on Roe 3 has yet to be deep cleaned, five months after the protest ended. The classroom on Roe 4 was reconfigured to provide storage for cleaning materials whilst the protest was ongoing. There is, therefore, currently no education or library provision or facilities for Roe 3 and 4 prisoners.

Roe 4 Prisoners Housed on Roe 3

104. Three prisoners who were assessed by the Prison Service to be eligible for entry to Roe 4 landing were moved from Bann House to Roe House on 19 December 2012. Because there were no cells available on Roe 4, the prisoners were provided with accommodation on Roe 3 landing but said at interview that they had individually been told by a governor that, *"whilst they would have cells on Roe 3, they would be treated as Roe 4 prisoners and would be permitted to access all Roe 4 facilities."*
105. The prisoners complained that, whilst they share association with Roe 4 prisoners, they were only allowed to use the facilities, showers and phones on Roe 3 landing, which meant them having to move between Roe 4 landing and Roe 3 landing.
106. At interview, the governor who spoke individually with the prisoners said, that he had told them *"it was a wing based regime and that the only cells that were available were on the 3s. I explained that there was self segregation between the 3s and 4s but they would be treated as Roe 4 prisoners even though they were on the 3s and that this meant associating with the 3s."*
107. As noted earlier, Roe 3 prisoners and the Prison Governor said that the Roe 4 prisoners using Roe 3 facilities are blocking them for extended periods to cause inconvenience. Blocking of the telephone was reported to be a

particular problem. It is to note that the Roe 4 prisoners concerned denied that they had ever blocked facilities as described.

108. The Governor of Maghaberry said that it was his view that the Roe 4 prisoners were deliberately slowing movement up on Roe 3 as part of a “*tactic*” to get more separated accommodation, in order that Roe 3 and Roe 4 prisoners can be fully separate. It is to note that there are also four prisoners in Bann approved to go into Roe 3 or 4 but there is no room for them.
109. It is not entirely clear why the Prison Service will not permit the Roe 4 prisoners on Roe 3 landing to use the Roe 4 facilities, given that they are permitted to associate with Roe 4 prisoners. It is to note that the choice being made by the prisoners would increase the overall number of prisoners sharing phones, kitchen and shower facilities etc on Roe 4 landing. This would, however, be to the benefit of Roe 3 prisoners who would have improved access to their landing facilities.

Availability of Separated Accommodation

110. The Prisoner Ombudsman has received a number of complaints from prisoners who claim that they meet the eligibility criteria for entry to separated conditions in Roe House. All of the prisoners are currently on protest because they have either a) been assessed not to satisfy the entry criteria or b) because they do meet the eligibility criteria but there are currently no cells available in Roe House.
111. The separated prisoner Compact sets out details of who is eligible for separated conditions. Prisoners must be “*a member or supporter of a proscribed organisation connected with the affairs of Northern Ireland,*” and any move into separated accommodation must “*not prejudice the safety of the prisoner, the safety of others or prejudice the maintenance of security or good order and discipline.*”
112. The Prisoner Ombudsman will respond to each of the complainants on the basis of the evidence examined. It is however relevant, in the context of this investigation and the discussion that follows, to include a number of the Prisoner Ombudsman’s findings.
113. It is the case that Separated accommodation in Roe House is restricted. There are, at the time of writing this report, 48 prisoners in Roe House 3 and 4 and four Republican prisoners being held in integrated accommodation who have already been approved for entry to Roe House. There are also a number of other Republican prisoners whose applications to go to Roe House are under consideration by the Prison Service.

