

# DRUGS IN PRISON

March 2015



THE CENTRE FOR  
**SOCIAL  
JUSTICE**

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# About the Centre for Social Justice

The Centre for Social Justice (CSJ) is an independent think-tank, established to put social justice at the heart of British politics.

Moved by shocking levels of disadvantage across the nation, it studies the root causes of Britain's acute social problems in partnership with its Alliance of around 350 grassroots charities and people affected by poverty. This enables the CSJ to find and promote evidence-based, experience-led solutions to change lives and transform communities.

The CSJ believes that the surest way to reverse social breakdown – and the poverty it creates – is to build resilience within individuals, families and the innovative organisations able to help them.

Drugs in Prison

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# The CSJ's Criminal Justice Programme

Social justice and criminal justice go hand in hand. Not only does crime disproportionately affect poorer communities, but also those who have committed crime are also far more likely to suffer from the causes of social breakdown such as drug abuse, poor literacy rates and worklessness.

Moreover, criminal sentences – whether prison or its alternatives – provide a unique opportunity to intervene in the often-chaotic lives of those involved in criminal activity. By creating a just society where crime rates are low and the public feel confident about their safety, community cohesion and pride in local neighbourhoods can flourish.

For these reasons, in early 2013 the CSJ launched a Criminal Justice Programme to find public policy solutions to entrenched criminal justice problems. Since then the Programme has produced major reports on topics such as reforming community sentences, the role of the voluntary sector in criminal justice and tackling gangs.

If you want to contribute to the Programme or have an interest in supporting our work we would be delighted to hear from you. Please contact Edward Boyd, the Deputy Policy Director of the CSJ at [edward.boyd@centreforsocialjustice.org.uk](mailto:edward.boyd@centreforsocialjustice.org.uk).

# Members of the CSJ Working Group



**William Alan Brown OBE, former prison governor and private consultant**

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Alan is a former prison governor who served in ten male prisons, and women's and young offenders' institutions, throughout his 38-year career in the Prison Service. He also spent a two-year period working at HM Prison Service Headquarters. Most notably Alan led on the implementation of new IT to all prisons across the public sector prison estate between 2000 and 2002 which was hailed as the first public sector IT programme to be delivered on time and within budget.

Alan retired from the Prison Service in 2010 having served as governor of HMP Preston and then of HMP Liverpool – one of the largest and most complex prisons within the prison estate. Alan was awarded an OBE in the 2008 Queen's Birthday Honours list for his contribution to the work of the Prison Service, HMP Liverpool and his support for prisoners. Since Alan retired he has involved himself in charitable work with the Timpson Foundation (a Timpson family-run charity), which seeks to recruit ex-offenders from prison to work within the Timpson shoe repair business.



**Caroline Cole, Head of Research and Implementation, RAPt**

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Caroline is Head of Research and Implementation for the Rehabilitation for Addicted Prisoners Trust (RAPt). She is also a Fellow of the Higher Education Academy and a Member of the Chartered Management Institute.

Caroline has worked within the treatment of substance misuse field for over 20 years. Her current role involves directing RAPt's research department and contributing to the business plan by publishing current research into RAPt outcomes and challenging drug policy, national guidance and directives.

Caroline is responsible for leading on the mobilisation and implementation of new contracts to ensure compliance with tender service specifications, legal requirements and RAPt's internal governance and quality standards. She is a member of the Board of Trustees for Broadway Lodge.

Caroline is also a freelance consultant in strategy, business development and education, and a Lecturer in English Language and Medieval English Language and Literature at the University of Oxford.



### **Huseyin Djemil, Founder and Director of Green Apple Consulting**

Huseyin Djemil is the founder and director of Green Apple Consulting, a specialist substance misuse consultancy that works mainly in the UK criminal justice and drug treatment sectors. Huseyin has worked in the substance misuse field since 1993, and is himself in long-term recovery from addiction.

Huseyin has held a variety of roles in the substance misuse field including Area Drug Strategy Coordinator for the seven London prisons between 2003 and 2007, where he controlled the budget for all drug treatment services and drug supply reduction activity. In 2012 Huseyin started an initiative, Towards Recovery, to help establish a more visible recovery community in Henley-on-Thames and the surrounding areas.

In his capacity as the director of Green Apple Consulting he advocates abstinence-based rehabilitation as necessary in all stages of treatment and recovery.



### **Lady Edwina Grosvenor, Criminal Justice philanthropist**

Edwina studied criminology and sociology in the UK and criminal behaviour in Western Australia. She started working in prisons at the age of 18 where she worked in Central Jail in Kathmandu. Edwina was then a founding investor in the successful chain of fine dining training restaurants built inside prisons known as The Clink. The Clink has trained hundreds of offenders placing them in jobs in catering and hospitality and has been praised for an extraordinarily low reoffending rate.

Edwina has advised Justice Secretaries on how businesses can help rehabilitation and sits on the advisory board for female offenders. She worked closely with the Bishop of Prisons for five years and is a member of the advisory board of Oxford University's Criminology faculty.



**Hugh Lenon, Chairman of Phoenix Equity Partners**

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Hugh has spent the last 30 years in the commercial sector and is now Chairman of Phoenix Equity Partners, an investment business he co-founded in 2001. In addition, Hugh is a Trustee of three charities, including one in the prison education and rehabilitation sector which has two principal activities: it helps prisoners (around 2,000 each year) to study distance learning courses in subjects and at levels not otherwise available in prison; and it champions prison education and informs the public, parliament and the media about the benefits of rehabilitation through learning.



**Professor Neil McKeganey, Director of the Centre for Drug Misuse Research**

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Professor Neil McKeganey is director of the Centre for Drug Misuse Research. He is the author of the *A to Z of Substance Misuse and Drug Addiction* (Macmillan) and *Controversies in Drugs Policy and Practice* (Macmillan). He has conducted research into the area of drugs misuse for over 20 years and is currently involved in the UK Department of Health-funded evaluation of Drug Recovery Wings.

In 2012 Professor McKeganey was awarded the Nils Bejerot prize by the World Forum Against Drugs in recognition of his work in assisting the development of international drugs policy. Neil has been a strong supporter of the importance of ensuring that drug treatment services within the UK are focused on enabling drug users to become drug-free and has written widely on the importance of maintaining criminal justice sanctions in the fight against illegal drug use.



**Louis McMahon, Research Assistant, Centre for Social Justice**

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Louis joined the CSJ team in August 2014. He gained a BA with First Class Honours in English Literature, and an MA in English Literature (1500–1900), both from Newcastle University. His interdisciplinary studies included political philosophy, history, politics, and psychology. He works on policy for the CSJ Criminal Justice Programme.



### Edward Boyd, Deputy Policy Director, Centre for Social Justice

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Edward joined the CSJ in January 2013. Before this he worked as a consultant and researcher across a variety of policy areas. He authored reports on police, criminal justice and pension reform at the think tank Policy Exchange; worked as a consultant in the police and education sectors; as a teacher on negotiation at the London School of Economics; and as the Product Manager of Listed Alternative Assets at the London Stock Exchange.

He is a regular media commentator, in particular on current policing and criminal justice issues, appearing at conferences and on national broadcast outlets along with writing articles for the print media.

Edward is on the Advisory Board of the educational charity Action Tutoring. He read Economics (BA) at Exeter University and Management and Economics (MSc) at the London School of Economics.

# Acknowledgements

The CSJ would like to thank the many individuals and organisations that have so generously contributed evidence to this report: it would not have been possible without them. We visited six prisons and spoke to more than 120 prisoners and drug and prison experts. While the majority of people and organisations chose to give their evidence anonymously, there are a number we would like to thank publically. These are:

Addaction, Lifeline Project, The Ministry of Justice, The Nehemiah Project, Public Health England, RAPt, Recovery Is Out There and St. Giles Trust.

We would also like to thank all of those who took the time to reply to our Freedom of Information requests, and the following individuals for their indispensable input and assistance: Andrew Gregg, Annie Dale, Cherie Cooper, Fern Hensley, Harriet Moyes, Dr. Jeremy Prichard, Dr. John Ramsey, Lucy Dean and Perry Chambers.

We are particularly grateful to the Drugs in Prison Working Group, every member of which has been tireless in their dedication to this project.

From the CSJ, we would also like to thank Rupert Oldham-Reid, Alex Burghart and Christian Guy for their crucial feedback throughout this process.

# Executive Summary

Prisons in England and Wales have a serious drug problem – they have done for decades. There is every reason to tackle it. Prisons are straining under the violence it causes. Drug-using prisoners are suffering from physical and mental health conditions and their chances of rehabilitation are slim. Society is suffering through addicted prisoners committing crime to fund their habits on release. One of the chief purposes of prison is to reduce crime. In this regard they are clearly failing.

It does not have to be this way. It is very possible to change this situation and ensure prisons are a place where people battling addiction recover. Success requires a three-pronged approach:

- Drugs must be kept out of prisons;
- Demand for drugs must be reduced;
- Drug addicted prisoners must receive effective support into recovery.

These three requirements are interdependent and failure in just one area will ultimately lead to a failure to tackle the prison drug problem. This paper sets out the scale of the issue before investigating how each of these three requirements can be met.

## Chapter One: Drug-fuelled prisons

Drugs have been a problem in prison for decades. Politicians have regularly identified this and promised change, without success. The data shows that drugs are still a significant issue in prisons in England and Wales:

- Just under a third (31 per cent) of prisoners admit that it is easy to get drugs in prison;<sup>1</sup>
- 29 per cent of prisoners admit to having a drug problem on arrival to prison;<sup>2</sup>
- Of those prisoners who have used heroin, almost a fifth reported first trying it in prison.<sup>3</sup>

1 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

2 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2011–12*, London: Her Majesty's Inspectorate for England and Wales, 2012, p36 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hm-inspectorate-prisons-annual-report-2011-12.pdf> (26.02.15)]

3 Ministry of Justice, *Compendium of reoffending statistics and analysis 2010*, London: Ministry of Justice, 2010, p132 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf) (19.02.15)]

The prison drugs market is separable into three elements: New Psychoactive Substances; “traditional” illegal drugs; and prescription drugs. We explore each of these below.

## New Psychoactive Substances

- The use of New Psychoactive Substances (NPS) has skyrocketed in prison over recent years. NPS are similar to “traditional” illegal drugs, but their chemical structures have been altered in order to evade current laws. One particular type of NPS, called “Spice” (a synthetic cannabinoid), dominates the drugs market in prisons in England and Wales:
  - Prison seizures of Spice increased from just 15 in 2010 to around 737 in 2014;<sup>4</sup>
  - It is difficult to determine precisely the proportion of prisoners using Spice, as it is not tested for, yet it was suggested to the CSJ that a majority of prisoners were regularly taking it.
- Many NPS are technically “legal”, but they are not approved for human consumption. They are not safe. The physical effects can include loss of consciousness and seizures. The psychological effects can include psychotic symptoms, paranoia, increased anxiety and hallucinations.<sup>5</sup>
- The CSJ welcomes the recent Ministry of Justice (MoJ) announcement that more will be done to address this problem – swift action is needed to tackle this epidemic.<sup>6</sup>

## “Traditional” illegal drugs

- Prisons in England and Wales have had a problem with illegal drugs for decades – a 1998 study estimated that three-quarters of prisoners had taken illegal drugs while in prison.<sup>7</sup> They are still a problem in prisons in England and Wales today:
  - Just under a third of prisoners said that it was easy to get hold of illegal drugs;<sup>8</sup>
  - A recent survey of prisoners (2010) suggested that 30 per cent had used cannabis in prison, more than a fifth had used heroin and a tenth had used cocaine.<sup>9</sup>
- There is some evidence that “traditional” illegal drug use has declined:
  - Heroin finds in prisons in England and Wales fell by 82 per cent between 2007 and 2013;<sup>10</sup>
  - Positive random cannabis tests in prisons in England and Wales fell by 59 per cent between 2003/4 and 2013/14.<sup>11</sup>

4 Please note that only data for the first seven months of 2014 is available. The total figure for 2014 – 737 – is an estimate based on the existing data. Hansard, Written answers and statements, 21 October 2014 [accessed via: [www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/) (26.02.15)]

5 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p31 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (04.03.15)]

6 Statement made by the Ministry of Justice, 25.01.15 [accessed via: <https://www.gov.uk/government/news/new-crackdown-on-dangerous-legal-highs-in-prison> (26.01.15)]

7 Please note that for the sake of clarity, when we refer to ‘illegal drugs’ we are referring to all controlled drugs (as defined under the Misuse of Drugs Act 1971) except for controlled New Psychoactive Substances, which we address separately. Edgar, K and O'Donnell, L, *Mandatory drug testing in prisons*, RDS Study 189, London: Home Office, 1998, as cited in Prison Reform Trust, *Bromley Briefings Prison Factfile 2006*, London: Prison Reform Trust, 2006, p29 [accessed via: <http://www.prisonreformtrust.org.uk/uploads/documents/factfile1807lo.pdf> (19.02.15)]

8 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

9 Chambers, M, *Coming Clean*, London: Policy Exchange, 2010, p11 [accessed via: <http://www.policyexchange.org.uk/images/publications/coming%20clean%20-%20jun%202010.pdf> (19.02.15)]

10 Hansard, Written answers and statements, 24 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-07-01/203390/> (19.02.15)]

11 Provided to the CSJ by the National Offender Management Service (NOMS), 2014

- Yet no recent research has been undertaken to confirm this. Furthermore:
  - Drug experts doubted whether there had been a significant reduction in illegal drug use in prison. For instance, Caroline Cole of RAPt told the CSJ *'there are as many people now, certainly within the cohort that RAPt works with, who use illegal drugs such as heroin and cannabis as there always have been'*;
  - The number of needles seized in prisons in England and Wales has increased 336 per cent in a decade to 192 in 2013 (heroin is commonly injected).<sup>12</sup>

## Prescription drugs

- Prescription drugs play an important role in treating illnesses, yet they are not being used responsibly in prisons in England and Wales:
  - Seven per cent of prisoners develop a problem with diverted medication in prison;<sup>13</sup>
  - They are being over-prescribed. For instance, opiate maintenance scripts have increased by around 137 per cent in six years.<sup>14</sup>

## The cost of drugs in prison

- Failure to tackle drug addiction in prison has significant costs:
  - It undermines prison security through leading to the build up of debt and violence;
  - It makes prisoners less likely to engage constructively in their rehabilitation;
  - It significantly contributes towards high reoffending rates. For instance, more than two in five prisoners in England and Wales reported committing offences in order to get money to buy drugs;<sup>15</sup>
  - There is also a financial cost: a 2013 study by the Home Office found heroin and crack cocaine users are responsible for 45 per cent of all acquisitive crime in England and Wales (excluding fraud).<sup>16</sup> This is estimated to cost £4.7 billion every year.<sup>17</sup>

It is clear that more needs to be done to tackle drugs in prison. The consequences are too serious for this problem to be ignored any longer. The rest of this paper sets out how this can be done.

<sup>12</sup> Hansard, Written answers and statements, 24 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-07-01/203390/> (24.02.15)]; Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (24.02.15)], and *Talk to Frank* [accessed via: <http://www.talktofrank.com/drug/heroin> (26.02.15)]

<sup>13</sup> Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013-14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

<sup>14</sup> Please note that NOMS collected this data up until 2010/11 and Public Health England have done so subsequently. Differences in collection methods may account for some of the subsequent change. Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (11.11.15)], and Hansard, Written answers and statements, 5 January 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219264/> (24.02.15)]

<sup>15</sup> Light, M et al, *Gender differences in substance misuse and mental health amongst prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*, London: Home Office, 2013, p16 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf) (19.02.15)]

<sup>16</sup> Please note that 'heroin and crack cocaine users' denotes those people who use either drug at least once a week. Mills, H et al, *Understanding organised crime: estimating the scale and the social and economic costs: Research report 73*, London: Home Office, 2013, p133 [accessed via: <http://www.no-offence.org/pdfs/55.pdf> (27.02.15)]

<sup>17</sup> *Ibid*, p132

## Chapter Two: Tackling supply

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An alarming amount of drugs permeate prisons across England and Wales. Reducing this supply is a crucial part of helping to maintain order and safety and ensuring prisons rehabilitate offenders.

### The smuggling problem

- The main routes through which drugs are smuggled into prison are: social visits; postage; corrupt staff; thrown over prison walls; and new or returning prisoners. There is little recent, conclusive research detailing how so many drugs are smuggled into prison; however the CSJ found out the following:<sup>18</sup>
  - Last year there were 296 incidents where visitors were arrested on suspicion of conveying drugs into prisons in England, an increase of a tenth in three years;<sup>19</sup>
  - A CSJ Freedom of Information (Fol) request found there were 349 incidents where drugs were discovered in prison post in 2013/14 in England and Wales;
  - The CSJ was regularly told staff corruption was a significant issue. A prison official told us that *'it is so easy to bring drugs into prison. I work in prison during the day and I am searched, at most, once a year. Night staff are never ever searched'*;
  - We heard that it is not hard for prisoners to bring drugs into prison either. One prisoner told us *'if I've got a court case coming up, I always load up'* while another said *'it's no secret that everyone is bringing in plugged drugs'*.

### The solution

It is possible to dramatically reduce the amount of drugs being smuggled into prison. The CSJ recommends improved searching, greater use of drug dogs, more effective intelligence gathering and legal reform.

- **Searching** is not particularly effective:
  - A CSJ Fol request revealed there were just 91 occasions when drugs or drug equipment were found through searching visitors in prisons in England and Wales in 2013/14;
  - A CSJ Fol request also revealed that there were just 615 occasions when drugs or drug equipment were found through searching prisoners in prisons in England and Wales in 2013/14. This is higher than in 2003/4 (444) but is still low, given the level of drug use.
- Body Scanners should be introduced to improve the effectiveness of searches:
  - They typically scan individuals using a low-dosage X-ray and provide a quick, detailed image of whether someone is carrying contraband inside clothing or body cavities;<sup>20</sup>
  - They are widely and successfully used in prisons across the USA. American prison officials told the CSJ that their introduction has been *'a game-changer'* in the fight against drug smuggling.

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18 Blakey, D, *Disrupting the supply of illicit drugs into prisons: A report for the Director General of National Offender Management Service*, p9 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/blakeyreport.pdf> (06.09.15)]

19 Hansard, Written answers and statements, 7 January 2015, Table One [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219262/> (08.01.15)]

20 Westminster International Ltd, *CP body scanner* [accessed via: [http://www.wi-ltd.com/security/Scanning\\_and\\_Screening/X\\_Ray\\_and\\_Screening\\_Systems/People\\_Scanners/CP\\_Body\\_Scanner](http://www.wi-ltd.com/security/Scanning_and_Screening/X_Ray_and_Screening_Systems/People_Scanners/CP_Body_Scanner) (29.09.14)]

- The CSJ recommends increasing the frequency of searching such that every time a prisoner enters a prison, every visitor on an open visit and a tenth of prison staff a month are searched.
- The MoJ should invest more in **drug dogs**. They are very effective at detecting drugs (including NPS) yet, between 2010 and 2014, the number of drug dogs in prison in England and Wales fell by 27 per cent to 328.<sup>21</sup>
- Effective **intelligence** gathering is a crucial element of the fight against drug smuggling. Waste Water Analysis (WWA) should be introduced to prisons to provide an intelligence picture of drug use. It should replace the use of random Mandatory Drug Testing (rMDT) for this purpose:
  - WWA analyses waste from prison sewage systems. It can identify not only the type of drugs, but the quantity as well;<sup>22</sup>
  - WWA has been successfully piloted in an Australian prison and is being trialled in a number of other countries, including the United States and Spain.<sup>23</sup> The CSJ heard from researchers that it provides a robust, accurate measure of drug use in prisons.
- It is not currently illegal to smuggle non-controlled NPS into prisons, other than over the walls. The CSJ recommends that the MoJ amends the Prison Act 1952 to ensure NPS smuggling receives the same penalty as for controlled drugs.

## Chapter Three: Holding prisoners accountable

Prisoners need to be rewarded for tackling addiction and sanctioned for using drugs illegally. Without this, all efforts to tackle drug addiction in prison – and therefore our attempts to rehabilitate prisoners – are likely to fail.