114. The separated Loyalist accommodation in Bush House Landings 1 and 2 is also close to capacity. This may, however, be a short-term situation, emanating from recent protests.
115. Prisoners have complained that the Prison Service are breaching the Separated Compact by denying access to Roe House to prisoners who have been approved as meeting the eligibility criteria.
116. During the course of her investigations, the Prisoner Ombudsman considered some evidence that might suggest that some prisoners, who might not otherwise do so, are being encouraged to apply for separated accommodation by others and to protest in support of their application.
117. At interview, this was denied by prisoners in Roe House. It was, however, evident that prisoners in Roe House are keen to extend Roe separated accommodation into Roe 1 and 2 landings and that the overriding reason for this is to provide separate accommodation and facilities for the prisoner groups who are not associating with one another.
118. It is to note that when the Government accepted the Steele recommendation to provide “separated” accommodation in Maghaberry back in late 2003, the Northern Ireland Affairs Committee said:

“Having made that decision – from which we accept there is now no turning back – the Government must accept full responsibility for the implementation of separation, and the additional demands it will place on the Northern Ireland Prison Service.”

The Committee said also:

“Given the recognised significance of a “critical mass” to the paramilitaries, it is essential that their task is not made easier by procedures, which allow them to artificially inflate their numbers. The establishment of clear criteria which the Prison Service can use to determine who is a paramilitary, and therefore eligible for accommodation in a separated area, is therefore crucial... It is imperative that the only evidence of an individual’s paramilitary affiliation which is accepted for the purposes of separation should be evidence received from, or verified by, police or intelligence sources. On no account should any individual be able simply to claim affiliation for himself or for others.”

Prisoner Adjudications for refusing to lock on 31 December 2012

119. Prisoners complained that they were adjudicated for refusing to lock on 31 December 2012. A typical complaint stated:

“All the prisoners in Roe 4 were charged for refusing to lock up at 4.30pm on 31.12.2012. Firstly, this was not part of the ‘Notice to Prisoners’ for Xmas Holidays that clearly state that only Xmas day, Boxing Day and New Years Day were to be 4.30pm lock ups. Secondly, I got no direct order from anyone and I am sure your cameras will confirm that I was walking on the astro-turf for most of the time and the noise in the canteen was such that even the loyalists in Bush yard / astro-turf were responding to it as they did not lock up either... Thirdly, this is not part of our so called core day...The rules and regulations of this wretched place are being changed and disregarded at the drop of a hat, mostly to suit the life style of DST members. We eventually came in at 19.30, our normal time.”

“Now Saturday is lock up at 17.30 – like Sunday. Who is to say that the core day won’t keep reducing. Loyalists also refused to come in that day. They are always late to unlock us in the morning, yet not one single evening have we been locked later to compensate.”

120. Prison management responded, saying:

“Firstly I acknowledge that there was some confusion on 31/12/12 in relation to the early lock-up and no association period. However, the Senior Officer personally went to the recreation room grille and ordered every prisoner by name to lock. If you believe there are mitigating circumstances in relation to you being placed on report you may of course mention this to the adjudicating Governor.”

“Over the Christmas period there have, for the past number of years, been four early lock up days. Three of which are recognised Public holidays Christmas day, Boxing day and New Years day. The fourth day is usually Christmas Eve or in this case New Years Eve. The fourth early lock up day was not included in the original notice in order not to cause confusion as the three Public holidays run differently than to the fourth day. Roe house prisoners were provided with the same amount of notice as approximately 1000 other prisoners within the establishment. However, a number of prisoners chose not to return to their cells when asked to do so. They were then ordered and again they refused. This left no alternative but to charge those for failing to obey an order. If you have an issue with being charged you will have to opportunity to present your case to the adjudicator.”

121. The investigation established that the prisoners concerned had received no prior notice of the requirement to lock up early at 16.30 on New Years Eve 31 December 2012.
122. It is the case that this early lock up was not included in the Notice to Prisoners, which was issued before Christmas. The first Roe House prisoners knew about locking early on 31 December 2012 was when the senior officer gave them an order to lock shortly before 16.30.
123. The prisoners came in at their normal time at 19.30 and were subsequently charged and adjudicated for not locking early on 31 December 2012. It is to note that, in the circumstances, their punishment was a "caution".
124. The investigation established that Roe 3 prisoners did lock up early at 16.30 on 31 December 2012. This was, however, their scheduled "bad day" so they were not out in the recreation room / astro-turf area.
125. The investigation established also that some Separated Loyalist prisoners in Bush House also refused to lock on 31 December for the same reasons as Roe 4 prisoners.

Section 3

Summary, Conclusions and Recommendations

Summary and Conclusions

126. In accepting the Steele recommendations, the Government committed to providing separated accommodation for paramilitary prisoners who, on the grounds of safety, wished to be held apart from other paramilitary groups and from prisoners who belonged to no such groups. Following the Government's decision, the Northern Ireland Affairs Committee said: *"Having made that decision – from which we accept there is now no turning back – the Government must accept full responsibility for the implementation of separation, and the additional demands it will place on the Northern Ireland Prison Service."*
127. In its Interim Report in 2011, the Prison Review Team, noting the challenges associated with delivering a separated regime, emphasised that, *"The separation of paramilitary prisoners was a political decision, which needs to be operationally effective."*
128. When first putting arrangements for separated accommodation in place it was considered essential for the Prison Service to ensure that, as in the rest of the prison, (i) staff are in control (ii) prisoners are safe and (iii) staff are safe.
129. The separated Prisoner Compact specified the routine, regime and privileges that prisoners could expect when living in separated accommodation. Given that separated prisoners cannot access the prison workshops and other facilities, significant efforts were made over the years to provide a range of facilities, education and activity programmes within the separated complex. Since the Compact was first introduced in March 2004, the regime has been progressively enhanced.
130. The Compact also made clear the requirement for those applying for separated accommodation to conform to the terms of the Compact. One of the terms was that prisoners were to move to and from facilities under the control of prison officers and arrangements for controlled movement were, therefore, put in place.
131. The first Roe House Separated prisoner protest occurred in April 2010. During the 30 days leading up to the protest, there were 34 lockdowns, over and above Sunday lockdowns, across the whole of Maghaberry. Roe House was locked down for five evenings. Because of the dates of the lockdowns; because evening association is alternated between Roe 3 and Roe 4 landings and because everyone is also locked down on Sunday night, this resulted in a situation where prisoners on Roe 4 landing did not receive evening association for seven nights out of eight. The Compact, at that time, provided for separated prisoners to receive association three evenings a week.