### Testing for drug use

Prisons in England and Wales need a good understanding of which prisoners are taking drugs. This is not currently the case:

- Drug testing is poorly targeted:
  - The main testing regime – Mandatory Drug Testing (MDT) – is used to gather intelligence on drug use as well as identify individual drug users. As a result, prisons are required to use the majority of their testing budget on random testing;<sup>24</sup>
  - Yet random testing is one of the most ineffective ways of identifying drug users: only seven per cent were identified as drug users through random testing last year, compared with 30 per cent for suspicion tests.<sup>25</sup>

21 Hansard, Written answers and statements, 11 September 2013 [accessed via: [http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130911/text/130911w0004.htm#130911w0004.htm\\_spnw2](http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130911/text/130911w0004.htm#130911w0004.htm_spnw2) (26.02.15)]; 2014 figures were provided to the CSJ by the National Offender Management Service (NOMS) in 2015

22 Van Dyken, E et al, 'Monitoring substance use in prisons: Assessing the potential value of wastewater analysis', in *Science and Justice*, 54, 2014, pp338–345

23 Brewer, AJ et al (2014) 'Wastewater testing compared to random urinalyses for the surveillance of illicit drug use in prisons', *Drug and Alcohol Review*, 2014, and van Nuijs, AL et al, 'Illicit drug consumption estimations derived from wastewater analysis: a critical review', *Science of the Total Environment*, 409, 2011, pp3564–77

24 Prison Service Order 3601

25 This data was provided to the CSJ by the Ministry of Justice, 2015

- Prisoners are rarely tested:
  - Prisoners are more likely than not to never be randomly tested for drug use in any given year;<sup>26</sup>
  - Other forms of testing are being used less frequently. A CSJ FoI request found that suspicion testing is down by more than a fifth in two years;
  - The CSJ recommends that the frequency of testing be significantly increased such that a quarter of prisoners are tested every month and that governors be given flexibility on how to test as soon as WVA is introduced to their prison.
- NPS are not currently tested for, yet it is possible to test for them following legal changes made by the MoJ. The CSJ recommends they are immediately included within the testing regime.

The response to positive drug tests also needs to be swift, certain and fair. There is significant evidence that this approach can dramatically increase offender compliance.<sup>27</sup> It has primarily been proven in a community setting, but American pilots have also recently applied it to prisons:

- The current approach is not *swift*: prisoners are often sanctioned weeks, if not months, after testing positive. This can mean that those on short sentences, or near the end of their sentence, can often test positive for illegal drug use and not be sanctioned;
- The current approach is not *certain*: certainty requires that prisoners have sanctions explained to them clearly in advance, and that sanctions are carried out every single time. Yet we heard from prison officials that the quality of '*inductions vary hugely across prisons*' and that, on occasion, sanctions were not being carried out;
- Few officials or prisoners felt the sanctioning regime was unfair, but more can be done to persuade prisoners to plead guilty at the first adjudication to speed up the process. The CSJ recommends that all prisoners who plead not guilty following a positive rMDT test at their first adjudication, and are later found guilty, should automatically be given extra days in prison.

## Chapter Four: Full recovery in prison

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Prisoners battling addiction should receive the best possible treatment to help them fully recover. To continually sanction without helping them to recover would be counterproductive and unjust.

The CSJ recommends three ways in which this can be done: promoting full recovery; improving Drug Recovery Wings; and more effectively connecting prison and community treatment.

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26 Depending on the size of the prison, they are required to randomly test either five or 10 per cent of prisoners each month. In prisons testing five per cent a month (the majority of prisons), there is a 54 per cent chance of a prisoner not being randomly drug tested within a year and a 28 per cent chance in prisons where 10 per cent are tested

27 For more details, see our report: Centre for Social Justice, *Sentences in the Community*, London: CSJ, 2014

## Promote full recovery

- Becoming fully abstinent from all drugs (including substitute opiates) is the most effective way of tackling drug addiction.<sup>28</sup> Abstinence is also possible, as the CSJ is regularly told by treatment providers and people in abstinence-based recovery. Yet most addicts in prison in England and Wales are not working towards abstinence:
  - Prisoners told the CSJ that the maintenance culture in prisons is *'ten times worse now than it used to be'* and that *'they keep you on it [methadone] for years'*;
  - The proportion of opiate addicts in treatment who are being detoxified has fallen to an all time low: just 31 per cent were being detoxified last year.<sup>29</sup>
- Maintenance might be the right approach in some cases, such as for prisoners on remand and for those only in prison for a matter of weeks, but it is not suitable for the overwhelming majority.
- The CSJ heard that over-prescribing was partly the result of poor practice from prison doctors:
  - Doctors are required to undertake patient reviews every three months for those on substitute opiates, in order to consider what has been accomplished. If there is a decision to continue prescribing beyond three months, a review can also be used to set new goals for the service user.<sup>30</sup> Yet the CSJ heard that *'some consultants will have minimal contact with prisoners and will just write out the prescription without seeing them – the reviews aren't always getting done'*;
  - We also heard that some people were being kept on substitute opiates against their wishes. For instance, prisoners told the CSJ that doctors *'wouldn't let me detox from Subutex'* and that *'they tried to encourage me to not come off methadone quickly'*.
- The CSJ recommends that NHS England ensures all drug treatment in prison is abstinence-based, and that maintenance on opiates is only used as a last resort.

## Improve Drug Recovery Wings

- Drug Recovery Wings (DRWs) are required to provide a drug-free environment where prisoners can tackle their addiction. Yet that they are even required is an indictment of prisons' inability to keep drugs out of every part of their premises.
- While some DRWs are being run effectively, others are not. In some, drugs were even widely available. This review has identified four principles which are required for effective DRWs. The CSJ recommends that prisons review DRWs to ensure they uphold these principles:

28 Centre for Social Justice, *Ambitious for Recovery*, London: CSJ, 2014, p52 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073\\_Addiction\\_15.08.14\\_2.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073_Addiction_15.08.14_2.pdf) (26.02.15)]

29 Hansard, Written answers and statements, 5 January 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219264/> (26.02.15)]

30 Strang, J et al, *Drug misuse and dependence: UK guidelines on clinical management*, London: Department of Health et al, 2007, p54 [accessed via: [http://www.nta.nhs.uk/uploads/clinical\\_guidelines\\_2007.pdf](http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf) (26.02.15)]

- **Residents must be committed to recovery:** Every resident must be committed to the personal long-term goal of abstinence and be actively working towards this;
- **DRW staff must be committed to recovery:** Prisoner recovery requires the support of prison staff. Staff must also be committed to maintaining the integrity of DRWs;
- **Residents must be given opportunities for progression:** Every-day actions directed towards recovery must be recognised to encourage residents to continue to work towards abstinence;
- **Drugs must be kept out:** Despite prisoners' best efforts, abstinence-based recovery is far more difficult if drugs are freely available. DRWs must be drug-free, bar those substitute opioids from which residents are detoxing as well as other legitimately-used prescribed medications.

### Connect prison and community treatment

- The need for drug treatment rarely ends at the prison gate. Instead, most prisoners recovering from addiction continue to require treatment after they leave prison.
- There is a greater risk of drug-related deaths in the few weeks after release. Upon release from prison, the risk of a drug-related death for UK prisoners is 7.5 times higher during the first two weeks, compared with weeks three to 12.<sup>31</sup>
- There is some good work under way to help bridge the treatment gap. In particular, the MoJ has implemented through-the-gate pilots in ten prisons across the North West of England.
- Yet this is not the case in many other areas of the country:
  - For instance, a substance misuse worker told us that *'while some areas are linking community and prison treatment well, this is rare. In too many areas offenders are left to fend for themselves'*;
  - Some prisoners are being "retaxed" before release, occasionally against their wishes. Retoxing is the practice of increasing a prisoner's substitute opioid dosage prior to release to increase tolerance and reduce the chances of overdosing.<sup>32</sup>
- To improve the connection between prison and community treatment the CSJ recommends that the MoJ pilots are continued and expanded across a greater range of prisons, and that there are three reforms in all prisons and probation areas in England and Wales:
  - First, mentors should be used in every prison to bridge the gap between prison and community;
  - Secondly, prisoners should stop being released on a Friday, as most treatment and addiction support services are not open over the weekend. Last year, 36 per cent of all those released from prison were released on a Friday;<sup>33</sup>
  - Thirdly, we need a more sensible approach to prescribing. Too many people are being relaxed on release from prison. Where there are good links between prison and community treatment services, this should never happen.

31 Merrall, E et al, 'Meta-analysis of drug-related deaths soon after release from prison', *Addiction*, 105, 2010, pp1545–1554 [accessed via: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2955973/> (22.02.15)]

32 Strang, J et al, *Drug misuse and dependence: UK guidelines on clinical management*, London: Department of Health et al, 2007, p80 [accessed via: [http://www.nta.nhs.uk/uploads/clinical\\_guidelines\\_2007.pdf](http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf) (27.02.15)]

33 Please note that the data were only available for the first three quarters of 2014 at the time of publication and that our statistic is based upon this. Hansard, Written statements and answers, 9 February 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-02-02/222892/> (22.02.15)]

It is eminently possible to rid prisons of drugs and encourage and support addicted prisoners to recover. This report is a blueprint for how to do just that. It is crucial to attack both the supply and demand for drugs, while ensuring addicts are given the best possible help to recover.

This change is not just possible, however. It is also necessary. It is necessary for all those prison officials who are working hard to maintain a decent prison environment in difficult circumstances. It is necessary for those prisoners and their families who are faced with the destructive consequences of addiction. And finally, it is necessary for the thousands of people who become victims of preventable crimes every year at the hands of those desperately trying to pay for their drug habits. It is time for politicians to act on this evidence, improve rehabilitation and reduce crime.

# Introduction

An alarming amount of drugs permeate prisons across England and Wales. This has been the case for decades. This is despite Governments from across the political spectrum promising to tackle this problem. The presence of drugs undermines prison security, prevents prisoner rehabilitation and, ultimately, is the reason for thousands of people becoming victims of crime.

That prisons have a drug problem is undeniable. Over the course of this review, the CSJ interviewed over 120 people, including prison governors and other officials, prisoners (both current and former), drug misuse experts, security experts and charities. All of them suggested that drugs were an everyday part of prison life. The data backs up their concerns:

- Just under a third of prisoners in England and Wales admit that it is easy to get illegal drugs in prison;<sup>34</sup>
- Seven per cent of prisoners in England and Wales said they had developed a problem with illegal drugs while inside;<sup>35</sup>
- Seven per cent of prisoners in England and Wales also said they had developed a problem with prescription drugs while inside;<sup>36</sup>
- Of those prisoners in England and Wales who have used heroin, almost a fifth reported first trying it in prison;<sup>37</sup>
- More than 43,000 substitute opiate prescriptions were handed out last year as part of treatment for addiction in prisons in England and Wales.<sup>38</sup>

The problem is not confined to illegal and prescription drugs. Use of New Psychoactive Substances (NPS) – also known as “legal highs” – has skyrocketed over this Parliament. In particular, there has been a dramatic increase in the use of an NPS known as “Spice”. In 2010 there were just 15 seizures of Spice in prisons in England and Wales. In the first seven months

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34 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

35 Ibid

36 Ibid

37 Ministry of Justice, *Compendium of reoffending statistics and analysis 2010*, London: Ministry of Justice, 2010, p132 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf) (19.02.15)]

38 Hansard, Written answers and statements, 5 January 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219264/> (26.02.15)]

of 2014, there were 430 seizures.<sup>39</sup> It is difficult to estimate, but prisoners and drug misuse workers suggested to the CSJ that the majority of the prison population were regularly taking it. Spice attempts to mimic cannabis. The effects of taking it are significant and can include seizures, loss of consciousness, psychoactive symptoms and paranoia.<sup>40</sup>

The existence of a strong prison drugs market has serious consequences. It undermines prison security by leading to debt and violence. Yet the costs go far beyond the prison walls. It is also destabilising efforts to rehabilitate prisoners – if people leave prison addicted to drugs they are more likely to commit crime:

- Reconviction rates more than double for prisoners in England and Wales who report using drugs in the four weeks prior to custody compared with prisoners who have never used drugs (62 per cent compared with 30 per cent);<sup>41</sup>
- More than two in five (41 per cent) prisoners in England and Wales reported committing offences in order to get money to buy drugs.<sup>42</sup>

The failure to support prisoners with an addiction into recovery while in prison is leading to thousands of people needlessly becoming victims of crime. More than 100,000 crimes were committed by “drug-misusing offenders” between July 2010 and June 2011 in England and Wales.<sup>43</sup>

On top of this immense human cost is a financial one. A 2013 study by the Home Office found heroin and crack cocaine users are responsible for 45 per cent of all acquisitive crime in England and Wales (excluding fraud).<sup>44</sup> This is estimated to cost £4.7 billion every year.<sup>45</sup>

Yet it does not have to be this way; change is possible. The CSJ has identified three necessary areas of reform.

First, the supply of drugs into prison must be tackled. Searching must be improved. New technology – in the form of Body Scanners – has the potential to dramatically increase the effectiveness of searches by allowing prisons to identify drugs stashed inside body cavities. The Ministry of Justice should urgently invest in these machines.

39 Hansard, Written answers and statements, 21 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/> (19.02.15)]

40 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p31 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (04.03.15)]

41 Light, M et al, *Gender differences in substance misuse and mental health amongst prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*, London: Home Office, 2013, p21 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf) (19.02.15)]

42 Ibid, p16

43 For definition of “drug misusing” see Ministry of Justice, *Proven re-offending statistics: definitions and measurements*, 2012, p45 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192407/proven-reoffending-definitions-measurement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192407/proven-reoffending-definitions-measurement.pdf) (27/02/15)]. Ministry of Justice, *Proven reoffending tables – July 2010 to June 2011*, Table 15 [accessed via: <https://www.gov.uk/government/statistics/proven-re-offending--2> (03.03.15)]

44 Please note that ‘heroin and crack cocaine users’ denotes those people who use either drug at least once a week. Mills, H et al, *Understanding organised crime: estimating the scale and the social and economic costs: Research report 73*, London: Home Office, 2013, p133 [accessed via: <http://www.no-offence.org/pdfs/55.pdf> (27.02.15)]

45 Ibid, p132

Secondly, the prison regime must effectively reward abstinence and ensure there are sanctions for drug use. Prisoners have a low chance of being identified as a drug user: the majority of prisoners will not be randomly tested during any given year and intelligence-led suspicion tests are down by more than a fifth (21 per cent) over the past two years.<sup>46</sup> Prisons must conduct more intelligence-led testing to identify drug users.

Tests must also include a wider range of drugs. It is not surprising that Spice use has boomed over this Parliament – it is not being tested for. Yet a test for Spice does exist and recent legislative changes enable it to be tested for. It must be included in the testing regime.

The response when someone is identified as a drug user must also improve: currently the sanction regime is slow and uncertain despite significant evidence from the USA that swift, certain and fair sanctions increase offender compliance and reduce drug use.<sup>47</sup>

Finally, prisoners must receive the best possible drug treatment to help them recover. To continually sanction prisoners without providing such treatment is counterproductive and unjust. Too many prisoners are parked on substitute opiates, such as methadone, rather than helped to fully recover. Treatment needs to be abstinence-based and there must be strong links between prison and community treatment to ensure that offenders do not fall into the gaps between prison- and community-based services. In particular, mentors are crucial in helping prisoners swiftly connect with treatment services in the community.

Making prisons drug-free and ensuring prisoners with an addiction have effective prison treatment is not easy, yet there are implementable and cost-effective ways that prisons can address this issue. It is a problem that has not been solved for decades. The consequences of this have been disastrous – prison security has been undermined and thousands of people have needlessly become victims of crime. Reform is desperately needed to rebuild prisoners' broken lives for their sake, for their families and for the communities they live in. Whoever wins the May 2015 General Election must make tackling drugs in prison a top priority. Failure to do so will undermine the "rehabilitation revolution" this Government has started and will put the public's safety at risk.

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<sup>46</sup> As revealed by a CSJ Freedom of Information request, 2014 (ref: 94504)

<sup>47</sup> Centre for Social Justice, *Sentences in the Community*, London: CSJ, 2014, pp32–37 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ\\_Community\\_Sentencing\\_Report\\_WEB-final.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ_Community_Sentencing_Report_WEB-final.pdf) (26.02.15)]

# chapter one

## Drug-fuelled prisons

Prisons in England and Wales are awash with drugs: 29 per cent of prisoners in England and Wales openly admit to having a drug problem on arrival to prison, and just under a third (31 per cent) admit that it is easy to get drugs in prison.<sup>48</sup> Prison does not just contain addiction, it creates it: of those prisoners in England and Wales who have used heroin, almost a fifth reported first trying it in prison.<sup>49</sup>

Not only is this highly inappropriate for those being punished for serious crimes, it also undermines any meaningful attempts at rehabilitation. The illegal drugs trade is strongly linked with debts and violence in prison, and those who leave with a drug addiction are far more likely to reoffend to feed their habit.

On top of this immense human cost is a financial one. A 2013 study by the Home Office found heroin and crack cocaine users are responsible for 45 per cent of all acquisitive crime in England and Wales (excluding fraud) – and that this is estimated to cost £4.7 billion every year.<sup>50</sup>

This chapter sets out the extent of the drug problem in prisons across England and Wales and the profound consequences on society for the failure to tackle this endemic problem.

### 1.1 Drug availability in prison

Drugs have been a problem in prisons for decades. Politicians have regularly identified this and promised to change it. In 1994, the Conservative Prime Minister, John Major MP, promised ‘a

48 Her Majesty’s Chief Inspector of Prisons for England and Wales, *Annual Report 2011–12*, London: Her Majesty’s Inspectorate for England and Wales, 2012, p36 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hm-inspectorate-prisons-annual-report-2011-12.pdf> (26.02.15)], and Her Majesty’s Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty’s Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

49 Ministry of Justice, *Compendium of reoffending statistics and analysis 2010*, London: Ministry of Justice, 2010, p132 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199224/compendium-of-reoffending-statistics-and-analysis.pdf) (19.02.15)]

50 Please note that ‘heroin and crack cocaine users’ denotes those people who use either drug at least once a week. Mills, H et al, *Understanding organised crime: estimating the scale and the social and economic costs: Research report 73*, London: Home Office, 2013, pp132–133 [accessed via: <http://www.no-offence.org/pdfs/55.pdf> (27.02.15)]

*major blitz on drugs in prisons*, where prisoners *'are sucked into a sub-culture of drugs'*.<sup>51</sup> Similarly, the 1997 Labour Manifesto stated that the party would *'ensure that the link between drug addiction and crime is broken'* and *'attack the drug problem in prisons'*.<sup>52</sup> This rhetoric was not matched by reality and drugs remain a significant problem in prisons across England and Wales.

We heard from one former prison governor that when he started working for the prison service in 1975, drugs were *'almost non-existent ... the main currency was tobacco'*, but that they have been *'a major concern'* for more than two decades and are now *'the dominant issue'* in many prisons.<sup>53</sup>

At the beginning of this Parliament, the Government announced a "rehabilitation revolution", in recognition of the fact that the criminal justice system is failing to turn around the broken lives of the people who pass through it, including individuals trapped by addiction.<sup>54</sup> Yet this work has primarily been focused on transforming the probation service.

The CSJ Working Group found it striking how normalised and accepted the use of drugs in prison has become. We were deeply impressed by the commitment and dedication of those prison officials and charities we interviewed for this paper. So many officials are working hard to ensure the security of prisons and the rehabilitation of prisoners, often in difficult circumstances. Yet drugs have become an accepted part of prison life. Too many officials were not outraged or wholeheartedly committed to tackling the issue. This is despite the fact that drug-filled prisons completely undermine any serious attempts at rehabilitating prisoners and cutting crime.

The prison drugs problem is separable into three elements:

- New Psychoactive Substances;
- "Traditional" illegal drugs;
- Prescription drugs.

All drugs contribute to a single market and the problem of addiction.

### 1.1.1 New Psychoactive Substances

The use of New Psychoactive Substances (NPS) – often referred to as "legal highs" – has boomed in prisons over the past few years. They are one of the most significant threats to rehabilitation and prison security for decades. The founder of Recovery Is Out There (RIOT), James McDermott, told the CSJ that *'legal highs are tearing the system apart'*. A prison director described NPS as *'genuinely the biggest issue we currently face from a prisoner health perspective. It is leading people to do very unpredictable things, even to self-harm'*.

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51 John Major, speech to the Social Market Foundation, 9 September 1994 [accessed via: <http://www.johnmajor.co.uk/page1384.html> (03.03.15)]

52 The 1997 Labour Party Manifesto [accessed via: <http://www.labour-party.org.uk/manifestos/1997/1997-labour-manifesto.shtml> (19.10.14)]

53 Clive Chatterton, former Governor, in evidence given to the CSJ, 2014

54 See Ministry of Justice, *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, London: Ministry of Justice, 2010 [accessed via: <http://webarchive.nationalarchives.gov.uk/20120119200607/http://www.justice.gov.uk/consultations/docs/breaking-the-cycle.pdf> (13.09.15)]

NPS are similar to “traditional” illegal drugs, but have had their chemical structure altered just enough to evade current laws.<sup>55</sup> They are intended to produce similar effects to illegal drugs, such as cannabis, cocaine, amphetamine or ecstasy.<sup>56</sup>



The fact that some of them are “legal” does not mean that they are safe or approved for human use.<sup>57</sup> In fact they can often be more dangerous than the drug they are trying to mimic because the user cannot be sure of the contents of a specific batch.<sup>58</sup> Their production is completely unregulated and because many NPS are new substances that have not yet been made illegal, they can be sold in “head shops” on the high street, as well as online.<sup>59</sup>

They often contain illegal chemicals: in 2013/14, just under a fifth (19 per cent) of NPS samples seized by the Home Office’s Forensic Early Warning System contained controlled drugs.<sup>60</sup> To evade the law, retailers display NPS under names such as “plant food” or “bath salts”, with a disingenuous warning that they are not for human consumption.<sup>61</sup> Because these drugs are new, little is known about their potency or long-term effects.<sup>62</sup>

Tackling the problems associated with NPS requires change outside of prisons. The CSJ paper *Ambitious for Recovery* (2014) sets out the necessary reforms to do this, including adopting successful Irish legislation to ban high street shops from selling NPS and introducing a Recovery Champion for England to ensure local authorities provide effective treatment for NPS.

### The Spice epidemic sweeping through prisons

One type of NPS is increasingly used by prisoners – synthetic cannabinoids. These are frequently referred to as “Spice”, which is often used as a generic term for many brands, including “Black Mamba”, “Amsterdam Gold” and “Clockwork Orange”.<sup>63</sup>

Spice is created by spraying a synthetic cannabinoid solution onto herbs or plant matter. It is perceived to be similar to cannabis when smoked, but is often significantly stronger and can

55 Please note that for the sake of clarity, when we refer to ‘illegal drugs’ we are referring to all controlled drugs (as defined under the Misuse of Drugs Act 1971) except for controlled New Psychoactive Substances, which we address separately

56 Centre for Social Justice, *Ambitious for Recovery*, London: CSJ, 2014, p18 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073\\_Addiction\\_15.08.14\\_2.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073_Addiction_15.08.14_2.pdf) (19.02.15)]

57 Ibid, p41

58 *Talk to Frank* [accessed via: <http://www.talktofrank.com/drug/legal-highs> (19.02.15)]

59 Centre for Social Justice, *Ambitious for Recovery*, London: CSJ, 2014, p41 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073\\_Addiction\\_15.08.14\\_2.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073_Addiction_15.08.14_2.pdf) (24.02.15)]

60 Home Office, *Annual Report on the Home Office Forensic Early Warning System (FEWS): A system to identify New Psychoactive Substances in the UK*, London: Home Office, 2014, p8 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/344551/2014-08-12\\_-\\_FEWS\\_Annual\\_Report\\_Aug\\_2014\\_-\\_Final\\_\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344551/2014-08-12_-_FEWS_Annual_Report_Aug_2014_-_Final__2_.pdf) (19.02.15)]

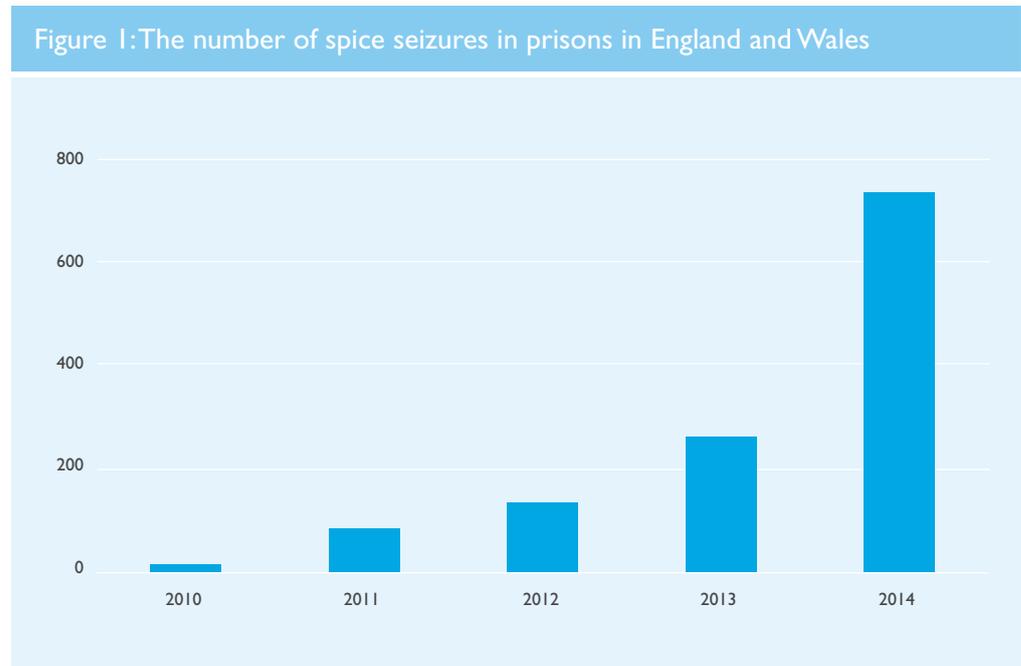
61 Centre for Social Justice, *Ambitious for Recovery*, London: CSJ, 2014, p41 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073\\_Addiction\\_15.08.14\\_2.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073_Addiction_15.08.14_2.pdf) (24.02.15)], and NHS Choices, Legal highs [accessed via: <http://www.nhs.uk/Livewell/drugs/Pages/legalhighs.aspx> (24.02.15)]

62 *Talk to Frank* [accessed via: <http://www.talktofrank.com/drug/legal-highs> (24.02.15)]

63 *Talk to Frank* [accessed via: <http://www.talktofrank.com/drug/synthetic-cannabinoids> (19.02.15)]

produce effects that are widely different from cannabis. Some synthetic cannabinoids have been classified as Class B controlled substances under the Misuse of Drugs Act (1971), but many are new strains that have not yet been classified and are therefore technically legal.<sup>64</sup>

The CSJ has heard that vast numbers of prisoners are using Spice. Seizures have skyrocketed over the past four years, increasing almost three-fold between 2013 and 2014.



Source: Written parliamentary question, 2014<sup>65</sup>

It is difficult to know what proportion of prisoners is regularly taking Spice. Some of those we spoke to suggested it was extremely high. Prisoners suggested that as many as 90 per cent of prisoners were regularly taking it; a head of substance misuse estimated the figure at nearer 60 per cent. One prisoner described the situation as *'worse with Spice in here than it is with weed on the streets'*.

The CSJ heard from a prison director that, relative to other drugs, Spice is *'very attractive because it is very cheap'*. They told the CSJ that Spice comes *'in attractive candy-style sweet wrappings too. Prisoners are selling this to make a fortune'*.

### Spice is tearing prisons apart

Spice has a number of negative effects, which vary depending on the mixture that is consumed. The physical effects can include an irregular heart rate, decreased blood pressure,

64 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p31 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02/15)]

65 Please note that only data for the first seven months of 2014 is available. The total figure for 2014 – 737 – is an estimate based on the existing data. Hansard, Written answers and statements, 21 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/> (19.02.15)]

confusion and dizziness, short-term loss of consciousness, vomiting, seizures and loss of motor control. In a few cases it has been associated with heart attacks. The psychological effects can include psychotic symptoms, paranoia, increased anxiety and hallucinations.<sup>66</sup> Dr. John Ramsey, a toxicologist for TICTAC Communications at St George's, University of London, told the CSJ:

*'People underestimate how potent these things are. They think because they're legal that they're trivial – and of course they're not, they can be extremely potent.'*

We heard a considerable number of stories outlining just how serious the issue has become. Prisoners who had used Spice described it as being *'like a crack addiction'* or *'like cannabis, just a lot stronger'*. Prisoners have been found on the floor of exercise yards believing they are in a swimming pool. Others have seriously injured themselves head-butting mirrors thinking they were being attacked. Prisoners commented that users commonly pass out – or *'flop'* – after taking it. One prisoner told us that he had passed out for six hours; another that he *'got taken out in a wheelchair, I was paralysed'*.

One prisoner told us they had *'seen half a dozen people drop to the floor [unconscious] in the six months I've been here'* as a result of taking Spice. Another told us about the following event from 2014:

*'I've seen someone do a Spice bong, come running out their cells, running as fast as they can along the landing and running into the bars. Knocked himself clean out. And then he got back up, he ran down the other side and done it again.'*

It is not just the prisoners who have noted such behaviour. A prison director recounted the following events to us of what they had seen over recent months:

*'I was patrolling the cells and a prisoner ran out of his cell, completely naked. He climbed onto the snooker table thinking it was his bed. He soiled himself. When we tried to restrain him he had almost super-human strength, and it took three prison officers and a nurse to restrain him. And shockingly – when he came to the next morning he did not remember a thing. They never do.'*

*'In one prison a prisoner tried to commit suicide by hanging himself. We managed to find him before he had succeeded and immediately got him to hospital. He went out of the prison as a critical case. He later died. No one in the prison had been expecting this from him – he was a model prisoner. He was through more than two thirds of his sentence and had never done anything like this. Prison intelligence strongly suggested the cause for this sudden behavioural change: Spice.'*

There is also a game that is becoming more popular in prisons. It is often called the £50 challenge. In the game, prisoners are challenged to smoke £50 worth of Spice. If they manage

66 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p31 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (04.03.15)]

to smoke it all before breaking down or passing out, then they get it for free. If they fail, they have to pay for it. Recent analysis of the NPS market has been undertaken in an area in the South of England. An NPS lead told the CSJ that, at current market rates, £50 would buy around a gram of Spice. One member of a security team told us 'we had ambulances every day recently' as a result of this game.

It is vital that prison authorities wake up to the scale of the problem. Steps need to be taken now to ensure that the prison estate can undo some of the damage that is being done before it is irreparable. Prisoners told us that Her Majesty's Prisons 'ain't ready for what Spice is doing' and the epidemic is 'more than the prison can comprehend'.

The CSJ welcomes the Ministry of Justice's (MoJ) recent announcement that more will be done to keep NPS out of prison and to dissuade prisoners from taking them.<sup>67</sup> To date, there has been a surprising lack of attention from Her Majesty's Inspectorate of Prisons (HMIP). Despite a doubling of Spice seizures between 2012 and 2013, the 2013/14 HMIP Annual Report suggested that NPS use was 'not widespread'.<sup>68</sup>

While we have not visited every prison during this review, it would be deeply surprising if NPS were not having a significant effect across most prisons. We did not go into a single prison where it was not a problem. One governor took the view that Her Majesty's Prison Service is 'going to sleep at the wheel' over the issue. Following the MoJ announcement that they will crack down on NPS in prison, there is an urgent need to implement the recommendations we set out in Chapters Two and Three of this report to halt the Spice epidemic in its tracks.

### 1.1.2 "Traditional" illegal drugs

Prisons have a problem with illegal drugs, in particular heroin, cannabis and cocaine.<sup>69</sup>

This is not a new problem. A 1998 Home Office study estimated that three quarters of prisoners in England and Wales had taken drugs while in prison; the most popular were heroin (53 per cent had taken it) and cannabis (55 per cent).<sup>70</sup> In 2005, another Home Office study found that almost two in five (39 per cent) prisoners had used illegal drugs in their current prison. Again, cannabis and opiates were the most frequently taken.<sup>71</sup>

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67 Statement made by the Ministry of Justice, 25.01.15 [accessed via: <https://www.gov.uk/government/news/new-crackdown-on-dangerous-legal-highs-in-prison> (26.01.15)]

68 Hansard, Written answers and statements, 21 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/> (19.02.15)], and Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013-14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p31 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02/15)]

69 Please note that for the sake of clarity, when we refer to 'illegal drugs' we are referring to all controlled drugs (as defined under the Misuse of Drugs Act 1971) except for controlled New Psychoactive Substances, which we address separately

70 Edgar, K and O'Donnell, L, *Mandatory drug testing in prisons*, RDS Study 189, London: Home Office, 1998, as cited in Prison Reform Trust, *Bromley Briefings Prison Factfile 2006*, London: Prison Reform Trust, 2006, p29 [accessed via: <http://www.prisonreformtrust.org.uk/uploads/documents/factfile1807lo.pdf> (19.02.15)]

71 Singleton, N et al. (2005) *The impact and effectiveness of mandatory drugs tests in prison*, London: Home Office, 2005, p9 [accessed via: <http://www.dldocs.stirac.uk/documents/rdsolr0305.pdf> (19.02.15)]

More recently, an independent survey of prisoners in England and Wales in 2010 suggested that 30 per cent of prisoners had used cannabis, more than a fifth had used heroin and a tenth had used cocaine while in prison. More than half (51 per cent) of those who had used drugs said they had done so at least once a fortnight.<sup>72</sup>

There is some evidence that the use of illegal drugs may have reduced, in particular heroin. Heroin finds in prisons in England and Wales fell by 82 per cent between 2007 and 2013.<sup>73</sup> Positive results from random opiate tests have decreased by 69 per cent in a decade.<sup>74</sup> Positive random cannabis tests also fell by 59 per cent between 2003/4 and 2013/14.<sup>75</sup>

Yet it is not clear whether this represents a real reduction in heroin and cannabis use or whether other factors such as searches becoming less effective and prisoners becoming smarter in avoiding positive drug tests are the reason for the drop. No recent research has been conducted to clarify this.

Some of those we interviewed for this paper suggested that the boom in NPS and prescription drug use could have led to a reduction in the use of “traditional” illegal drugs. However, the picture is confused by the fact that the number of needles seized in prisons in England and Wales has increased 336 per cent in a decade to 192 in 2013 (heroin is commonly injected).<sup>76</sup>

Moreover, many of those the CSJ spoke to over the course of this review doubted whether the reduction was as significant as the headline data might suggest and stressed to the CSJ that heroin and cannabis are still a significant concern. For instance Caroline Cole of RAPt said that *‘there are as many people now, certainly within the cohort that RAPt works with, who use illegal drugs such as heroin and cannabis as there always have been’*. Simon Antrobus, CEO of Addaction, told the CSJ:

*‘The biggest part of the drug-taking community in prison is still heroin but it is a real mixture now because of legal highs and cannabis.’*

Drug misuse officers agreed that heroin is still the overriding drug concern in prison, and suggested that where there have been reductions it has largely been as a result of people using smuggled substitute opiates instead. One said:

*‘It is laughable to suggest that heroin is not still a massive issue in prisons. I think there has been a slight reduction in use, but this is largely due to substitutes to heroin – such as Subutex – being so cheap and freely available.’*

72 Chambers, M, *Coming Clean*, London: Policy Exchange, 2010, p 11 [accessed via: <http://www.policyexchange.org.uk/images/publications/coming%20clean%20-%20jun%2010.pdf> (19.02.15)]

73 Hansard, Written answers and statements, 24 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-07-01/203390/> (19.02.15)]

74 Ibid, and Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (03.03.15)]

75 Provided to the CSJ by the National Offender Management Service (NOMS), 2015

76 Hansard, Written answers and statements, 24 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-07-01/203390/> (24.02.15)]; Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (24.02.15)], and *Talk to Frank* [accessed via: <http://www.talktofrank.com/drug/heroin> (26.02.15)]

There has also been no fall in the proportion of prisoners who say they have developed a problem with an illegal drug inside prison in England and Wales over the past few years: seven per cent of prisoners are estimated to have developed a problem with any illegal drug inside prison last year, compared with six per cent two years ago.<sup>77</sup> Prisoners themselves told the CSJ that it is not uncommon for them to develop a drug addiction inside. One prisoner told the CSJ that *'people are coming into prison clean, can't take it and take drugs to escape'*.

There is significant variation across the prison estate. For instance, in Birmingham's HMP Hewell 17 per cent of prisoners said they had developed a drug problem in prison.<sup>78</sup> HMP Preston was not far behind on 13 per cent.<sup>79</sup> At the other end of the spectrum, only two per cent of prisoners in the women's prison HMP Send said they had developed a drug problem inside.<sup>80</sup>

### Case study: Wormwood Scrubs Prison

*'I smelt cannabis several times on a wing. On one occasion I went to the Wing Governor to tell him. He told me he would check with his staff and report to the Prison Governor. He did not do so. The Prison Governor knew nothing about it. It was infuriating. I was later told by senior staff that smoking cannabis wasn't such a bad thing as it kept the prisoners docile. I suspect that was why nothing was done.'*

(Angela Low, former Chairman of the Independent Monitoring Board at HMP Wormwood Scrubs, speaking to the CSJ in December 2014)

The frequent use of illegal drugs is not surprising, as they are widely available in prisons. Prisoners we spoke to for this review told us that *'if anyone tells you a prison is drug-free, they're lying'*, that you can get *'what you want most of the time when you want'* and that *'there are Class A drugs in all jails'*. One even told us that *'some prisons are so full of drugs, you don't even have to ask'*.

In HMIP's 2013/14 Annual Report just under a third (31 per cent) of prisoners said that it was easy or very easy to get hold of illegal drugs in their prison.<sup>81</sup> It has not varied hugely over this Parliament, other than a one off drop in 2010/11.<sup>82</sup> There is even some evidence that drugs are more widely available than this. In an independent survey of prisoners in England and Wales in 2010, 44 per cent of prisoners said they could easily get hold of drugs.<sup>83</sup>

77 Please note that the difference between the two figures is not statistically significant. Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)], and Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2011–12*, London: Her Majesty's Inspectorate for England and Wales, 2012, p36 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hm-inspectorate-prisons-annual-report-2011-12.pdf> (19.02.15)]

78 Her Majesty's Chief Inspector of Prisons, *Report on an unannounced inspection of HMP Hewell* (2014), p123 [accessed via: <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/11/Hewell-web-20141.pdf> (19.02.15)]

79 Her Majesty's Chief Inspector of Prisons, *Report on an unannounced inspection of HMP Preston* (2014), p96 [accessed via: <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/08/Preston-Web-2014.pdf> (24.02.15)]

80 Her Majesty's Chief Inspector of Prisons, *Report on an unannounced inspection of HMP Send* (2014), p96 [accessed via: <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/06/Send-2014-web.pdf> (24.02.15)]

81 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

82 The individual yearly results are as follows: 2013/14 – 31 per cent; 2012/13 – 29 per cent; 2011/12 – 24 per cent; 2010/11 – 30 per cent. Her Majesty's Inspectorate of Prisons, *Annual Reports* [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisoners/inspections/?post\\_type=inspection&s&prison-inspection-type=annual-reports#.VPA5KXysVCM](https://www.justiceinspectorates.gov.uk/hmiprisoners/inspections/?post_type=inspection&s&prison-inspection-type=annual-reports#.VPA5KXysVCM) (27.02.15)]

83 Chambers, M, *Coming Clean*, London: Policy Exchange, 2010, p12 [accessed via: <http://www.policyexchange.org.uk/images/publications/coming%20clean%20-%20jun%2010.pdf> (19.02.15)]

While we need a better understanding of the full extent of the illegal drug problem in prisons (we look at how in Chapter Two), it is clear that they are currently severely undermining prisoner rehabilitation.

### 1.1.3 Prescription drugs

Prescription drugs have a legitimate place in prisons. They can play an important role in treating illnesses such as depression and addiction. Yet it is crucial they are used responsibly: many are highly addictive and can have significant negative side effects.

There is evidence to suggest that, far from being used responsibly, prescription drugs are being diverted onto a black market and misused. Doctors and drug misuse workers we spoke to specifically highlighted five prescription drugs that were most commonly being misused in prisons:

- Methadone (a synthetic opioid substitute);
- Buprenorphine (a synthetic opioid substitute);
- Tramadol (opioid pain medication);
- Gabapentin (an anti-convulsant);
- Pregabalin (an anti-convulsant).

Too many people are being prescribed drugs, especially substitute opiates. In particular, opiate maintenance scripts (from which prisoners are not detoxified) have increased around 137 per cent in six years in prisons in England and Wales. In total, 29,717 were handed out last year.<sup>84</sup>

While there has seemingly been a reduction in the overall number of people being given substitute opiates over the past two years, there are still too many being maintained on them rather than helped to become abstinent from all drugs (we look at this issue in detail in Chapter Four). With such abundant supply, it is unsurprising that there is a significant problem with the diversion and misuse of prescription drugs in prisons.