132. In the same period, day time inter-cell association and access to facilities and education, all of which are provided for in the Compact, were at times affected by a “withdrawal of cooperation” being implemented by the POA. There was also a problem in connection with the arrangements for prisoners taking their meals.
133. A complaint investigation by the Prisoner Ombudsman, at the time of the protest, concluded that *“whatever has happened since, it was primarily frustration with ongoing shortfalls in the delivery of the regime specified in the Compact and unhappiness with the arrangements for taking meals, exacerbated by the lockdowns in the weeks before Easter that led to the protest.”*
134. The protest ended following the 12 August 2010 Agreement. Amongst other things, the Agreement addressed the matter of full body searching arrangements and, in respect of controlled movement, stated that, with immediate effect, Roe 3 and Roe 4 would be treated, *“for the purposes of movement – as one unit, rather than two landings. This will permit a maximum of 6 prisoners on the landing at any one time, while other prisoners will have access to kitchen, laundry room, classroom showers, ironing and haircutting room.”*
135. It was regrettably the case that a disputed interpretation of the August 2010 Agreement, in connection with the intentions regarding revised full body search arrangements, undermined the potential to move forward constructively. However, this issue aside, the Prisoner Ombudsman, having received a significant number of complaints from separated prisoners in Roe House, found evidence that the provisions of the August 2010 Agreement relating to controlled movement were not consistently implemented prior to the most recent protest, and have not been continuously implemented since the protest ended.
136. The evidence suggests that, whilst the agreement relating to revised controlled movement arrangements was made in good faith by the Prison Service, staffing pressures have made it very difficult to provide the number of officers required to support the arrangement, under the controlled movement ratio requirements. In effect, the Prison Service made an agreement that they were always going to struggle to deliver, given the staffing arrangements, industrial relations agreements and working practices operational at the time of the 12 August 2010 Agreement.
137. The separated Republican prisoners on Roe 4 landing said that the reason for the protest that commenced on 6 May 2011 was because of the disagreement relating to the intentions of the August 2010 Agreement in respect of full body searching and because of a lack of progress in implementing the provisions of the Agreement, in respect of controlled movement.
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138. It is to note that the commencement of the protest coincided with prison management's decision to introduce earlier lock down arrangements throughout Maghaberry and prisoners in Roe House were required to lock down 15 minutes earlier than had been agreed, than was operating at the time. Roe 3 prisoners subsequently refused to cooperate with the earlier lock down time and were eventually forced to comply when the DST was called to escort them to their cells.
139. The investigation found no evidence that there was any meaningful discussion with the prisoners affected to explain the wider issues and difficulties leading to the need to vary the lockdown time.
140. The protest escalated into a dirty protest and continued until 21 November 2012. During the nineteen months of the protest, prisoners were inevitably subject to an extremely limited regime with little opportunity to leave their cells and prison staff had to work in extremely unpleasant conditions.
141. On 1 November 2012, Prison Officer David Black was murdered by a Dissident Republican Group on his way to work. This act was a breach of the spirit and intent of the underpinning fundamental principles of the August 2010 Agreement. As well as devastating Officer Black's family, it resulted in great hurt and anger for the prison staff who had lost a greatly valued and respected colleague.
142. On the 21 November 2012, the prisoner protest was ended by the prisoners on Roe 4 landing. In a statement, the prisoners said that: *"This initiative should be viewed as a genuine and sincere attempt to create the conditions in which a conflict free environment can flourish whereby all are treated with respect and dignity is guaranteed."*
143. The different groupings of prisoners on Roe 3 landing then also ended their protest. The Roe 3 prisoners said that they had been told by residential governors that if they ended their protest, the 12 August 2010 Agreement would *"kick in"* and the landing and regime would quickly get back to normal. Governors confirmed that both Roe 3 and Roe 4 landings had been told that, following the ending of the protest, the landing would return to normal as soon as possible.
144. In January 2013, Roe 4 prisoners complained to the Prisoner Ombudsman that, since the end of the protest, Roe 4 landing had continued to be staffed by the Dedicated Search Team (DST). They complained about the attitude and behaviour of some of these staff.
145. It is well documented in CJINI and other reports that the DST at Maghaberry have a reputation for being very controlling and security focused. It is to note that, in its Interim Report, the Prison review Team stated that: *"There is over-reliance on dedicated search teams to deal with routine, rather than exceptional, control issues, and, as we observed, this has resulted in a heavy-handed approach that has exacerbated tensions."* It is also the case that the
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- DST are responsible for carrying out the full body searches of Republican prisoners that have been the subject of disagreements and protests.
146. Evidence gathered during the Prisoner Ombudsman complaint investigations confirmed that the continuing presence of the DST on Roe 4 landing is, without doubt, causing frustration and tension and is considered to be provocative. It was also found, and considered to be unhelpful, that an officer previously removed from Roe 4 landing whilst the PSNI investigated an allegation of assault against a Republican prisoner had been returned to the landing since the protest ended.
 147. It is important to note that it was the case that some members of the DST and a number of residential staff working on the separated landings, were seen by Prisoner Ombudsman investigators, and acknowledged by prisoners, to be professional and fair in the way that they carry out their duties.
 148. Following an operational review in April 2013, the Governor of Maghaberry determined that the DST would be deployed back to their normal duties and other staff allocated to Roe 4. This decision was subsequently actioned.
 149. Prisoners complained also that the operation of controlled movement in Roe House since the protest ended was not compliant with the 12 August 2010 Agreement. The investigation found that, because prisoners no longer associate as one group, the Prison Service has had no choice but to implement a "good day / bad day" regime. This is accepted as necessary by prisoners.
 150. It was however found that, notwithstanding the good day / bad day arrangement, the current operation of unlock arrangements and controlled movement is not working as agreed in August 2010, although it is the case that the arrangements work better on Roe 3 landing than on Roe 4 landing. Difficulties are exacerbated by the attitude and approach of individual officers.
 151. It is also the case that access to education, crafts and other similar activities is wholly inadequate. Indeed a classroom on Roe 3 landing is still "*out of action*" more than five months after the protest ended, allegedly because it requires deep cleaning. It is to note, that the Prisoner Ombudsman was permitted to use this room, on one occasion, for interviews.
 152. In considering the challenge of staffing Roe House to consistently deliver controlled movement to the limit of its potential under current arrangements, it is to note that the Prison Service is currently engaged in delivering a much needed Programme of Change with the objective of delivering a more rehabilitative regime that reduces the likelihood of re-offending. As a result, staff are leaving the service as new officers are recruited and trained and new shift arrangements, a new operating model and a revised industrial relations agreement are all being rolled out.
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153. At the same time, prisoner numbers are at a record high and staff sickness absence has risen, against a background where officers are waiting to leave the Service under the severance programme. All of this is creating significant management challenges and staffing pressures across the prison.
154. Crucially, for all of the reasons above, the staffing requirements of Roe and Bush Houses are also adversely affecting the regime and lock down arrangements for other prisoners. This has been the subject of many complaints to the Prisoner Ombudsman.
155. Against this background, it would be most unhelpful if the Prisoner Ombudsman responded to the findings of this investigation that Agreements made with Republican separated prisoners are not being properly implemented, by making recommendations that will have further adverse consequences for the rest of the Maghaberry prison population.
156. Having signed up to a compact or agreement, prisoners do, however, have a reasonable expectation that it will be fully implemented and the recent history of Roe House clearly demonstrates the difficulties, frustration and tension that result when this does not happen or cannot happen because of resourcing difficulties. This is particularly the case when difficulties are not properly communicated or discussed before changes to an Agreement are implemented.
157. Against this background, it is to note that the Criminal Justice Inspector (repeatedly), the Prisoner Ombudsman and the Prison Reform Team have all stated clearly that, given the substantial security arrangements operational in Roe House, the arrangements for moving prisoners should be revised to allow for freer movement, requiring less staff. In this context, the Prison Review Team pointed out that Roe House staffing levels would not be found in *“maximum security prisons in England, dealing with the most serious and dangerous prisoners.”*
158. In saying this, all three of the above organisations / teams have recognised staff’s legitimate apprehension that adjustments to staffing levels will lead to a *“return to the Maze.”* Connected with this, fears are also expressed that prisoners will try to manage and manipulate staff. It is to note, however, that the Prison Review Team concluded that *“the current arrangements, though they were stipulated by staff, are in practice fuelling fears of a return to the Maze.”*
159. During the course of this investigation, senior management at Maghaberry repeated these fears. The view was expressed that any *“concessions”* made to Republican prisoners would result in a *“slippery slope”* back to a Maze regime, where prisoners run their own landings. Concerns were also expressed about the manipulation of staff and it is undoubtedly the case that the tragic circumstances of the murder of Officer David Black have contributed to these anxieties. The investigation found evidence, in a number of instances, where
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- other staff and / or senior staff were unhappy with officers who were observed to be constructive and pleasant when dealing with Republican prisoners.
160. Given the security arrangements in Roe House and the fact that the Prison Service, as always intended following separation, is fully in control of the separated accommodation and intends to remain in control, there is absolutely no reason why any adjustments to the current operational arrangements should lead to a Maze style situation that is not acceptable to the Prison Service or to the wider community.
161. It is also to note that the fundamental principles of the 12 August 2010 Agreement which the separated prisoners signed up to stated that (i) Staff should be able to carry out their work professionally, free from harm, intimidation or threat; and (ii) The security of the establishment should not be diluted.
162. When interviewed in connection with their complaints about regime; controlled movement; staff attitude and breaches to separated prisoner agreements, all of the separated prisoners in Roe House said that, after nearly 19 months of protest, they wanted to be able to live their lives in prison, day to day, as best they could. They said also that they fully accepted that the prison is responsible for security but believed it was possible to deliver a better regime for separated prisoners as well as fully delivering the Prison Service's security duties and responsibilities. Prisoners said that they would not care "if there were 40 officers on the landing" if they could use the kitchen, phone and shower when they wanted; have good access to education, crafts and other activities and talk to another prisoner in their cell, without having to wait to be unlocked by three staff.
163. All prisoners said that they understood the substantial role they would have to play moving forward if more constructive and trusting relationships are to be developed.
164. The prisoners said also that they were very clear that if the 12 August 2010 Agreement were to be rolled out as intended and they failed to cooperate in full with the arrangements, the Prison Service could, at any time, revert back to any arrangement they chose. The prisoners said that it would not be in their interest to behave in a way that caused this to happen.
165. As noted earlier, concerns were expressed by Prison Service management that a less controlled regime might lead to the manipulation of staff by prisoners. It is to note that, addressing this issue in its Interim Report, The Prison Review Team said: "*Experience in other jurisdictions, including with those convicted of terrorist-related offences, has been that appropriate and professional behaviour by, and interaction with, staff reduces risks.*"
166. The availability of separated accommodation also is the subject of complaints. Having agreed to separated accommodation, there is a clear expectation and inevitability that the Government must provide separated accommodation for prisoners who meet the eligibility criteria. In connection with this, it is to note