The 2011/12 HMIP Annual Report highlighted the growing problem of diverted medication. It noted that the problem had spread to mainstream populations and had ‘*become a major concern*’, and went on to say:

*‘Diverted medication is now reported in the majority of prisons we inspect, resulting in problems such as drug debts, bullying, unknown interactions with other prescribed drugs and the risk of overdose.’<sup>85</sup>*

<sup>84</sup> Please note that NOMS collected this data up until 2010/11 and Public Health England have done so subsequently. Differences in collection methods may account for some of the subsequent change. Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (11.11.15)], and Hansard, Written answers and statements, 5 January 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219264/> (24.02.15)]

<sup>85</sup> Her Majesty’s Chief Inspector of Prisons for England and Wales, *Annual Report 2011–12*, London: Her Majesty’s Inspectorate for England and Wales, 2012, p7 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hm-inspectorate-prisons-annual-report-2011-12.pdf> (02.02.15)]



The situation is now critical. The 2013/14 HMIP Annual Report revealed that seven per cent of prisoners had developed a problem with diverted medication since coming to prison.<sup>86</sup> On average there were 83,795 people in prison over 2013/14 in England and Wales (excluding Immigration Removal Centres).<sup>87</sup> This means that around 5,900 people in prison last year had become addicted to prescription medicine during their sentence. One

reason for this is that many prescription drugs have not historically been included in drug tests. Dr. Joss Bray, a substance misuse expert, told the CSJ that *'medications are a currency in prison'* because prisons are now so saturated.

One governor told the CSJ that the abuse of prescription drugs is one of the biggest threats to his prison. A security official told us that *'Subutex is one of the front runners'* in the entire prison drugs market (Subutex is a brand name for buprenorphine, a substitute opiate). This was reinforced by evidence from prisoners. One prisoner told us: *'I came in here clean and ended up addicted to Subutex'* which had been purchased illegally on the prison wing. Prison officers told us:

*'It isn't just the typical drugs such as cannabis and heroin being smuggled into prison nowadays, we see a huge amount of substitute opiates, such as Subutex, being smuggled in. It is so cheap to get hold of in the community because it is prescribed so freely.'*

The trade has boomed in part due to the ingenuity of prisoners, who are *'very fast with their hands in order to divert medication undetected'*.<sup>88</sup> The Working Group was shocked to hear of some of the lengths that prisoners will go to in order to divert prescription medication. One deputy head of security told us of prisoners in her prison:

*'Some of them have pouches in their mouths that they've had for years. Little cuts in their cheeks [to store Subutex pills].'*

James McDermott told us that he has worked with prisoners *'who have gone to the medication desk with a mouthful of cotton wool to soak up the methadone'*. Other prisoners drink their liquid methadone, but then regurgitate and store the contents after returning to their cell. A prisoner commented on his experience of *'prisons where prisoners would save up methadone until the weekend and then down the bottle'*.

86 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

87 Please note that 83,795 is an average based upon monthly population statistics. Ministry of Justice, *Prison population statistics* [accessed via: <https://www.gov.uk/government/collections/prison-population-statistics> (26.02.15)]

88 James McDermott, in evidence given to the CSJ, 2014

Diversion has also risen due to inadequate procedures. For instance, at HMP Swinfen Hall it was reported that medicine queues were inadequately supervised, that prisoners gathered in crowds to prevent confidentiality (sometimes with no officer nearby), and that there was no proper record of who had accessed the controlled drugs cabinet.<sup>89</sup>

At HMP Doncaster, 'officers [were] failing to challenge prisoners jostling at the medicine hatch'.<sup>90</sup> At HMP Ranby, 'there was insufficient monitoring of the keys to these [prescription medication] cabinets'.<sup>91</sup> Furthermore, three-quarters of prisoners (74 per cent) who receive medication keep it in their own possession, yet a quarter of prisons have inadequate risk assessments or a lack of secure in-cell storage facilities.<sup>92</sup> Overall, one in five prisons display poor practice in the administration of medication.<sup>93</sup>

Experts in the field pointed out that these failures are partly an issue of resources as well as poor practice:

*'It [diversion] is a particular problem with Subutex. Nurses and officers are supposed to check the prisoner's mouth 10 minutes after they have administered it, but there is not time for that with the amount of prisoners they need to get through.'*<sup>94</sup>

*'The level of staffing means that medications are often dispensed to keep in cells rather than given daily – it would be very difficult to resource and organise daily administration for every medication.'*<sup>95</sup>

Clearly, in an age of austerity, the solution must be to do more with less. The abuse of prescription drugs is a substantial and growing threat and one that the MoJ should tackle with urgency. We make recommendations on how to tackle this problem later in this report.

## 1.2 The cost of drugs in prison

The failure to stop prisoners from developing a drug addiction has significant costs. It creates a dangerous prison environment and significantly reduces the chances that offenders will be

89 Her Majesty's Chief Inspector of Prisons for England and Wales, *Report on an unannounced inspection of HMP/YOI Swinfen Hall*, London: Her Majesty's Inspectorate for England and Wales, 2014, p39 [accessed via: <https://www.justiceinspectorates.gov.uk/hmprisons/wp-content/uploads/sites/4/2014/11/Swinfen-Hall-final-report-web-2014.pdf> (17.12.14)]

90 Her Majesty's Chief Inspector of Prisons for England and Wales, *Report on an unannounced inspection of HMP Doncaster*, London: Her Majesty's Inspectorate for England and Wales, 2014, p29 [accessed via: <https://www.justiceinspectorates.gov.uk/hmprisons/wp-content/uploads/sites/4/2014/08/Doncaster-Web-2014.pdf> (18.12.14)]

91 Her Majesty's Chief Inspector of Prisons for England and Wales, *Report on an unannounced inspection of HMP Ranby*, London: Her Majesty's Inspectorate for England and Wales, 2014, p38 [accessed via: <https://www.justiceinspectorates.gov.uk/hmprisons/wp-content/uploads/sites/4/2014/07/Ranby-2014-Web.pdf> (18.12.14)]

92 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p40 [accessed via: [https://www.justiceinspectorates.gov.uk/hmprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (18.12.14)]

93 Ibid

94 Prison substance misuse worker, in evidence given to the CSJ, 2014

95 Dr. Joss Bray, in evidence given to the CSJ, 2014

successfully rehabilitated. It is a significant factor that contributes towards more than 100,000 crimes being committed by “drug-misusing offenders” every year in England and Wales.<sup>96</sup>

The consequences of illegal drug use in prison are wider than the health issues that users face, which we highlighted above. The illegal trading of all drugs – be they illegal drugs, NPS or prescription drugs – also brings with it a catalogue of other problems such as bullying, debt and violence.

### Case study: HMIP report on the violence in HMP Blantyre<sup>97</sup>

*‘The background to [increased] violence is the change in population and the drug culture which has come to dominate some of the men’s lives. The use of so-called “Spice” a legal high, which can be bought in shops in nearby Maidstone, has meant that some men have run up debts to dealers within the prison. This in turn has led to bullying and intimidation.*

*‘Men who want no part in drug use have commented to the IMB [Independent Monitoring Board] that the House (accommodation block) is “scary” at times. Latterly, it has come to light that some men have taken prescription drugs with “Spice” causing them to become extremely ill.’*

This review heard that Spice was increasingly linked to the racking up of debts and violence in prisons. In desperation to get hold of the drug, we learned that ‘people will sell their clothes’ and that ‘someone sold their prison shoes for it’. We were also told of ‘people robbing people for Spice – if they don’t have the money, they’ll take it off someone’. It reportedly ‘causes a lot of fights’ and one prisoner had witnessed ‘someone bury a knife in someone’s neck ‘cause they were paranoid’.

The drugs market has contributed towards debt and violence for many years. A 2005 Home Office Report highlighted that just under a third of those interviewed in English prisons ‘stated that the expense of buying drugs in prison resulted in debt or being short of things (particularly tobacco, canteen and toiletries)’ and 60 per cent thought that the prison drugs trade was the major cause of violence in prisons.<sup>98</sup>

Addiction also undermines prisoner rehabilitation. It makes prisoners less likely to engage constructively with activities that will contribute towards their rehabilitation. As one ex-governor put it:

*‘If you’ve got a high percentage of your population and the only thing they think about when they wake up is “where’s my next fix coming from?” – education and work, they don’t even come into it.’*

96 For a definition of “drug misusing” see Ministry of Justice, *Proven re-offending statistics: definitions and measurements*, 2012, p45 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192407/proven-reoffending-definitions-measurement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192407/proven-reoffending-definitions-measurement.pdf) (27/02/15)]. Ministry of Justice, *Proven re-offending statistics: proven reoffending tables Jul 2010-Jun 2011*, Table 15, [accessed via: <https://www.gov.uk/government/statistics/proven-re-offending--2> (27/02/15)]

97 Independent Monitoring Board, *HMP Blantyre House: Annual Report*, Independent Monitoring Board, 2013, p12 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2013/blantyre-house-2012-13.pdf> (19.02.15)]

98 Penfold, C et al, *Tackling prison drug markets: an exploratory qualitative study*, London: Home Office, 2005, p26 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/prisonmarkets.pdf> (19.02.15)]

A current prisoner manager told us:

*'When people are using drugs they're leading chaotic lives: their life revolves around feeding their habit. They often cut themselves off from their family; don't make the most of educational opportunities; and then it just snowballs. It is very hard for someone to be rehabilitated if they leave prison with a drug addiction.'*

Those trying to rehabilitate people on the outside of prison echoed this view. John Patience, CEO of The Nehemiah Project (which provides community housing to ex-offenders) told the CSJ why they made the decision to exclude people who were not abstinent from drugs:

*'The Nehemiah Project only takes ex-offenders who are abstinent from all drugs. There is a very good reason for this – if people are still taking drugs when they leave prison it is almost impossible for them to rebuild their lives. Leaving prison free of drugs is just the start of a long journey that will take everything they have, and more, and all the support they can find to succeed.'*

Rehabilitation does not end with someone becoming drug-free, but rehabilitation must start in a drug-free space.

The systemic failure to tackle drug addiction – and thereby to rehabilitate prisoners – is a significant factor that contributes towards the stubbornly high reoffending rates in England and Wales. The causes of persistent reoffending are complex. However, the link between drug use and reoffending is clear:

- 41 per cent of prisoners in England and Wales reported committing offences in order to get money to buy drugs;<sup>99</sup>
- One-year reconviction rates in England and Wales more than double for prisoners who reported using drugs in the four weeks prior to custody compared with prisoners who have never used drugs (62 per cent compared with 30 per cent);<sup>100</sup>
- 57 per cent of drug-misusing offenders in England and Wales reoffended within a year, compared with 27 per cent of all offenders (June 2010 to June 2011). Despite only representing five per cent of all adult offenders, drug-misusing offenders were also responsible for 26 per cent of all proven re-offences committed by adult offenders.<sup>101</sup>

There is also evidence that intensive treatment can substantially reduce rates of recidivism. A study by the charity RAPt revealed that significantly fewer prisoners reoffended within one year post release after completing the intensive RAPt Substance Dependence Treatment

99 Light, M et al, *Gender differences in substance misuse and mental health amongst prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*, London: Home Office, 2013, p16 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf) (19.02.15)]

100 Ibid, p21

101 Ministry of Justice, *Proven re-offending statistics – July 2010 – June 2011*, tables one and 15 [accessed via <https://www.gov.uk/government/statistics/proven-re-offending--2> (19.02.15)]

Programme (31 per cent) when compared with programmes of lower intensity and duration (49 per cent).<sup>102</sup>

Put simply, the failure to reduce the amount of drugs in prisons is leading to significantly more crime. One prisoner told the CSJ:

*'Having spent over 18 years in prison I witnessed many people – including myself – be released with significant addiction issues who go on to re-offend within a very short period of time. I was released from custody having not addressed my addiction – the identified risk factor of my index offence – and then went on to repeat exactly the same pattern of offending (robbery).'*

In particular, drug use contributes towards a significant proportion of acquisitive crime. A 2013 study by the Home Office showed that heroin and crack cocaine users are responsible for 45 per cent of all acquisitive crime in England and Wales (excluding fraud).<sup>103</sup> Moreover, one fifth of all victims of violent crime in England and Wales believed the offender to be under the influence of drugs.<sup>104</sup>

The misery does not stop there: the partners of drug-using former prisoners are more likely to suffer from domestic violence and abuse in England and Wales. More than a tenth (eleven per cent) of female victims of domestic abuse believe the offender to be under the influence of drugs at the time of the offence.<sup>105</sup>

### A former prisoner's perspective on addiction and crime

*'I started using drugs when I was 13 years old. I took them to fit in and change the way I feel about myself. It started with lighter gas and then cannabis but this quickly developed into me using powder and crack cocaine – lighter gas and cannabis just weren't enough.*

*'My addiction grew and so did the amount of money I needed to pay for it. Crime was the only way to pay the bills. I started dealing drugs at aged 18 and by the time I was 28, I had set up a cannabis farm in my back room to pay for my cocaine addiction. This addiction cost me more than money – I lost all my friends and family. I was alone with my addiction.*

*'In 2013, after 12 years of dealing drugs, I was finally caught and was convicted to two and half years in prison. I never expected to stop taking drugs in prison. Prison can be a boring place and it is easy to get hold of whatever you want inside.*

102 Kopak, A. M. et al, 'Effectiveness of the Rehabilitation for Addicted Prisoners Trust (RAPt) programme', *Journal of Substance Use*, 2014, pp1–8 (DOI:10.3109/14659891.2014.904938)

103 Please note that 'heroin and crack cocaine users' denotes those people who use either drug at least once a week. Mills, H et al, *Understanding organised crime: estimating the scale and the social and economic costs: Research report 73*, London: Home Office, 2013, p133 [accessed via: <http://www.no-offence.org/pdfs/55.pdf> (27.02.15)]

104 Home Office statistics, *Nature of Violent Crime*, table 7.10 [accessed via: <https://www.gov.uk/government/statistics/nature-of-violent-crime> (19.02.15)]

105 Office for National Statistics, *Intimate Personal Violence and Partner Abuse*, 2014, p19 [accessed via: [http://www.ons.gov.uk/ons/dcp171776\\_352362.pdf](http://www.ons.gov.uk/ons/dcp171776_352362.pdf) (19.02.15)]

*'Yet on arrival to prison it was suggested I check out the treatment services on offer. I quickly joined one of RAPt's abstinence-based programmes. For the first time someone was there for me and believed I could change. More than that, they showed me how. The prison environment did not help me become abstinent from drugs – they were so widely available that I was always being tempted.*

*'When I went into prison I was angry, anti-social and isolated because of my years of drug use. By the end I was completely transformed. The RAPt programme helped me overcome my addiction, and I even got to become a mentor to help others recover.*

*'I left prison nine months ago and have been abstinent for the last 20 months. I have regained contact with my family. Last month I moved to Somerset so I could be closer to my five-year-old son, who I am now able to see twice a week. I had not seen him for nearly three years. This is such an exciting time for me – I just wish I could have been supported into recovery sooner.*

*'If I had not become abstinent in prison I would not be in this position. I would have gone straight back to crime to pay for my habit. This is what happens to so many prisoners. It is why we have people going in and out of prison so regularly. By tackling my addiction it gave me the chance of a new life.'*

Added to the clear human cost is an immense financial cost. The 2013 Home Office study also highlighted that the 45 per cent of acquisitive crimes in England and Wales for which heroin and crack cocaine users are responsible (excluding fraud) costs around £4.7 billion every year.<sup>106</sup>

The case for tackling drug addiction in prison is clear: Not only would it save billions of pounds at a time when public finances are stretched to the limit, but also it would save thousands of people from becoming victims of avoidable crimes. The rest of this paper sets out a blueprint of how to tackle addiction once and for all in prisons across England and Wales.

<sup>106</sup> Mills, H et al, *Understanding organised crime: estimating the scale and the social and economic costs: Research report 73*, London: Home Office, 2013, p132 [accessed via: <http://www.no-offence.org/pdfs/55.pdf> (27.02.15)]



# chapter two

## Tackling supply

An alarming amount of drugs permeate prisons across England and Wales. Reducing this supply is a crucial part of helping to maintain order and safety and ensuring prisoner rehabilitation.

The Ministry of Justice (MoJ) and every prison in England and Wales should never swerve from the ambition of having an entirely drug-free prison estate. Drug use is not tolerated in other public institutions, such as schools and hospitals, and it should not be tolerated in prisons either – especially given it increases the likelihood of reoffending.

This chapter outlines new ways of tackling the supply of drugs into prison.

### 2.1 Drug supply in prisons

The main routes through which drugs are smuggled into prison are:<sup>107</sup>

- Social visits;
- Postage;
- Corrupt staff;
- Thrown over prison walls;
- New or returning prisoners (including those on Release on Temporary Licence).

Little is known about the frequency with which each route is used. Despite this being a significant problem in prisons, only one government study has analysed this over the last decade. The study was in 2005 and it asked just 158 prisoners, ex-prisoners and staff to identify the primary smuggling routes. They suggested that prisoners' social visits were the main route, followed by postage and newly incoming prisoners.<sup>108</sup> An independent report in

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107 Blakey, D, *Disrupting the supply of illicit drugs into prisons: A report for the Director General of National Offender Management Service*, p9 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/blakeyreport.pdf> (06.09.15)]

108 Penfold, C et al, *Tackling prison drug markets: an exploratory qualitative study*, London: Home Office, 2005, p15 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/prisonmarkets.pdf> (26.02.15)]

2010 suggested that visitors and new prisoners were the main ways through which drugs came into prison.<sup>109</sup>

During our research we conducted Fol requests and consulted with a number of governors, officials and prisoners about the supply of drugs into prison. We briefly outline their views below.

### 2.1.1 Social visits

Drugs brought in through social visits undoubtedly form a sizeable proportion of the prison drugs market. In 2013/14 there were 296 incidents where visitors were arrested on suspicion of conveying drugs into prisons in England alone. This has increased by a tenth over the past three years.<sup>110</sup>

Prison officers told us that visitors go to extraordinary lengths to smuggle drugs into prison. They have found substances stashed in underwear or internally (in the vagina, rectum, or back of the throat).<sup>111</sup> Louise Sloan, security operations manager at HMP Dovegate, told the CSJ of *'a mother snogging her son to transfer drugs'* and of prisoners pretending to play with their babies in order to access drugs *'stashed down their nappies'*.

Prisoners we spoke to confirmed that this was a major entry route for drugs. For instance, one told us: *'you do it when you say hi and goodbye, yet the prison is focused on stuff like whether chairs are against the wall. It isn't hard, there is always innovation'*.

### 2.1.2 Postage

We heard anecdotally that a considerable quantity of drugs was smuggled through postage. Perry Chambers, head of security and operations at HMP Thameside, told us that *'it appears to be one of the main sources of drugs coming into prisons'*.

He went on to explain that prisoners are *'abusing the privilege of legal mail'*. Under this privilege (known as Rule 39), prison staff are not permitted, apart from in exceptional circumstances, to open or read any mail correspondence between prisoners, their legal advisers and the Courts.<sup>112</sup> This has long been a problem: the Blakey Review (2008) highlighted the risk that *'legal staff or legal impostors could be smuggling drugs this way'*.<sup>113</sup>

A CSJ Freedom of Information (Fol) request found there were 349 incidents where drugs were discovered in postage in 2013/14 in England and Wales. This number has remained stationary across this Parliament, but is significantly lower than the number of incidents a decade ago (in 2003/4 there were 639 incidents).

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109 Chambers, M, *Coming Clean*, London: Policy Exchange, 2010, p13 [accessed via: <http://www.policyexchange.org.uk/images/publications/coming%20clean%20-%20jun%2010.pdf> (13.01.15)]

110 Hansard, 7 January 2015, Table One [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219262/> (08.01.15)]

111 Penfold, C et al, *Tackling prison drug markets: an exploratory qualitative study*, London: Home Office, 2005, p15 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/prisonmarkets.pdf> (19.02.15)]

112 National Offender Management Service, *Prison Service Order 49/2011*, Annex D, p27 [accessed via: <https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2011> (02.11.14)]

113 Blakey, D, *Disrupting the supply of illicit drugs into prisons: A report for the Director General of National Offender Management Service*, p13 [accessed via: <http://www.drugscope.org.uk/Resources/Drugscope/Documents/PDF/Good%20Practice/blakeyreport.pdf> (13.09.15)]

### 2.1.3 Corrupt staff

Prison staff and contractors are smuggling drugs into prisons. This was regularly reiterated to us by prison officials. Perry Chambers told us that *'prison staff bringing drugs into prison is a serious problem – everyone knows it is going on. It is difficult to know the full extent, but it is definitely happening. From discussions with my colleagues in both the public and private sectors, it would indicate that it is across all prisons'*. Other prison officials who wished to remain anonymous told us that *'with the amount of drugs in prison – it is not all coming in over the wall or through visits'*.

While visitors are known to often “plug” drugs inside body orifices, prison staff rarely have to go to these lengths. The CSJ were told by a prison official that:

*'Prison staff could smuggle cannabis, heroin and the like into prisons in pretty conventional ways. They can come in with a gym bag full of drugs, or – if they are worried about getting searched – might just fill up an orange juice container with it.'*

There are two main reasons why an official will bring drugs in: for financial return or because they are being blackmailed. We heard that some saw it as a *'no-brainer, because the risk of getting caught was so low'*. Clive Chatterton, a former governor, told us that prison officers *'could treble or quadruple their basic salary'*. Angela Low, former Chairman of the Independent Monitoring Board at HMP Wormwood Scrubs, said that they could make up to seven times their salary.

This is one of the most concerning aspects of the prison drugs trade and one that desperately needs to be tackled head on. Clive Chatterton told the CSJ that *'it is easier for officials – as compared with visitors – to bring large amounts of drugs into prison'* and therefore *'one bent officer can have a massive effect on the drugs figures'*.

It appears that few of those officials smuggling drugs are getting caught. In a report leaked to the BBC in 2006, it was estimated by the Metropolitan Police and Prison Service Anti-Corruption Unit that there were 1,000 corrupt prison officers.<sup>114</sup> In truth it is difficult to know for sure. Yet just 25 staff were convicted, dismissed or excluded in relation to conveying drugs into prisons in England last year.<sup>115</sup> Prisons need to tackle this problem robustly. We set out how to do this later in this chapter.

### 2.1.4 Over the walls

Drugs are more likely to be thrown over the walls of older prisons (which tend to have less secure designs) and those in urban areas (which often border roads or housing). Governors and prison security told the CSJ they believed they intercepted between a third and 90 per cent of packages thrown over the wall.

<sup>114</sup> BBC News, *Many jail staff corrupt – report*, 31 July 2006 [accessed via: <http://news.bbc.co.uk/1/hi/uk/5230126.stm> (26.02.15)]

<sup>115</sup> Hansard, 7 January 2015, Table Two [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219262/> (08.01.15)]

There was criticism of the lack of support by the police. We heard from a former governor that *'it is very unusual for the police to do anything to try and stop items being thrown over the wall, it just isn't a priority for them.'* Huseyin Djemil, Working Group member and former Drug Strategy Coordinator for London Prisons suggested that it is not a priority for the police because *'it creates problems inside the prison, not in the community'*.

The emergence of New Psychoactive Substances (NPS) has exacerbated this problem. As well as being difficult to detect, these drugs are relatively cheap. Alan Brown OBE, Working Group member and former governor told us how dealers will throw multiple packages over the wall because even if just one gets past security, it is worth it for the smugglers. He added that *'Spice is raining over the walls. In some prisons they are finding two or three packages a week'*.

### Over the walls of Liverpool Prison

The former governor of Liverpool Prison, Alan Brown OBE, told the CSJ of an innovative smuggling approach he discovered. The prison suffered from people throwing packages through the lower prison windows. He had them sealed off. To get round this, a prisoner collected a dozen rubber cleaning gloves and tied them together to make a catapult next to a higher window. He created a thread using his bed linen and tied it to a battery to give it more weight. He fired this out on to the street to the smugglers, while retaining one end of the thread. They tied a fishing line to the thread, which he then pulled back through his window. A pulley was set up in a tree outside the prison, and drugs were attached to the wire, which was then pulled in through the high prison window.

However, the MoJ has recently introduced an important reform to ensure there are appropriate consequences for those who attempt to throw drugs – including NPS – into prisons. They included an amendment to the Prison Act 1952 in the Serious Crime Act 2015 which made it illegal to throw any article into a prison, punishable by up to two years in prison.

#### 2.1.5 New and returning prisoners

Prisoners have an opportunity to smuggle drugs into prison both when they first arrive and when they return from court or Release on Temporary License (ROTL). Some of those the CSJ interviewed described it as standard practice to stash drugs prior to court when people know they will be convicted. For instance, one prisoner told us *'if I've got a court case coming up, I always load up'* while another said *'it's no secret that everyone is bringing in plugged drugs'*.

It is not surprising that they do. The likelihood of getting caught is low and the rewards are high. A prison manager told the CSJ that she had witnessed a large number of prisoners returning from ROTL without a single one being searched. A prisoner told us that *'you can swallow it; stick it up your backside. It won't get detected'*.

Recent prison inspections have highlighted similar concerns, for example:

- The Inspection of HMP Portland in Dorset found that *'with the increase of drugs coming into the prison (and consequent bullying and debt), the potential pressure on ROTL prisoners is significant'*<sup>116</sup>
- HMP Ranby in Nottinghamshire had to cancel all ROTL indefinitely *'due to the pressure put on prisoners to bring in illegal items such as drugs'*.<sup>117</sup>

The need to close down all of these smuggling routes has not abated. Security experts highlighted the importance of tackling them simultaneously to cut the amount of drugs coming into prison. We look next at how prisons are currently trying to reduce supply and how new approaches and technologies could improve their efforts.

## 2.2 Tackling drug smuggling

Prisons use a number of methods to fight drug smuggling. The primary ones are:

- Searching;
- Drug detection dogs;
- Intelligence;
- Physical security.

These methods are interdependent. Intelligence can ensure that searching and the use of dogs is well targeted, while physical security helps to minimise the quantity of drugs that enter in the first place.

Over the course of this review we saw significant variation across the prison estate. While some of this is to be expected given the nature of different category prisons, the extent of the variation was surprising. All prisons should be meeting a minimum standard. Some were clearly not. For instance, while some prisons had a strong intelligence-led approach supported by modern scanning technology, others let researchers in without any form of identification.

As a result, there is a strong argument for greater peer-to-peer learning across the prison estate to raise all prisons to the standard of the best. This does not mean that prisons should have identical security arrangements. It is important that each prison has a Local Security Strategy, which reflects the type and scale of the drug problems they face. This will vary dependent on the location of a prison and the category and type of prisoners it holds. But there are some areas that many prisons can improve in, such as developing a culture of vigilance and ensuring intelligence is used effectively to target limited resources on those most likely to smuggle drugs.

<sup>116</sup> Independent Monitoring Board, *HMP and YO1 Portland: Annual Report 2012–13*, Independent Monitoring Board, 2013, p17 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2013/portland-2012-13.pdf> (15.02.15)]

<sup>117</sup> Independent Monitoring Board, *HMP Ranby: Annual Report 2012–13*, Independent Monitoring Board, 2013, p13 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2013/ranby-2012-13.pdf> (20.02.15)]

Beyond this, the introduction of new technologies and approaches could further improve prison performance in tackling drug supply. This is particularly the case with regard to searches, drug dogs and intelligence. We outline the necessary reforms in each of these areas below.

## 2.2.1 Searches

The strength of searching lies in its versatility: it can be used on prisoners, prison officers, visitors or incoming mail. Searches are carried out either by security guards conducting physical searches or through scanning technology.

There are three elements that define how effective prison searching is:

- The quantity of people searched;
- How they are searched;
- Who is searched.

This section looks at how many people are being searched and how we can improve searches.

### Searching is underused

Too few people are searched in prisons. The CSJ heard from a former governor that some prisons have only ever tended to do 'a full staff search a couple of times a year' and that 'someone could escape the normal checks quite easily to be honest, for quite a long time'.

A prison official told us:

*'It is so easy to bring drugs into prison. I work in prison during the day and I am searched, at most, once a year. Night staff are never ever searched. They come in the late afternoon with minimal security on and can carry in what they want.'*

Angela Low, former Chairman of the Independent Monitoring Board at HMP Wormwood Scrubs, told us that 'staff shortages have led to a reduction in drug searches – this has definitely had an effect on the amount of drugs coming into prison'.



The National Offender Management Service (NOMS) does not collect data on the number of searches that are carried out. There is, however, evidence that few people are being caught with drugs through searches. A CSJ FoI request has revealed that there were just 91 occasions when drugs or drug equipment were found through searching visitors and 615 such occasions when searching prisoners in prisons in England and Wales

in 2013/14. Searches of prison staff revealed drugs so infrequently that NOMS were unable to provide details without the risk of revealing who those members of staff were. This low return

on searches is both a reflection of the number being conducted, but also of the effectiveness of the methods being used. We look at how searches could be made more effective below.

The Working Group found it deeply surprising that every prisoner was not being searched on arrival at prisons. Part of the problem is that there are no national guidelines on searching prisoners returning from ROTL.<sup>118</sup> This is despite the ROTL system clearly contributing towards a drug problem for many prisons. For instance, the 2012/13 Inspectorate Report of Brixton prison said:

*'This year has demonstrated that prisoners going out on ROTL need searching for illicit items (drugs, mobile phones) on return. If more men are going out, more staff may be needed. If searches are not thorough, there may be consequential difficulties on the wings.'*<sup>119</sup>

To ensure that the threat of searching deters drug smuggling we recommend that prisons search people more frequently. In particular, we recommend that a tenth of prison staff (including contractors) are randomly searched every month; that visitors are searched every time they visit; and that prisoners are searched every time they enter a prison. If visitors refuse to be searched they should only be allowed a closed visit. If prison intelligence suggests that the amount of drugs getting into prisons drops dramatically then prisons should review the searching levels to ensure they are proportionate to their drug problem.

### Case study: HMP Thameside

HMP Thameside is one of the most effective at tackling prison drug supply. Less than a fifth (18 per cent) of prisoners in the Serco run prison reported that it was easy to get illegal drugs, versus 29 per cent for comparator prisons.<sup>120</sup>

There were also considerably more incidents where visitors were arrested by police on suspicion of conveying drugs into the prison (33) than in other prison in England in 2013/14.<sup>121</sup>

Perry Chambers explained that they 'try to make it as difficult as possible' for drug users and smugglers:

*'Our method here is to make sure we do random searches, and a lot of them. If searching is predictable, then it doesn't take too long for prisoners to work out how to defeat it. We search people coming in or out, and conduct spot checks, bag searches and area searches.'*

When they receive good intelligence that someone has taken drugs, they ensure that they are suspicion tested within 24 hours. Furthermore, it is not just prisoners who are regularly tested: between six and 10 staff from all grades are tested each month.

<sup>118</sup> See Prison Service Order 6300

<sup>119</sup> Independent Monitoring Board, *HMP Brixton 2012-13*, Independent Monitoring Board, 2013, p8 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2013/brixton-2012-13.pdf> (16.01.15)]

<sup>120</sup> Her Majesty's Chief Inspector of Prisons for England and Wales, *Report on an unannounced inspection of HMP Thameside*, London: Her Majesty's Inspectorate for England and Wales, 2013, 'Prisoner survey responses' [accessed via: [www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/thameside/thameside-2013.pdf](http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/thameside/thameside-2013.pdf) (20.02.15)]

<sup>121</sup> Hansard, Written answers and statements, 7 January 2015, Table One [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219262/> (03.03.15)]

### Improving searches

As well as the need to increase the frequency of searching, there is room for improvement in the way in which people are searched. Current methods, which primarily rely on manual searches rather than the use of scanning technology, enjoy some success. Yet we heard from numerous security heads, governors and prisoners that people are still smuggling drugs 'in places we can't find' – namely in body orifices.

There is new technology that has the potential to revolutionise prison search methods: Body Scanners. While different models have different specifications they generally work as follows. They are archway scanners which individuals are required to walk through for detection. They typically use a low-dosage X-ray beam (for example, we were told the RadPro SECUREPASS Body Scanner has an X-ray dosage of around one four-hundredth of a regular hospital X-ray). They provide a detailed image of whether someone is carrying contraband either inside clothing or in body cavities within minutes.<sup>122</sup> The CSJ heard from prison officers who had used them that, while they require staff to have some training, they are fairly straightforward to use. Speaking to providers, we found quotes varied dependent on the machine specifications. One machine – the "CP Body Scanner" – cost around £87,000.<sup>123</sup>

Their use is becoming commonplace across jails and prisons in the USA – the CSJ heard that the Federal Bureau of Prisons recently purchased more than 70 of these scanners for use in their prisons. They have also been used in places such as Las Colinas Jail in San Diego, Rikers Island prison in New York and Mesa County Jail in Colorado.

In 2012, Rikers Island authorities purchased six scanners to help curtail the number of guns that were being brought into the prison.<sup>124</sup> Mesa County bought an Adani CONPASS Body Scanner and installed it in June 2013. It has been a key measure that has helped reduce smuggling into the jail. Captain Art Smith from Mesa County Sheriff's Department told the CSJ:

*'We recently purchased a body scanner for our jail – it made a real difference. It negated the need for many strip searches, which was very useful. Those using it need to be well trained but they can detect small quantities of drugs and small weapons. We wouldn't even think about running the jail without one now – it is very useful at keeping drugs and weapons out of prison.'*

We detail how they have revolutionised the fight against drug smuggling Las Colinas Jail in the case study below.

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<sup>122</sup> Westminster International Ltd., *CP body scanner* [accessed via: [http://www.wi-ltd.com/security/Scanning\\_and\\_Screening/X\\_Ray\\_and\\_Screening\\_Systems/People\\_Scanners/CP\\_Body\\_Scanner](http://www.wi-ltd.com/security/Scanning_and_Screening/X_Ray_and_Screening_Systems/People_Scanners/CP_Body_Scanner) (29.09.14)]

<sup>123</sup> £87,000 figure provided by Westminster International Ltd.

<sup>124</sup> The Epoch Times, *Body Scanners Introduced on Rikers Island*, 26 July 2012 [accessed via: <http://www.theepochtimes.com/n2/united-states/body-scanners-introduced-on-rikers-island-271094.html> (20.02.15)]

## Body Scanners in Las Colinas Jail, San Diego

Las Colinas Jail currently houses 868 prisoners and is situated in San Diego, California. It had suffered from significant amounts of drugs, weapons and other contraband coming into the jail, often through prisoners bringing them in when they first arrived and during social visits.

The jail had a number of prisoners who were incarcerated for only a couple of weeks. Their intelligence had identified that these people were often being used as mules to smuggle drugs. It was creating violence and undermining prisoners' rehabilitation. They tried to stop the drug smuggling via pat downs and visual body cavity searches, however these were proving ineffective and people had become adept at side-stepping them. Captain Edna Milloy told the CSJ:

*'Male and female prisoners, who are more institutionally sophisticated and adept at secreting contraband in their bodily cavities prior to coming into custody, can defeat the pat down and visual body cavity searches. Prisoners who swallow contraband can make it into the system virtually undetected unless they encounter a medical emergency requiring an X-ray.'*

A new approach was required. After two years of research they purchased a Radpro SECUREPASS Body Scanner in 2014. The Body Scanner uses X-ray technology to detect contraband that is hidden both under clothing and inside a body cavity. It does not require someone to disrobe. We were told that those being scanned were subject to only a very small amount of radiation equivalent to around one four-hundredth of that of a regular hospital X-ray.

The Scanner can safely detect weapons, as well as other highly sought after contraband such as cell phones or drugs that people might be carrying or secreting. The scan takes around two minutes to complete. It can also detect all metallic, non-metallic, organic or inorganic contraband. It is easily able to detect even the smallest quantity of drugs. Christine Brown, Re-entry Services Manager at the Jail told the CSJ:

*'The introduction of these machines made a huge difference. They can easily identify small amounts of drugs and weapons. As long as staff are well trained, it is very difficult to get anything past these machines.'*

Captain Milloy stressed how important it was that staff are well trained to use it:

*'The scanner is working as promised but it is only as good as the employee who is operating it. We have trained a limited amount of employees on the system so that they can become familiar with identifying what belongs and what doesn't belong. The system is easy to learn and easy to use.'*

The introduction of the scanner has been a 'game changer' at the jail. The CSJ heard from Captain Milloy how, over a six-month period since the scanner's introduction, 'there has been a notable reduction in the amount of drugs and contraband entering the facility'. There has also been a 'substantial' fall in the number of assaults in jail and "use of force" incidents have fallen 40 per cent since the Body Scanner's introduction.

Captain Milloy added that when they 'scan prisoner mail or listen in on phone recordings they are all complaining to friends and family about how difficult it is to get drugs into the facility'.

In 2011 the MoJ investigated whether to use X-ray scanning technology in prisons.<sup>125</sup> After considering their use at Holme House Prison they decided against their introduction, primarily for two reasons. First, due to controls on the use of radiation. In short, the MoJ told us that

<sup>125</sup> This information was provided by the Ministry of Justice to the CSJ, 2014

it couldn't be used unless it produces sufficient benefit to the exposed individuals or wider society to offset any potential harm an exposure to X-rays may cause. Yet those operating these machines in the USA said that this was not a concern – the machines being used in Las Colinas Jail have such a low radiation dosage it is considered safe to use up to 1,000 times per individual per year. Moreover, Andrew Thompson, the National Operational Lead for the Border Force low-dose X-ray programme and a Radiation Detection Supervisor, told the CSJ:

*'The risk of using Body Scanners is minimal. It provides the same level of background radiation that you would expect to get from a two to three hour plane flight. You have similar levels of radiation from living in Cornwall, which has higher background radiation than other parts of the country.'*

Secondly, they were not considered effective enough at detecting the small size of drug packages that were typically smuggled into prisons. The evidence gathered for this review has shown however that such technology can be effective at detecting small quantities of drugs. It is proving the case in operational environments, such as in Las Colinas and Mesa County Jails.

As a result, the CSJ recommends that the MoJ should review their decision on Body Scanners. Evidence from the USA suggests they could be a game-changer in the fight against drug smuggling. We recommend that the MoJ rolls out the use of Body Scanners for all prisons in England and Wales.

There will be a cost to this, which will be dependent on the type of Body Scanners purchased. Yet if they are able to successfully keep a significant proportion of drugs out of prison then it will be a price worth paying. They should form a key part of prison searching. It will be important to ensure that they are not used so frequently such that they present a health risk to prisoners, visitors or staff, but beyond that the CSJ recommends they should be used regularly as part of the prison searching regime, given their effectiveness.

### 2.2.2 Drug dogs

Drug dogs should play a more vital part of prison efforts to tackle drug smuggling. Their powerful sense of smell means they can detect many different scents at once. They can often detect drugs – including NPS – even if they are perfumed or plugged.<sup>126</sup> Steve Elms, a senior officer at Border Force, said that they were vital to Border Force efforts to prevent drug smuggling. He told the CSJ of a time where a dog detected drugs smuggled by someone who had been doused in petrol, washed in ascorbic acid and who was wearing clean clothes.

The National Offender Management Service (NOMS) consider dogs to be a vital part of efforts to keep drugs out of prisons. They told the CSJ:

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<sup>126</sup> New Scientist, *What a dog's nose knows*, 25 August 2011 [accessed via: <http://www.newscientist.com/article/mg21128262.000-crittervision-what-a-dogs-nose-knows.html#.VGOU7yOsVCM> (20.11.15)]

*'Prison drug dog teams provide a valuable resource when deployed inside prisons to support drug supply reduction. They are trained to a high standard and independently assessed ... the dog teams provide not only a visual deterrent but also a flexible response to different target substances which can range from controlled drugs such as cannabis, heroin, etc., to prescribed drugs such as Buprenorphine and more recently Novel Psychoactive Substances.'*

The ability of dogs to detect drugs depends on the skill of the dog handler, the training of the dog and the mistakes made by smugglers. For example, a smuggler may handle the drugs and then the packaging without realising that they are contaminating it with particles that lead to scent.

Dogs are under-valued in the role they play in detecting drug smuggling. The number of prison drug dogs in England and Wales (both active and passive dogs) has reduced by 27 per cent between 2010 and 2014, from 451 to 328.<sup>127</sup>

Explaining this reduction in 2013, Jeremy Wright MP, then-Parliamentary Under-Secretary of State for Justice, stated that it was *'largely due to efficiency savings and also the formation of area based specialist search teams to make resources more flexible'*.<sup>128</sup>

The CSJ supports the creation of area-based search teams, as they ensure that dogs are used where there are the greatest drug problems. Yet this does not justify reducing the number of drug dogs by more than a quarter in three years.

In 2008, the cost of a dog and handler was approximately £40,000 per annum, and dog experts told the CSJ that 2015 prices were close to that level.<sup>129</sup> Despite the cost, drug dogs play a valuable role in the fight against drug smuggling. The CSJ recommends that the MoJ restore the number of drug dogs to 2010 levels.

Further to ensuring there are enough dogs, we also need to be certain that they are trained to deal with the emerging NPS threat.