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- also that the CJINI and HMIP have said that the cells in the separated accommodation are too small to be suitable for sharing.
167. It is further the case that it is the wish of most of the wider community in Northern Ireland to see all members of paramilitary organisations who commit crimes, convicted and sent to prison. The Prison Service will, therefore, have to provide the separated accommodation required. The evidence examined in connection with separated prisoners leaving prison over the next six months, compared with those meeting the separated eligibility criteria, suggests that additional separated accommodation will be required.
168. In assessing accommodation needs and alternatives for addressing these, it is entirely appropriate that only evidence of an individual's paramilitary affiliation received from, or verified by, police or intelligence sources should be accepted. Paramilitary prisoners should never be permitted to manipulate the number of prisoners entering separated accommodation in order to support a wish to secure additional accommodation or for any other inappropriate reason. It is also entirely appropriate that, in line with its duty of care, the Prison Service fully considers any evidence or intelligence that might suggest that a person transferred to Roe House or Bush House could be at risk or might harm other prisoners.
169. It is a matter of regret that many of the issues raised in the complaints to the Prisoner Ombudsman could not, in line with the provisions of the August 2010 Agreement and previous Prisoner Ombudsman recommendations, have been resolved locally through the Prisoner Forum.
170. I do note the action taken by Maghaberry management in April 2013 to deploy discipline staff to Roe 4 landing and do not, therefore, intend to give any further consideration to the complaints relating to this staffing issue.
171. The evidence clearly demonstrates that the operation of the Prisoner Forum on the Republican separated landings is very erratic and has, to date, made little if any constructive contribution to problem solving. It would appear to be the case that prisoners want to discuss issues about which managers locally have been given no authority to make decisions. It would also appear to be the case that, where problems are discussed that could be resolved locally, appropriate action is not taken.
172. Some members of Prison Service staff suggested to the investigation that, if local governors were more empowered, rather than always having to refer back to senior management on any issue arising on the Roe separated landings, the Forum might be more likely to work as intended.
173. **Based on the evidence examined, the investigation concluded that, if there is the desire for it, there is an opportunity to address the issues resulting in complaints and create a more constructive and conflict free environment in the separated accommodation in Roe House moving**
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forward, without any compromise to security. To achieve this, however, a new approach to staffing, managing movement, communications and regime delivery is required.