Experts impressed to the CSJ that dogs can be trained to detect any substance as long as the handlers have a reliable sample to work from. Steve Elms highlighted to us that dogs can be trained to detect up to six scents at once. This presents a possible solution because dogs could be trained to detect the most popular variations of Spice in individual prisons; especially as such training only takes a matter of days if there are good samples.<sup>130</sup>

127 Hansard, Written answers and statements, 11 September 2013 [accessed via: [http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130911/text/130911w0004.htm#130911w0004.htm\\_snew2](http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130911/text/130911w0004.htm#130911w0004.htm_snew2) (26.02.15)]. 2014 figures were provided to the CSJ by the Ministry of Justice, 2015

128 Ibid

129 Hansard, Written answers and statements, 1 February 2008 [accessed via: <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080201/text/80201w0009.htm> (20.02.15)]

130 Roma Garrett, Dog Handler at Border Force, in evidence given to the CSJ, 2014

The MoJ has begun to do this.<sup>131</sup> It is important that this work is done swiftly as there are some prisons who do not have access to dogs that can identify NPS. One head of security told us that their 'biggest issue is legal highs, especially Black Mamba...the dogs don't pick up on it at all.'

### Punishing drug smugglers

The purpose of searching and drug dogs is two-fold: to reduce the amount of drugs getting into prison; and to dissuade people from attempting to smuggle in the first place.

The second purpose requires effective legal punishments. These exist for those trying to smuggle controlled drugs into prison. If someone is convicted of smuggling a controlled drug (as defined by the Misuse of Drugs Act 1971) into prison then they are liable for a prison sentence of up to 10 years.<sup>132</sup>

There is little to dissuade people from smuggling those NPS which have yet to become controlled drugs. We were told by the MoJ that the law on the "Conveyance of prohibited articles into or out of prison" does not facilitate legal prosecution for the smuggling of non-controlled NPS into prison.

The MoJ is currently investigating how to change this. Change is difficult, but not impossible. The CSJ recommends that the MoJ makes an amendment to the Prison Act 1952 to include "psychoactive substances" in the "List A" articles, and thereby make the conveyance of all NPS into prison an offence punishable by up to a decade in prison.

This requires an accurate definition of "psychoactive substances". The CSJ recommends that the MoJ uses the definition set out in the Irish Criminal Justice (Psychoactive Substances) Act 2010 which defined them as follows:

*"Psychoactive substance" means a substance, product, preparation, plant, fungus or natural organism which has, when consumed by a person, the capacity to:*

- a) produce stimulation or depression of the central nervous system of the person, resulting in hallucinations or a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood, or*
- b) cause a state of dependence, including physical or psychological addiction'.<sup>133</sup>*

The Irish Act also excludes psychoactive substances such as alcohol and tobacco. The MoJ's amendment to the Prison Act 1952 would need to do likewise.<sup>134</sup>

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<sup>131</sup> Ministry of Justice, Press Release: New Crackdown on dangerous legal highs in prison, London: Ministry of Justice, January 2015 [accessed via: <https://www.gov.uk/government/news/new-crackdown-on-dangerous-legal-highs-in-prison> (04.03.15)]

<sup>132</sup> Offender Management Act 2007, section 40b [accessed via: <http://www.legislation.gov.uk/ukpga/2007/21/section/22/enacted> (26.02.15)]

<sup>133</sup> Criminal Justice (Psychoactive Substances) Act 2010, section 1 [accessed via: <http://www.irishstatutebook.ie/2010/en/act/pub/0022/print.html> (26.02.15)]

<sup>134</sup> Please note that this approach mirrors that suggested by the CSJ for tackling "head shops" that are selling NPS. For more information please see Centre for Social Justice, Ambitious for Recovery, London: CSJ, 2014

### 2.2.3 Intelligence

An effective intelligence-gathering operation is fundamental to a successful prison effort to tackle drug smuggling. The collection of reliable data and intelligence can ensure the right people are searched, that dogs are placed appropriately and that staff can respond to any emerging threats.

While there are many important aspects to an effective intelligence-gathering operation, this paper has identified one area that is in particular need of reform: understanding which drugs are in prison and in what quantity.

This is one of the main reasons why Mandatory Drug Testing (MDT) of prisoners was introduced in 1995. One of its key objectives was:

*To provide, by means of the random testing programme, more accurate and objective information on the scale, trends and patterns of drug misuse, allowing prisons to manage and target more effectively their resources for tackling drug problems.*<sup>135</sup>

#### Mandatory Drug Testing

Mandatory Drug Testing (MDT) is a system whereby prisoners' urine samples are collected and analysed for evidence of illicit drug use. It is intended to contribute towards the wider drug reduction strategy in prisons, and was introduced as part of the Criminal Justice and Public Order Act 1994. The specific objectives of MDT are five-fold:<sup>136</sup>

1. To increase significantly the detection of those misusing drugs and to send a clear message to all prisoners that if they misuse drugs they have a greater risk of being caught and punished;
2. To help prisoners to resist the peer pressure often placed on them to become involved in drug taking, due to the increased possibility of detection;
3. To help to identify prisoners who may need assistance to combat their drug problems with assistance offered to those who want it;
4. To provide, by means of the random testing programme, more accurate and objective information on the scale, trends and patterns of drug misuse, allowing prisons to manage and target more effectively their resources for tackling drug problems;
5. To enable the proportion of prisoners testing positive for different drug types on the random testing programme to be used as one performance indicator of drug misuse.

There are five ways in which drug testing can be undertaken:<sup>137</sup>

1. **Random testing:** prisoners selected on a random basis;
2. **Reasonable suspicion:** prisoners selected where there is reason to believe they have misused drugs;
3. **Risk assessment:** prisoners selected where they are being considered for a privilege or position of trust (such as Release on Temporary Licence or a job);

<sup>135</sup> Prison Service Order 3601

<sup>136</sup> Ibid

<sup>137</sup> Ibid

4. **Frequent test programme:** prisoners selected because of their previous history of drug misuse;
5. **Reception testing:** prisoners selected on a routine or occasional basis.

Under the MDT regime prisons have a requirement to test between five and 10 per cent of prisoners randomly a month (prisons with an average population in the previous year of 400 or more must test at least five per cent each month; those with less than 400 at least 10 per cent).<sup>138</sup>

The MDT regime is a poor indicator of prison drug use. There are a number of reasons for this, which we explain in detail in Chapter Three. However, the main problem is that it is simultaneously being used for two conflicting purposes:

- Gathering intelligence on the level of drug use in prisons;
- Identifying individual drug users in order to signpost them into treatment and to sanction.

The CSJ recommends the introduction of Waste Water Analysis (WWA) for use in intelligence gathering in prisons across England and Wales, so MDT can be used effectively to identify individual drug users for sanctioning and signposting.

WWA analyses prison sewage water. It can identify not only the type of drugs, but the quantity as well.<sup>139</sup> It relies on a testing approach known as liquid chromatography-tandem mass spectrometry (LC/MS), which is able to detect drugs, including NPS.<sup>140</sup>

It is a promising technique. The CSJ heard from those piloting and researching WWA that it can provide a robust, accurate measure of drug use in prisons. For instance, Dr. Jeremy Prichard, a criminologist from the University of Tasmania who co-authored research into WWA and helped conduct a pilot scheme in an Australian prison, told us that it *'could lead to a new era in tackling the drug problem in Western prisons'*. Dr. John Ramsey, a toxicologist who works within a European-led research project developing WWA (SEWPROF), told the CSJ:

*'It works: it's possible to detect almost all drugs of misuse in sewage waste water, including New Psychoactive Substances and prescription drugs.'*

It has a number of advantages over the use of random MDT to measure drug use. The scientists behind the WWA pilots found that compared to traditional methods, it *'is a more objective, quantitative, reliable, and timely measure of prison substance use'*.<sup>141</sup> Dr. John Ramsey also told us that WWA allows for the *'potential of screening the whole prison'* while providing *'much more granularity than you ever would with individual urine samples'*.

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<sup>138</sup> Ibid

<sup>139</sup> Van Dyken, E et al, 'Monitoring substance use in prisons: Assessing the potential value of wastewater analysis', in *Science and Justice*, 54, 2014, pp338–345. Please note that whilst quantities can be detected in macro terms; because the number of doses consumed is not quantifiable because the amount taken per dose is dependent on the individual user

<sup>140</sup> Scheidweiler, K et al, 'Simultaneous quantification of 20 synthetic cannabinoids and 21 metabolites, and semi-quantification of 12 alkyl hydroxy metabolites in human urine by liquid chromatography-tandem mass spectrometry', *Journal of Chromatography A*, 1327 (2014), pp105–117

<sup>141</sup> Van Dyken, E et al, 'Monitoring substance use in prisons: Assessing the potential value of wastewater analysis', *Science and Justice*, 54, 2014, pp338–345 (p343)

Contrary to MDT, 'results can be achieved in near real-time or in relation to consumption at a particular time'.<sup>142</sup> Furthermore, WWA causes no disruption to the day-to-day running of a prison because sampling occurs off-site, and the analysis does not require large numbers of staff.<sup>143</sup>

### Waste Water Analysis in an Australian prison

In 2011 an Australian prison agreed to pilot WWA. The purpose was to 'provide objective data on prison substance use' and to 'measure the effectiveness of specific supply reduction strategies'.<sup>144</sup>

The prison had an antiquated sewage system, which was built in around 1960. It had a main sewer pipe that was just 40cm wide (this is very small for a main sewage pipe) and it did not include a retention tank or weir at which sampling could be easily conducted.

The researchers were initially concerned that this would stop them from collecting data of sufficient sensitivity to present a good enough picture of prison drug use. According to Dr. Jeremy Prichard after much hard work they were 'very happy with the outcome'. The results were good, and good enough that the participating prison has requested them to repeat the analysis every two years. This suggests that while it is more difficult to get accurate samples from older sewage systems, it is not impossible.

As well as being used in Australia, this approach is also being piloted in the United States and Spain.<sup>145</sup>

A prison official raised a concern that prisoners might be able to put chemicals down toilets in order to corrupt WWA data. However, Dr. Jeremy Prichard said it would be difficult for prisoners to identify and obtain chemicals that effectively neutralised drug residues, and the sheer quantity of fluid passing through a sewer make it unlikely that individual prisoners could corrupt data.



The CSJ recommends that the MoJ investigates the viability of WWA to provide intelligence on drug use and seeks to introduce it to prisons across England and Wales. Should its introduction successfully provide prisons with the necessary intelligence on drug use, they should switch from using random MDT as their key measure of drug use onto WWA.

<sup>142</sup> Ibid p339

<sup>143</sup> Ibid

<sup>144</sup> Evidence provided to the CSJ by researchers working on the project, 2015

<sup>145</sup> Brewer, AJ et al (2014) 'Wastewater testing compared to random urinalyses for the surveillance of illicit drug use in prisons', *Drug and Alcohol Review*, (2014), and van Nuijs, AL et al, 'Illicit drug consumption estimations derived from wastewater analysis: a critical review', *Sci Total Environ*, 409, 2011, pp3564–77

Furthermore, when the MoJ builds new prisons they should ensure that the sewage systems are built in a way that easily facilitates WWA. This would include designing a space where sampling equipment could be safely stored and have access to a power supply. Ideally it would entail incorporating a fully mixed retention tank and a section where flow can be measured accurately (to facilitate flow-proportional sampling).

Prisoners with an addiction need to be given the best chance to overcome it. A central part of this is keeping drugs out of prison. By implementing the recommendations we set out in this chapter, it will be far harder for people to smuggle drugs into prison. There are eight primary recommendations, which we summarise below.

## Chapter Two Recommendations

**Recommendation 1:** Prisons in England and Wales to ensure that every visitor (on an open visit) is searched on entry into a prison.

**Recommendation 2:** Prisons in England and Wales to ensure that a tenth of prison staff are randomly searched every month.

**Recommendation 3:** Prisons in England and Wales to ensure that prisoners are searched every time they enter a prison.

**Recommendation 4:** The Ministry of Justice to roll out Body Scanners to all prisons in England and Wales.

**Recommendation 5:** The Ministry of Justice to commit to restoring the number of drug dogs to 2010 levels (451).

**Recommendation 6:** The Ministry of Justice to ensure that drug dogs are trained to detect New Psychoactive Substances.

**Recommendation 7:** The Ministry of Justice to amend the Prison Act 1952 to include "psychoactive substances" as a "List A" article.

**Recommendation 8:** Prisons in England and Wales to introduce Waste Water Analysis to replace Mandatory Drug Testing for the purpose of intelligence-gathering.

# chapter three

## Holding prisoners accountable

Prisoners need to be held accountable for their drug use. They need to be rewarded for tackling addiction and sanctioned for using drugs illegally. Without this, all efforts to tackle drug addiction in prison – and therefore our attempts to rehabilitate prisoners – are likely to fail.

The current prison system is failing to hold prisoners to account for drug use. Prisoners are faced with a system where they are unlikely to get identified as drug users and, even if they do, the consequences are uncertain and weak. This also makes it far more difficult to signpost addicted prisoners into treatment.

This chapter sets out the changes that are needed in order to discourage drug use and support prisoners into effective treatment. We look at better ways of testing for and responding to the use of illegal drugs, prescription drugs and New Psychoactive Substances (NPS).

### 3.1 Testing for drug use

Prisons need a good understanding of which prisoners are taking drugs in order to help them into treatment and sanction them for drug use. Without this it is impossible to facilitate recovery.

There are a number of issues with the current testing regime, which mean prisoners are unlikely to be identified as drugs users. They are:

- Drug testing is poorly targeted;
- Prisoners are infrequently tested;
- Tests exclude regularly used drugs.

We outline each of these issues and suggest reforms below.

### 3.1.1 Testing is poorly targeted

Tackling drug use is a crucial mission for prisons, as part of their responsibility to rehabilitate prisoners. It should be ingrained in prison culture. As we showed in Chapter One, failure on tackling drugs can completely undermine both prison security and prisoner rehabilitation. As part of this, it is crucial that governors are enabled to identify and be kept accountable for identifying as many drug users as possible.

At present, the way in which governors are held to account does little to encourage them to identify as many drug users as possible. There are two key, interrelated issues. They both relate to the fact that the National Offender Management Service (NOMS) requires the Mandatory Drug Testing (MDT) regime to achieve two conflicting purposes:

- Gathering intelligence on the level of drug use in prisons;
- Identifying individual drug users in order to signpost them into treatment and to sanction.

First, prison drug testing budgets are poorly targeted. Prisons in England and Wales are provided with funding to test approximately 15 per cent of prisoners each month.<sup>146</sup> A CSJ Freedom of Information (FoI) request revealed that two thirds of tests were random in 2013/14. This is primarily because prisons are required to randomly test between five and 10 per cent of prisoners.<sup>147</sup>

#### Mandatory Drug Testing

There are five ways in which drug testing can be undertaken:<sup>148</sup>

1. **Random testing:** prisoners selected on a random basis;
2. **Suspicion testing:** prisoners selected where there is reason to believe they have misused drugs;
3. **Risk assessment:** prisoners selected where they are being considered for a privilege or position of trust (such as Release on Temporary Licence or a job);
4. **Frequent test programme:** prisoners selected because of their previous history of drug misuse;
5. **Reception testing:** prisoners selected on a routine or occasional basis.

It is a waste to use so much of the testing budget on random tests, as they are one of the least likely to identify drug use. In 2013/14, just seven per cent of random MDT tests returned positive results, compared with 30 per cent of suspicion tests.

Table 1: The success of MDT tests in prisons in England and Wales (2013/14)<sup>149</sup>

Test type	Proportion returning a positive rate
Suspicion	30%
Reception	24%
Frequent	17%
Random	7%
Risk	5%

<sup>146</sup> Prison Service Order 3601

<sup>147</sup> The proportion of prisoners who are required to be randomly tested depends on the size of the prison

<sup>148</sup> Prison Service Order 3601

<sup>149</sup> This data was provided to the CSJ by the Ministry of Justice, 2015

Some prison officials are frustrated with this approach. For instance Ray Duckworth, director of Ashfield Prison, told us:

*'The only point to randomised drug testing is to get a measure of the level of drugs in a prison. The only testing that makes a real difference in prisons is intelligence-led, suspicion testing. Anything else is a waste of time.'*

The reason why NOMS requires such a high level of random MDT testing from prisons is because – as well as being used to identify drug users – random MDT is used as an intelligence-gathering tool.

As set out in Chapter Two, the CSJ recommends that Waste Water Analysis (WWA) replaces MDT as the intelligence-gathering tool in prisons. The introduction of WWA thereby allows MDT to be used solely to identify as many drug users as possible. The CSJ therefore recommends that as prisons adopt WWA they should stop using MDT as an intelligence-gathering tool, and use it purely to identify as many drug users as possible. This change will make the use of random testing of prisoners largely redundant. Governors need to be given flexibility on how they use their testing budget to identify as many drug users as possible. As a result, when prisons have adopted WWA the CSJ recommends that there should be no requirement for prisons to conduct any random testing on prisoners.

Those we interviewed welcomed this idea. For instance, Alan Brown OBE, former governor of Liverpool prison, told the CSJ that *'smaller prisons find it hard to do suspicion testing because they have to use all their ring-fenced testing budget on randomised tests. There is no flexibility, it is crazy'*.

The introduction of WWA to gather intelligence, and the freeing of MDT to only be used to identify drug users also helps solve the second problem with the current approach.

At the moment prison governors are not held accountable for identifying as many drug users as possible. They are instead judged on how low they can keep the proportion of positive random MDT tests, because it is seen as a measure of the level of drug use in their prison. While it has stopped being an official target, prison officials told the CSJ that it is still, in effect, used to hold them to account for keeping drug use low.<sup>150</sup> Ray Duckworth told the CSJ:

*'Using MDT as a target creates a perverse incentive – we should be trying to identify as many drug users as possible, not as few as possible.'*

This approach means there is little incentive for prisons to adapt to new drug trends, such as the emergence of NPS, as this would be likely to increase the proportion of positive random MDT tests.

<sup>150</sup> Ministry of Justice, *National Offender Management Service Annual Report 2011/12: Management Information Addendum*, London: Ministry of Justice, 2012, p20 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/218333/noms-annual-report-2011-12-addendum.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218333/noms-annual-report-2011-12-addendum.pdf) (05.03.15)]

The lack of pressure on governors to identify as many drug users as possible has meant drug tests have not been prioritised as prison budgets have been reduced. A CSJ FoI request found that the number of MDT tests in prisons in England and Wales (excluding the mandated random tests) has fallen by 22 per cent over the last two years alone.

Alan Brown told the CSJ that *'when prisons are short-staffed they are cutting back on testing at weekends'*. A drug misuse worker told us that when a prison officer calls in sick, *'the first thing they scrap is MDT'*. We even heard that prisons were starting to miss their mandated proportion of random MDT tests. A prison official told the CSJ:

*'People have started using drugs more freely than before because, as a result of staff shortages, prisons are often just not doing MDT tests. It is the first thing that tends to get cut if there aren't enough people.'*

The introduction of WWA makes it possible to use MDT to properly hold prisons to account for identifying as many drug users as possible. We therefore recommend that governors are no longer held to account for keeping the proportion of random MDT tests low. We recommend that, instead, prisons governors are held to account by NOMS for returning as high an overall MDT rate as possible. The Ministry of Justice (MoJ) should be using this measure to ensure that governors are tackling drug use in prisons.

### 3.1.2 Prisoners are infrequently tested

Prisoners are not regularly tested for drug use. As we outlined above, under the MDT regime, prisons in England and Wales have a requirement to randomly test between five and 10 per cent of prisoners a month.<sup>151</sup> Prisons with a 12 month average population of more than 400 must test at least five per cent each month and those with less than 400 at least 10 per cent.<sup>152</sup>

This means there is a significant chance for prisoners to go an entire year without ever being randomly tested:

- For those in prisons with more than 400 residents, a prisoner has a 54 per cent chance of not being randomly tested in a year;
- For those in prisons with fewer than 400 residents, a prisoner has a 28 per cent chance of not being randomly tested in a year.

A CSJ FoI request revealed a reduction in drug testing in this Parliament. Over the last two years, the number of MDT tests has reduced by 14 per cent, from 97,371 to 84,064. There has been a particularly concerning reduction in the number of suspicion tests, which are down by more than a fifth (21 per cent), and frequency tests, which are down almost a quarter (24 per cent), over the same period.

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<sup>151</sup> Ibid

<sup>152</sup> Ibid

The prison guidance states that the level of drug testing should be proportionate to the 'problem experienced with drugs'.<sup>153</sup> Just under a third of prisoners admit that it is easy to get drugs in prison.<sup>154</sup> 29 per cent of prisoners openly admit to having a drug problem on arrival to prison.<sup>155</sup> The level of drug testing does not fit the scale of the problem. The CSJ recommends that the frequency of testing be significantly increased such that a quarter of prisoners are tested every month.

### 3.1.3 Tests exclude prevalently used drugs

Prisoners are rarely tested for the most prevalently used drugs in prison. This problem is one of the most significant within prisons today, as it prevents prisons from holding many drug users to account for their behaviour:

Up until recently, prisoners were tested for the following drugs:<sup>156</sup>

- Cannabis;
- Opiates;
- Cocaine;
- Benzodiazepines;
- Methadone;
- Amphetamines;
- Barbiturates;
- Buprenorphine (if specifically requested);
- LSD (if specifically requested).

Prisoners were not typically tested for NPS use and testing for prescription drugs was not nearly comprehensive enough. In recognition of this, the MoJ included a clause in the Criminal Justice and Courts Act 2015 that amended the Prison Act 1952 and expanded the drugs that prisons could test for beyond those identified in the Misuse of Drugs Act 1971. This will enable prisons to test for NPS and all prescription drugs for the first time.<sup>157</sup>

The CSJ welcomes this development. Testing for the abuse of prescription drugs is both needed and very possible to achieve, given they can be easily identified.

It is more difficult for prisons to test for NPS, yet it is extremely important that they do. A key reason why prisoners are taking Spice is because they know they are not going to get caught. Prisoners told the CSJ:

<sup>153</sup> Ibid

<sup>154</sup> Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013–14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [http://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](http://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (26.02.15)]

<sup>155</sup> Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2011–12*, London: The Stationery Office, 2014, p36 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hm-inspectorate-prisons-annual-report-2011-12.pdf> (26.02.15)]

<sup>156</sup> Prison Service Order 3601

<sup>157</sup> Criminal Justice and Courts Act 2015 [accessed via: <http://services.parliament.uk/bills/2014-15/criminaljusticeandcourts.html> (06.02.15)]

*'If there's an alternative to get Spice and not get a positive test, what you going to do?'*

*'Why wouldn't someone smoke it [Spice]? What's the incentive not to smoke it? There is none. Nothing.'*

Prisons have yet to introduce an effective way of testing for NPS. It is not easy to do, as conventional tests cannot be used. Dr. Torrance, Manager of Forensic Toxicology Services at Glasgow University, told the CSJ of the key problem. Namely, that there are hundreds of different drugs, which are constantly having their chemical structure tweaked. This means that a brand of NPS – such as Black Mamba – may well have a different chemical composition depending on when it was purchased. It is also difficult to identify the parent drug when conducting tests because they are extensively metabolised leaving only breakdown products in urine, which are often non-specific to the parent drug.

Yet it is possible to test for NPS. The most widely used detection method is known as liquid chromatography-tandem mass spectrometry (LC/MS). This technique combines the physical separation of liquid chromatography and the mass analysis of mass spectrometry.<sup>158</sup>

Toxicologists confirmed with the CSJ that LC/MS is effective at testing for NPS. Dr. John Ramsey, a toxicologist at TICTAC Communications at St George's, University of London told the CSJ that *'there is no doubt about it – LC/MS can be used to identify NPS use in prisons. It is not simple, but it is possible'*. Paul Cary, director of the Toxicology and Drug Monitoring Laboratory at the University of Missouri Health Care agreed. He told the CSJ that it is *'a very effective way of identifying NPS in a range of samples – from urine to waste water'*.

Using LC/MS works as follows. Samples – whether urine from prisoners or waste water from the whole prison – are sent to a laboratory that has an LC/MS machine. The samples are then analysed and compared to known drugs in order to determine which are present.

The emergence of new compounds used as drugs is reported to the UK focal point of the Early Warning System (EWS), which is run by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).<sup>159</sup> It is crucial that this database is regularly updated to pick up new NPS strains. Dr. John Ramsey told the CSJ:

*'To enable LC/MS to work it is important that there is an up-to-date database of the most recent compounds sold as NPS to appropriately target urine or waste water analysis.'*

It is crucial that the database includes NPS that are taken in prisons across England and Wales. The UK's contribution to the EMCDDA database comes in part from the Forensic Early Warning System (FEWS). Historically this has not systematically included NPS seized in

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<sup>158</sup> Royal Society of Chemistry, *Liquid chromatography-tandem mass spectrometry* [accessed via: <http://www.rsc.org/publishing/journals/prospect/ontology.asp?id=CMO:0000701&MSID=b923177c> (20.02.15)]

<sup>159</sup> Home Office, *New Psychoactive Substances Review: Report of the Expert Panel*, London: Home Office, 2014, p7 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/368583/NPSexpertReviewPanelReport.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368583/NPSexpertReviewPanelReport.pdf) (20.02.15)]

prisons. The Home Office committed to start doing this in 2014/15.<sup>160</sup> The Home Office told the CSJ that they have collected samples from the South West and North West regions. They have yet to collect and analyse samples from all prisons in England and Wales. Dr. Ramsey told the CSJ that FEWS 'does not currently include the routine analysis of seizures of NPS from prisons – these are generally being destroyed unanalysed'. The CSJ recommends that FEWS immediately starts collecting samples from all prisons in England and Wales.

It is crucial that prisons start using laboratories with LC/MS to test for NPS use in prisons. The CSJ recommends that NOMS include a requirement in their drug testing contract that laboratories must routinely test for NPS as part of the MDT regime.

### 3.1.4 Banning smoking in prisons

The introduction of a more effective NPS test by the MoJ will help reduce Spice use in prisons. Yet by itself, this is unlikely to be enough to halt the epidemic. Testing should be augmented by a ban of smoking in prisons in England and Wales. There are two reasons for this: to reduce Spice use, and to reduce the risk of passive smoking of both Spice and tobacco by prison officials and other prisoners.

The primary means through which Spice is administered is through smoking. It is difficult to identify who is smoking Spice, as it is odourless. We heard from many interviewees that Spice is often smoked in front of prison guards without their knowledge. The drug is far less effective if administered through another means, such as eating it. Paul Cary told the CSJ:

*'Taking Spice by any other means other than smoking makes it less effective. You can't snort it, shoot it or dissolve it. You could orally ingest it, but it is far less powerful. When you smoke the drug it goes straight into your lungs then your brain. If you eat it, it has to get through several major organs first and is diluted and partially broken down by the time it gets to your brain.'*

While banning smoking will not make it impossible for Spice to be taken (smoking bans do not eradicate any possibility for smoking and prisoners will still have the option of eating Spice) it will make it considerably harder.

Banning smoking will also protect other prisoners and prison staff from passive smoking of NPS and tobacco. This is a significant concern of the Prison Officers Association (POA), who told the CSJ:

*'Prisoners are smoking in front of prison officers and sometimes this will include Spice. Our officers are extremely worried about the chances they are passively smoking this dangerous substance. This adds more fuel to the fire – as if it were needed – to the argument that smoking should be immediately banned in all prisons.'*

<sup>160</sup> Home Office, *Annual Report on the Home Office Forensic Early Warning System (FEWS): A system to identify New Psychoactive Substances in the UK*. London: Home Office, 2014 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/344551/2014-08-12\\_-\\_FEWS\\_Annual\\_Report\\_Aug\\_2014\\_-\\_Final\\_\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344551/2014-08-12_-_FEWS_Annual_Report_Aug_2014_-_Final__2_.pdf) (16.02.15)]

There is clear evidence that smoking bans are effective at preventing poor health and even death. For example smoking-related deaths were cut by up to 11 per cent in USA state prisons with long-term bans in place.<sup>161</sup>

However, in some countries there have also been collateral effects as a result of a blanket ban. For example, following the introduction of a total smoking ban in prisons in Queensland, Australia, the prison officers' union highlighted that the number of attacks on prison guards had doubled since its implementation.<sup>162</sup> Yet this must be balanced against the fact that the use of NPS is already causing significant violence and that the ban is backed by the POA. Introduction of the ban must also be accompanied by effective support to help smokers to quit.

There is currently a plan to ban smoking in all prisons in England and Wales by the end of 2015.<sup>163</sup> Given the scale of the Spice problem, and the likelihood that banning smoking could make it far easier for prisoners to stop taking it, the CSJ recommends that the MoJ ensures that smoking is banned in all prisons across England and Wales as soon as practically possible.

### 3.2 Responding to drug use

Positive drug tests must be met with meaningful consequences. There are two strands to this. First, prisons must ensure that those with addictions are signposted into effective treatment. We look at this in Chapter Four. Secondly, prisoners must be sanctioned swiftly and fairly. We look at this below.

There is a significant and mounting body of evidence showing that swift, certain and fair sanctions can dramatically increase offender compliance.<sup>164</sup> The majority of this evidence comes from the implementation of Swift, Certain and Fair (SCF) Programmes for community sentences in the United States. In a community setting this means that, when offenders breach their sentence, they will typically be seen by a judge on the same day and will immediately receive a sanction – typically of a day in jail. They are told in advance what will happen if they fail to abide by their sentence and sanctions are carried out every single time, without fail.

This approach has recently been applied in prisons. For instance, Washington State has introduced a new strategy – called Operation Place Safety – to help tackle the high rates of prison violence committed by gang-affiliated prisoners. Their strategy ensures certainty by notifying offenders of the approach in writing when they enter the prison. They are also reminded on a recurring basis. It is also swift: all sanctions are initiated immediately after a lock-down (which is needed to determine who should be sanctioned). The sanctions can include the confiscation of personal shoes, radios and televisions; reductions in phone calls

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161 British Medical Journal, *Prison smoking bans linked to substantial fall in deaths among U.S. inmates*, 2014, cited in *ScienceDaily* [accessed via: <http://www.sciencedaily.com/releases/2014/08/140805221241.htm> (21.02.15)]. Please note that a long-term ban is defined as longer than nine years

162 ABC News, *Attacks on Queensland prison guards have doubled since introduction of smoking ban: union*, 14 October 2014 [accessed via: <http://www.abc.net.au/news/2014-10-14/attacks-on-guards-in-qld-prisons-doubled-since-smoking-ban/5812822> (27.02.15)]

163 BBC News, *Smoking ban considered for prisons*, 20 September 2013 [accessed via: <http://www.bbc.co.uk/news/uk-24170235> (17.02.15)]

164 The Centre for Social Justice, *Sentences in the Community*, London: CSJ, 2014

and visits; and the revocation of weightlifting privileges.<sup>165</sup> Bernie Warner from Washington Department of Corrections told the CSJ:

*'The Washington Department of Corrections has drastically changed our sanctioning process for technical violations of community sentences given the strong evidence that it is the certainty and swiftness of sanctions, not the severity, that most affects behaviour. The number of community violators has more than halved over three years, saving millions of dollars. The Department is now taking these lessons to the prison system – Operation Place Safety is part of this. We are seeking to use incentives to shape behaviour in a more immediate and consistent manner, rather than dispensing consequences with little impact for months or years down the road. We are making this change to make our facilities safer and to better prepare prisoners for release.'*



<sup>165</sup> Warner, B et al, *Operation Place Safety: First Year in Review*, Washington: Washington State Department of Corrections, 2014, p14 [accessed via: [http://www.doc.wa.gov/aboutdoc/measuresstatistics/docs/OperationPlaceSafety\\_June2014.pdf](http://www.doc.wa.gov/aboutdoc/measuresstatistics/docs/OperationPlaceSafety_June2014.pdf) (26.02.15)]

### 3.2.1 Prison sanctions that deter drug use

The way prisons respond to drug use is not swift or certain. They need to be if prisons are to become drug-free. We look at the swiftness, certainty and fairness of the current system and put forward recommendations for reform.

#### Swift

It is rare for sanctions to be handed out swiftly: prisoners in England and Wales are typically sanctioned weeks, if not months, after they return positive drug tests. Edd Neal, Intelligence Unit Manager at Thameside Prison told the CSJ:

*'Prisoners use all sorts of delaying tactics to stop themselves from being punished for drug use. Prisoners say they are ill; they request legal advice and then say they can't get hold of their solicitor. It gives them weeks and weeks before they are sanctioned.'*

In most cases the process works as follows. If a prisoner provides a positive MDT test they are brought before a prison adjudicator, normally five days after a test.<sup>166</sup> If they plead guilty their sanction can be handed out there and then. Yet a number of experts suggested to the CSJ that prisoners only plead guilty in around 10 to 20 per cent of cases. For instance Alan Brown said that *'around 15 per cent plead guilty straight away – the rest wait for a second sample to be sent off. There is little reason for them not to'*. Mustafa Bari, head of adjudications at Thameside Prison told us:

*'Around two in every 10 prisoners who test positive on MDT plead guilty at the first adjudication. They quite often plead mitigating circumstances – such as having just had some bad news – and if they are going to do that they need to plead guilty. They get some discount in their sanction for pleading guilty early, but not a lot.'*

For those who do not plead guilty at this first adjudication there is a delay while a confirmation test is conducted. The results of the confirmation test are returned to the prison within six working days of receipt.

Prisoners can delay further by demanding an independent analysis of their second urine sample. If they do this, then a letter needs to arrive from their solicitor within 14 days to confirm this course of action. The overall process can take up to six weeks and three days.<sup>167</sup> To pay for this, the guidance suggests that prisoners can use legal aid:

*'This is done at the prisoner's own expense, with the cost likely to be in the order of several hundred pounds, although legal aid is often granted.'*<sup>168</sup>

That being said, it was suggested to the CSJ that prisoners do not regularly use it. Alan Brown suggested only a tenth of those whose confirmation sample was positive did not *'hold their*

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<sup>166</sup> Prison Service Order 3601

<sup>167</sup> Ibid

<sup>168</sup> Ibid

*hands up and say they were guilty at that point*'. An MDT lead told the CSJ he had only seen it used a handful of times.

If prisoners are considered to have committed a particularly serious drug offence then the process can be even more complex and lengthy. This is because such offences often merit more days in prison, yet prison adjudicators do not have the authority to apply this sanction.<sup>169</sup> The European Court of Human Rights took this power away from prison governors following a ruling in 2003.<sup>170</sup> A current governor cited this loss of power as *'one of the biggest factors in us losing control'* of prisoner discipline. He told the CSJ that *'without a doubt, it's hindered the system – it can take months now'*.

As a result, independent adjudicators (District Judges) must come into prison to hold the adjudications. There is a requirement for them to be opened within 28 days.<sup>171</sup> How often District Judges come into prison varies depending on need but it is typically every one to four weeks.

Prisoners who test positive for Class A drugs can often be referred to an independent adjudicator. MoJ guidance says:

*'MDT failures or other drug-related offences should not automatically be referred, but referral may be appropriate if Class A or a large quantity of other drugs is involved, or if the establishment has a local drugs problem it wants to deter.'*<sup>172</sup>

Prison officials suggested that positive Class A drug tests are often referred to the independent adjudicator. For instance, Mustafa Bari told us:

*'Every time someone tests positive for Class A drugs they are seen by an independent adjudicator. I have never seen it happen for Class B or C drugs.'*

As a result, those accused of taking Class A drugs can wait up to a month before their case is even opened, let alone completed.

While this slow process is a significant problem across the prison estate, it is especially so for prisons that house short-sentenced prisoners or resettlement prisons. The delays mean that many who are in prison for just a few weeks can take drugs with impunity, knowing the system works too slowly for them to be sanctioned. This concerned prison officials who told the CSJ:

*'It is very rare to get done for Class A drugs if on a short sentence, the system just works too slowly most of the time.'*

<sup>169</sup> Please note that there are some prisoners, such as those on indeterminate sentences, who cannot be given additional days in prison

<sup>170</sup> See *Ezeh and Connors vs. The United Kingdom* [accessed via: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61333#{"itemid":\["001-61333"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61333#{)] (22.02.15)

<sup>171</sup> Prison Service Instruction 47/2011

<sup>172</sup> *Ibid*

*'Prisoners know what to say to get round the system – if they have a release date coming up prisoners know they can just play the system. If they get released before their guilt is confirmed then the case is just dropped and there is no sanction.'*

*'It is so easy for prisoners to escape sanctions for drug use if they are on a short sentence or are coming towards the end of their time in prison. They just delay and delay until they leave. Then nothing happens. It really neuters some prisons' ability to be able to discourage prisoners from taking drugs.'*

Three reforms are required to solve this problem.

First, prisoners should be encouraged to plead guilty at the first prison adjudication meeting. The CSJ recommends that the MoJ ensures that prisoners who plead guilty at the first opportunity are sanctioned more leniently than those who do not and are later proven to be guilty. We set out exactly how this should work below.

Secondly, prisoners on short sentences must be held to account for drug use. The current approach on independent analysis is too lenient. Short-sentenced prisoners should not be able to delay their adjudications to the extent it means they are never sanctioned.<sup>173</sup> The CSJ recommends that Prison Service Order (PSO) 3601 be altered such that prisoners with less than six weeks remaining in prison are not able to request an independent analysis of a positive MDT test.

Finally, independent adjudications need to be conducted more quickly. It is not acceptable for prisoners to wait up to a month before their adjudication is even opened. Currently there is a requirement for independent adjudications to be opened within 28 days of a governor requesting one. The CSJ recommends that this is halved to 14 days.

### Certain

There are two elements to certainty: prisoners must have sanctions explained to them clearly in advance; and sanctions must be carried out every single time, without fail.

On arrival at prison, prisoners have their entitlements and responsibilities explained to them including adjudications procedures.<sup>174</sup> Our review found there to be variation amongst prisons regarding how well this is implemented. We heard from an official who had worked in a number of prisons:

*'Inductions vary hugely across prisons. Some are great at letting prisoners know about MDT and sanctions and signposting people into treatment. Others won't even mention access to treatment, or spell out why you shouldn't take drugs in prison at all.'*

As a result some of the prisoners we interviewed seemed unclear as to the consequences for testing positive for drugs. A prisoner reflected many prisoners' views when he told us that *'the rules need to be made clear'*.

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<sup>173</sup> Prison Service Order 3601

<sup>174</sup> Prison Service Instruction-74-2011

Her Majesty's Inspectorate of Prisons (HMIP) inspects on indicators such as ensuring 'the violence reduction strategy is explained to prisoners during induction' and that there is 'an appropriate and timely induction into physical education and fitness activities'.<sup>175</sup> Yet there is no specific indicator on ensuring that prisoners are aware of the opportunities for drug treatment, the testing regime and the likely sanctions for drug use. Certainty is required to ensure sanctioning for drug use is effective. To ensure this happens the CSJ recommends that HMIP introduce the following indicator:

*'During the induction process prisoners are made aware of the opportunities for drug treatment, the testing regime and the likely sanctions for drug use.'*

As well as having the process explained clearly in advance, certainty requires that sanctions are always carried out. We heard from a head of adjudications that 'it is so important that sanctions are followed up on. If they aren't then it just sends the wrong message – it tells the prisoners that you can take drugs and get away with it'. Drug misuse workers told us that for 'sanctions to be of benefit, they have to be enforced – however, in my prison, there have been many occasions when that hasn't been the case'.

The CSJ heard evidence of sanctions not being carried out in prisons. For instance a drug misuse worker told us:

*'Yes it is true that sanctions aren't carried out sometimes. This generally happens for one of two reasons. First, officers can not want, for example, the hassle of keeping just one guy in the cells while everyone else is on association time. Second, sometimes officers just aren't told that someone has had their privileges taken away. I have seen this happen lots with people being given access to the gym when they shouldn't be.'*

A prison consultant told the CSJ that 'it is often administratively a pain to follow through on sanctions – as a result it isn't that unusual for an officer to not bother sanctioning someone'.

It is imperative that sanctions are carried out for the drug-testing regime to be effective at deterring use. The responsibility to ensure this falls to prison governors, and to HMIP to hold them to account.

## Fair

The type and severity of sanctions are an important part of dissuading prisoners from taking drugs. It is important that sanctions are both fair and effective in persuading prisoners to stop taking drugs.<sup>176</sup>

<sup>175</sup> Her Majesty's Inspectorate of Prisons, *Expectations: Criteria for assessing the treatment of prisoners and conditions in prisons*, London: Her Majesty's Inspectorate of Prisons, 2012, sections 1.9 and 3.9 [accessed via: <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/02/adult-expectations-2012.pdf> (23.02.15)]

<sup>176</sup> U.S. Department of Justice, *Swift, Certain, and Fair Sanctions Program (SCF): Replicating the Concepts Behind Project HOPE FY 2015 Competitive Grant Announcement*, 7 January 2015 [accessed via: <https://www.bja.gov/Funding/15Swift&CertainSol.pdf> (06.03.15)]

### The current approach to sanctioning

Prison adjudicators make decisions on sanctions using guidance, which sets out the expected minimum and maximum sanctions. While they vary slightly from prison to prison according to the different level and type of drug problems across prison categories, a typical tariff sheet is as follows:

Table 2: Prison guidance for positive Mandatory Drug Test punishments		
Drug class	Minimum	Maximum
Class A	10 days cellular confinement and 28 days loss of privileges	21 days cellular confinement and 42 days loss of privileges
Class B	7 days cellular confinement and 21 days loss of privileges	
Class C	28 days loss of privileges	

There is discretion regarding what privileges can be taken away. While there is variation across prisons, forfeited privileges often include:

- Access to private cash;
- Access to some gym sessions;
- In-cell televisions;
- Earnings from prison work;
- Canteen privileges, such as the ability to buy and smoke tobacco.