In light of all of the evidence discussed, I make 12 recommendations.

Recommendations

The recommendations below should, wherever relevant, apply also to separated Loyalist accommodation in Bush House and will be communicated to prisoners in Bush 1 and 2, following factual accuracy.

It should be noted that where recommendations include a target activity completion date of June 2013, this is based on advice sought from the Prison Service about how long the necessary work / adjustment would take, in the event the recommendation was accepted.

Recommendation 1

I recommend that the Prison Service continues to zealously apply the eligibility criteria for entry to separated accommodation ensuring that only evidence of an individual's paramilitary affiliation received from, or verified by, police or intelligence sources is accepted.

(It is to note that if a prisoner feels that the relevant criteria have not been correctly implemented by the Prison Service, they can bring a complaint to the Prisoner Ombudsman for independent investigation.)

Recommendation 2

I recommend that all staff on Roe 3 and Roe 4 landings are encouraged to positively and constructively interact with prisoners, within a framework of clear and understood boundaries. I recommend that the need for constructive interaction and the need for clear and understood boundaries are discussed regularly at landing Team Meetings.

Recommendation 3

I recommend that the food servery previously located in the recreation room is reinstated by June 2013 and that prisoners are once again, responsible for serving their own food.

Recommendation 4

I recommend that the afternoon lock down between 16.45 and 17.30 and the earlier evening lock down times which are currently required in connection with the efforts being made to improve the prison regime across Maghaberry, continue to apply. I recommend also that Roe and Bush separated prisoners are encouraged to fully co-operate with the lockdown arrangements in the interest of making the full package of revised arrangements work effectively.

Recommendation 5

I recommend that, if at any time in the future, the Prison service cannot deliver in full any aspect of the separated regime this is fully discussed with the prisoners affected.

Recommendation 6

I recommend that, under the revised arrangements, Roe 4 prisoners located on Roe 3 landing use Roe 4 landing facilities.

Recommendation 7

I recommend that the classrooms on each landing are made fully operational by June 2013 and that arrangements are made for a programme of education and leisure activities, including crafts, to be put in place by the same date.

Recommendation 8

I recommend an arrangement for accessing library facilities is put in place by June 2013.

Recommendation 9

I recommend that the Maghaberry Prison Governor re-instates the Prisoner Forums in Roe 3 and 4 and explains fully to prisoners the issues that the residential governors have the delegated authority to discuss and resolve at the Forum and issues which must be raised with senior management. I further recommend that (i) governors and staff attending Prisoners Forums make every effort to discuss and resolve problems raised constructively and take agreed action / circulate minutes promptly and (ii) that prisoners, in the interest of making Forums effective, are encouraged to engage positively and helpfully at meetings.

Recommendation 10

I recommend that the Prison Service conduct an analysis of separated prisoner accommodation needs moving forward and, by September 2013, develop a plan for addressing these needs, in the context of the overall accommodation needs of Maghaberry Prison.

Recommendation 11

I recommend that the Prison Service, in the interest of carrying out full body searches in the most dignified way possible, for all prisoners, continues to explore technological solutions to replace current full body searching arrangements.

Recommendation 12

Noting that the Prison Service has been unable to properly implement the August 2010 Agreement and the impact of the current arrangements for managing movement in the separated accommodation on efficiency, effectiveness and mutually respectful relationships, I also make the following recommendation.

I recommend that the Prison Service takes action to fully address the following matters, on the understanding that the fundamental principles underpinning the 12 August Agreement 2010 must apply:

- The repeated findings of CJINI and HM Inspector of Prisons that the operation of controlled movement is "*excessively restrictive and could be reduced without any negative impact on security.*"
- The findings reported in the Prison Review Team Report February 2011 that "*The current (separated accommodation) staffing levels are far higher than any reasonable risk assessment would demand.*"
- The current situation where the management of movement in the separated accommodation is so restrictive it is, in practice, virtually impossible to provide reasonable opportunities for free movement or for any direct engagement between prisoners and staff.
- The negative impact that the overly high staffing levels in the separated accommodation have on the regime and well being of other prisoners and the roll out of elements of the Prison Reform Programme.
- Local management and supervision arrangements that enable individual staff members to undermine the management of movement in Roe House causing unnecessary tension.

I further recommend that CJINI should be asked to carry out an audit of the action taken in connection with all elements of this recommendation, 10 weeks from the date this report is finalised, and report on progress.

I have sent a copy of this report to the Governor of Maghaberry Prison and the Director General of the Northern Ireland Prison Service.

PAULINE MCCABE
PRISONER OMBUDSMAN FOR NORTHERN IRELAND

14 May 2013