As discussed above, prison adjudicators do not have authority to add days to a prisoner's sentence – only independent adjudicators do. They have the authority to add up to 42 additional days to a prisoner's time in prison.<sup>177</sup> The Chief Magistrate's Office provides guidance to independent adjudicators for the added days that should be given to prisoners who test positive for drug use. They are set out below.

Table 3: Guidance for Independent Adjudicators for Mandatory Drug Test punishments (additional days)	
Class A	Between 28 and 42 days
Class B	Between 7 and 21 days
Class C	Between 7 and 21 days

### Reform of the sanctioning regime

The CSJ believes the sanctioning regime can be improved. Few prisoners or officials felt that the sanctions handed out were particularly unfair but more can be done to persuade prisoners to plead guilty at the first adjudication.

<sup>177</sup> Prison Service Instruction-47-2011

Those we interviewed suggested that the threat of extra days is an effective deterrent for drug use:

- A prison manager told the CSJ: *'the threat of incurring additional days is the biggest deterrent for any prisoner'*;
- A head of adjudications said: *'prisoners really don't want to be given added days. They want to get out of prison. In my experience the threat of added days definitely acts as a deterrent'*;
- A prisoner said after being given extra days for drug use: *'I have really got to stop using now, my family hate that I will now be in here longer'*;
- A drug misuse worker told us: *'Having extra days added to a prisoner's sentence is the one thing they really care about. Not only do they want to get out as soon as possible, but it can be such a disappointment to their families'*.

The CSJ recommends that the threat of additional days in prison should be used to persuade prisoners to plead guilty at the earliest opportunity. This will help ensure that more sanctions are delivered swiftly. Specifically, we recommend that prisoners who do not plead guilty at their first prison adjudication hearing and whose screening and confirmation tests are positive be automatically referred to an independent adjudication and if found guilty be given extra days in prison.

This chapter has set out the necessary reforms to ensure that drug use is identified in prisons and appropriate and effective sanctions applied. This is a crucial part of reducing the demand for drugs in prison. When combined with efforts to reduce drug supply and to provide effective, abstinence-based treatment it should help rid prisons of their drug problem. There are 11 key recommendations in this chapter, which are outlined below.

### Chapter Three Recommendations

**Recommendation 9:** The Ministry of Justice to use Waste Water Analysis to hold prison governors to account for reducing illegal drug use in prison.

**Recommendation 10:** Once prisons are using Waste Water Analysis, The Ministry of Justice to hold prisons in England and Wales to account for maximising the total number of positive Mandatory Drug Tests each month.

**Recommendation 11:** Once prisons are using Waste Water Analysis, the Ministry of Justice to stop requiring prisons in England and Wales to conduct any random drug testing.

**Recommendation 12:** Prisons in England and Wales to drug test a quarter of their prison population each month.

**Recommendation 13:** The Home Office to ensure that New Psychoactive Substance samples are regularly collected from all prisons in England and Wales and are fed into the Forensic Early Warning System.

**Recommendation 14:** The Ministry of Justice to ensure that Mandatory Drug Testing includes a test for New Psychoactive Substances.

**Recommendation 15:** The Ministry of Justice to ensure that smoking is banned in all prison across England and Wales as soon as is practically possible.

**Recommendation 16:** The Ministry of Justice to ensure that all prisoners who do not plead guilty at their first adjudication and whose screening and confirmation tests are positive are automatically referred to an independent adjudicator and if found guilty be given extra days in prison.

**Recommendation 17:** The Chief Magistrate's Office to ensure that independent adjudications are conducted within 14 days of a request from a prison governor.

**Recommendation 18:** The Ministry of Justice to ensure that prisoners with less than six weeks to serve in prison are not able to request an independent analysis of positive Mandatory Drug Tests.

**Recommendation 19:** Her Majesty's Inspectorate of Prisons to include the following indicator for their prison inspections: "*During the induction process prisoners are made aware of the opportunities for drug treatment, the testing regime and the likely sanctions for drug use.*"

# chapter four

## Full recovery in prisons

Prisoners who have an addiction should receive the best possible treatment in order to help them fully recover. The benefits of investing in such support are numerous: not only does it improve their lives and those of their families, but it also makes them far less likely to reoffend upon release.

This is particularly important if – as recommended in Chapter Three – prisons invest in greater testing and apply more effective sanctions for drug use. Prisoners must be both sanctioned for drug use and be given the best possible chance to beat addictions. To continually sanction without helping them to change their behaviour would be counterproductive and unfair.

This chapter explores three ways in which treatment in prisons could be drastically improved. They are:

- Promoting abstinence-based recovery from all drugs;
- Improving Drug Recovery Wings;
- Connecting treatment in prison and the community.

Reform across these three areas is crucial to supporting addicts into recovery. Yet change across these three areas is not enough by itself – it must be combined with efforts to keep drugs out of prison, as outlined in Chapter Two. The combination of keeping drugs out and providing effective treatment for those with existing addictions could make a radical difference to rates of addiction and reoffending in Britain.

### 4.1 Promote full recovery

Becoming fully abstinent from all drugs – including substitute opiates – is the most effective way of tackling drug addiction. It is also possible. The CSJ has been told this time and time again by treatment providers and those who have overcome addiction. We outline the views of former addicts and prisoners below. The full case for abstinence-based recovery is outlined in detail in the CSJ paper, *Ambitious for Recovery* (2014).

## Former prisoners in evidence to the CSJ

*'Methadone keeps people stuck. I remember feeling like a maintenance script was the best I could hope for. I never imagined I could be free and was never told about abstinence until RAPT. It wasn't until I detoxed that I realised how foggy and detached methadone made me.'*

*'I myself was on the revolving door of drug addiction, crime and prison until I was introduced to the solution... total abstinence. I am over four years clean and sober as a result.'*

*'My own experience was that whilst on Subutex I used more illegal drugs on top, this did not help me to focus on abstinence based recovery, which is the only way of life that I have found to free me from the cycle of prison.'*

*'I have observed individuals on methadone drinking stronger alcohol to increase their high, also using crack cocaine on top of their Methadone.'*

Unfortunately the majority of prisoners fighting opiate addiction are not working towards abstinence. Prisoners told the CSJ that the maintenance culture in prisons is *'ten times worse now than it used to be'* and that *'they keep you on it [methadone] for years'*. Another told us that they *'don't see a lot of people coming off methadone'*.

The data seems to back this up. Over the past six years the proportion of those being maintained has skyrocketed, while the proportion of those on detoxification programmes has plummeted. In 2007–8, almost four-in-five (79 per cent) of all substitute opioid interventions in prisons in England and Wales consisted of detoxification programmes (where the dosage is steadily reduced). However, the data shows that this reduced dramatically such that just 31 per cent of substitute opiate interventions were detoxifications last year.<sup>178</sup>

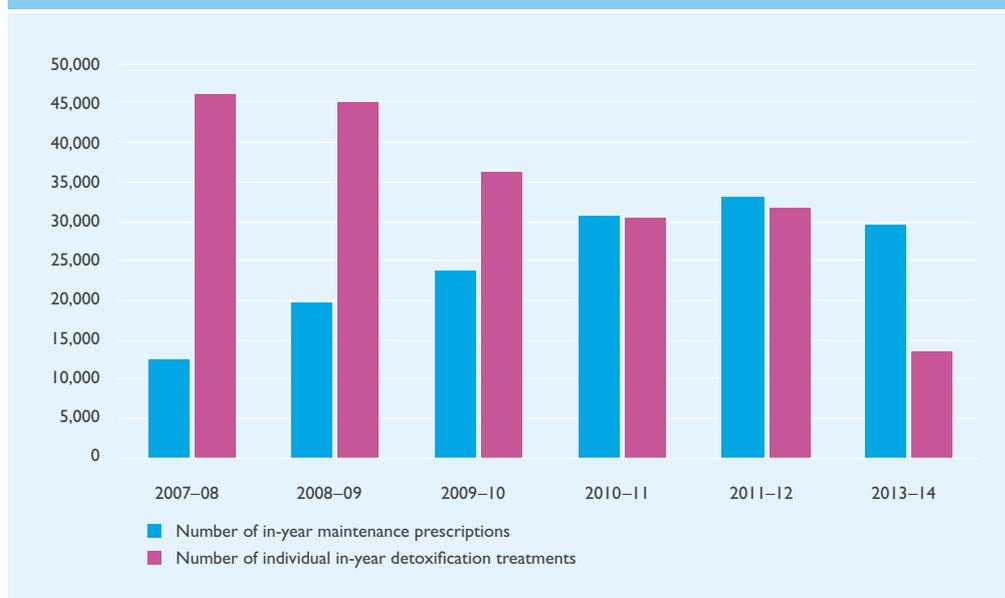
As well as a drop in the proportion of detoxification scripts, the data also shows a steep fall in the total number of them. In 2011/12, 31,718 detoxification scripts were given to prisoners. By 2012/13, this had fallen to just 13,655.<sup>179</sup>

While this fall may well be a genuine one, it also coincides with a transfer in recording from the National Offender Management Service (NOMS) to Public Health England (PHE). NOMS figures were drawn from the PSIMOn database and treatment data was based on monthly returns from individual prisons.

<sup>178</sup> Please note that NOMS collected this data up until 2010/11 and Public Health England have done so subsequently. Differences in collection methods may account for some of the subsequent change. Figures for 2012/13 were not made available by the Ministry of Justice because they were not considered *'robust and accurate'*. Hansard, Written answers and statements, 3 December 2012 [accessed via: <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121203/text/121203w0003.htm> (20.01.15)], and Hansard, Written answers and statements, 5 January 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-12-17/219264/> (26.02.15)]

<sup>179</sup> Ibid

Figure 2: Substitute opiate treatment for prisoners in England and Wales



Source: Written parliamentary questions, 2012 and 2014<sup>180</sup>

PHE use a different database known as the National Drug Treatment Monitoring System (NDTMS). We heard from PHE that this system tracks prisoners as they move from one prison to another and that numbers are based on treatment episodes i.e. based on the date they start treatment in prison until the date they are discharged from treatment or are released (whichever comes earlier).

Yet regardless of this complication, the data clearly shows that only 31 per cent of prisoners on substitute opiates were being detoxified last year. This maintenance culture is undermining the chances that prisoners will beat their addiction and fully recover. While maintenance might be the right approach in specific cases – such as for prisoners on remand and for those in prison for weeks, not months – it is not suitable for the overwhelming majority. Caroline Cole, Working Group Member and Head of Research and Implementation at RAPt told the CSJ that, for some prisoners, with the 'right type and intensity of support, it is possible for many users to detoxify within days rather than weeks or months'. Annie Dale, Consultant Nurse at RAPt, told the CSJ:

*'Maintaining people on methadone scripts in prison for years on end is morally indefensible in my view. It keeps people entrenched in dependence and doesn't allow them to explore alternatives to drug use or look at the underlying issues, thus causing them to remain defined by their drug use.'*

Prison should be a place where prisoners tackle the root causes of their offending rather than be allowed to side step them. The prescription of substitute opiates can help to stabilise those

180 Ibid

with an addiction, but long-term reliance fails to address the underlying causes of addiction. As one former prisoner put it: *'Everyday maintained on methadone or other substitute drugs is a waste of life'*

One of the main drivers behind the dramatic increase in prison maintenance prescriptions was the introduction of the Integrated Drug Treatment System (IDTS) in 2006. The purpose of IDTS was to ensure that prisoners had access to the same type of treatment as was available in the community. There has long been an over-reliance on maintenance in the community – last year, more than 38,000 people in England who were on an opiate substitute had been on one for more than five years.<sup>181</sup>

Yet the CSJ heard that prison over-prescribing was also partly the result of poor ambition from prison doctors. Doctors are required to undertake patient reviews, at a minimum, every three months for those being prescribed substitute opiates in order to consider what has been achieved and set new goals.<sup>182</sup> Yet drug misuse workers told the CSJ:

*'Doctors are increasingly failing to review prisoners' methadone levels. As a result, too many prisoners are simply being maintained on high levels of methadone rather than it being used appropriately to help prisoners get clean from drugs.'*

*'Some consultants will have minimal contact with prisoners and will just write out the prescription without seeing them – the reviews aren't always getting done.'*

At the beginning of this Parliament, it was observed in the Chief Inspector of Prisons' Annual Report that *'large numbers of prisoners received methadone maintenance treatment without regular treatment reviews'*.<sup>183</sup>

We heard that, even when prisoners do meet with doctors, some are being kept on substitute opiates against their wishes. Prisoners told the CSJ that doctors *'wouldn't let me detox from Subutex'* and that *'they tried to encourage me to not come off methadone quickly'*. Another prisoner who had been persuaded to go on methadone told us: *'I didn't want to do it. It puts you back in the mind-set of using drugs'*. This is despite the guidance stating that any decision must be *'active'* and *'agreed between the clinician and the patient'*.<sup>184</sup> Annie Dale told the CSJ of her exasperation at this type of practice:

*'If an individual wants to reduce their opiate intake they should always be supported in doing so no matter what. Refusal on the grounds of 'I know best' is unacceptable. It is the*

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181 Public Health England, *Adult Drug Statistics from the National Drug Treatment Monitoring System (NDTMS)*, London: Public Health England, 2014, p13 [accessed via: <http://www.nta.nhs.uk/uploads/adult-drug-statistics-from-the-national-drug-treatment-monitoring-system-2013-14.pdf>(03.03.15)]. See Centre for Social Justice, *Ambitious for Recovery*, London: CSJ, 2014, p20 [accessed via: [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073\\_Addiction\\_15.08.14\\_2.pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ2073_Addiction_15.08.14_2.pdf) (26.02.15)]

182 Strang, J et al, *Drug misuse and dependence: UK guidelines on clinical management*, London: Department of Health et al, 2007, p54 [accessed via: [http://www.nta.nhs.uk/uploads/clinical\\_guidelines\\_2007.pdf](http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf) (26.02.15)]

183 Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2011-12*, London: The Stationery Office, 2014, p45 [accessed via: <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmi-prisons/hmip-annual-report-2010-11.pdf> (22.02.15)]

184 Strang, J et al, *Drug misuse and dependence: UK guidelines on clinical management*, London: Department of Health et al, 2007, p54 [accessed via: [http://www.nta.nhs.uk/uploads/clinical\\_guidelines\\_2007.pdf](http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf) (26.02.15)]

*responsibility of the medical professional to try and help and encourage individuals to reduce in a way that is most likely to be effective and sustainable, but I have yet to hear a valid safety reason for refusing to reduce dosage.'*

This problem is exacerbated by some prisons failing to ensure that prisoners on substitute opiates have recovery plans in place. Recovery plans are intended to outline how to work towards rehabilitation. Simon Antrobus, CEO of Addaction, told the CSJ that they '*often come across people who have been on methadone for years and years and who haven't had effective recovery plans*'.

Under-developed or non-existent recovery plans make it all too easy to rely solely on the use of prescription opiates as a means of placating prisoners without effectively rehabilitating them. RAPt outlined to the CSJ what an effective recovery plan should look like. In particular, it must include:

- Abstinence-based treatment;
- One-to-one, intensive support from case workers or peer mentors;
- Effective communication between different services;
- Engaging the support of prisoners' family members (where possible and appropriate).

Furthermore, recovery plans and prison treatment must be tailored to the specific drug problems faced by prisoners. The increase in New Psychoactive Substance use makes this particularly important, as little is known of their effect on users and treatment services need to be able to respond to this.



NHS England (NHSE) – the commissioner of drug misuse services in prison – should ensure that all prisoners have effective recovery plans, that all drug treatment in prison is abstinence-based and that maintenance on opiates is only used as a last resort or for those in prison for a very short period of time. The level of treatment received by those in prison should mirror that provided in abstinence-based rehabilitation in the community. As we outlined in the CSJ's report, *Ambitious for Recovery* (2014) this includes:

- Working to increase client motivation;
- Personalised treatment, rather than simplistic prescribing;
- Rigorous care management to ensure treatment is effective;
- High expectations of abstinence-based recovery;
- Assertive links to mutual aid;
- Monitoring, and if necessary, repeat interventions to get individuals back on track.

This recovery-focused approach to treatment must also be supported by prison guidance. The current guidance says that longer-term prisoners '*can be encouraged and supported to use their time in prison as an opportunity to achieve abstinence*'.<sup>185</sup> Instead of simply being encouraged, this should be a clear ambition of treatment, as stated in the Patel Report.<sup>186</sup>

## 4.2 Improve Drug Recovery Wings

Drug Recovery Wings (DRWs) are needed to provide a drug-free environment where prisoners can tackle their addictions. Yet that they are even required is an indictment of prisons' inability to keep drugs out of every part of their premises.

If all the recommendations of this report are fully implemented then the need for DRWs would reduce in time as prisons start to become drug-free. Until that point DRWs have a useful role to play. When implemented properly they can create an environment where prisoners are given a decent chance of overcoming addiction and pursuing recovery.

The plan to pilot DRWs was set out in the Coalition Government's 2010 Drug Strategy, where they committed to setting up '*wing-based, abstinence-focused, drug recovery services in prisons*'.<sup>187</sup> One of the key intentions was to '*address the considerably higher rates of re-offending of those offenders with substance misuse problems*'.<sup>188</sup>

Between 2011/12, pilot sites were established in 10 prisons across England and Wales.<sup>189</sup> There are also around 35 more, which have been set up by prisons that were not part of the original pilots. Each DRW was implemented slightly differently. This was intentional to allow for variations in drug problems experienced by prisons and to help identify the most successful models.

<sup>185</sup> Department of Health, *Clinical Management of Drug Dependence in the Adult Prison Setting*, London: Department of Health, 2006, p22 [accessed via: <http://www.nta.nhs.uk/uploads/clinicalmanagementofdrugdependenceintheadultprisonsetting-incamendmentatpara7.7.pdf> (06.11.14)]

<sup>186</sup> See Patel, Lord et al, *The Patel Report: Prison Drug Treatment Strategy Review Group*, 2010, p8 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/216012/dh\\_119850.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216012/dh_119850.pdf) (26.02.15)]

<sup>187</sup> Powis, B et al, *Drug Recovery Wings Set Up, Delivery and Lessons Learned: Process Study of First Tranche DRW Pilot Sites*, London: National Offender Management Service, 2014, p4 [accessed via: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/286040/Drug-recovery-wings-process-study.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286040/Drug-recovery-wings-process-study.pdf) (22.02.15)]

<sup>188</sup> *Ibid*, p6

<sup>189</sup> In 2012, Brinsford, Bristol, Brixton, Chelmsford, High Down, Holme House, Manchester, New Hall, Styal and Swansea. Lloyd, C et al, *Evaluation of the Drug Recovery Wing pilots: Scoping and Feasibility Report*, London: Department of Health, 2014 [accessed via: <http://www.york.ac.uk/media/healthsciences/images/research/mharg/projects/scoping%20and%20feasibility%20report%20with%20full%20appendices%2031.3.14.pdf> (05.03.15)]

It is not possible to give a conclusive perspective on the merits of DRWs, as the final report on the pilots is not due out until later this year. However, it has been possible to identify four principles that are highly likely to be necessary for an effective DRW. Their development was informed by many of those who have played a role in delivering services in these wings, as well as the professionals implementing and assessing them.

The best DRWs are already upholding these principles (we were particularly impressed with HMP Styal's DRW), yet there are many which are not. Some have failed in the most basic task of keeping drugs out. The CSJ recommends that all prisons in England and Wales ensure that their DRWs are upholding these principles.

### Principle One: Residents must be committed to recovery

Drug Recovery Wings must embody the principle of abstinence-based recovery. The Coalition Government's 2010 Drug Strategy made this aspiration clear from the outset.

Every prisoner who is given a place on a DRW must be committed to the personal long-term goal of abstinence and be actively working towards this. HMP New Hall's DRW embodies this principle: prisoners can only gain access to the wing if they are either drug-free or down to 20mls methadone or 2mg Subutex. The women there frequently started detoxifying prior to entering the Wing. There was the strong expectation that if this were not the case, the women would undergo a rapid detoxification on entering the DRW.<sup>190</sup>

Yet a number of DRWs include prisoners who are not motivated to recover from drug addiction. In some prisons, DRW cells were being used as a dumping ground to alleviate other prison problems. This completely undermines their purpose. For instance, prisoners have been transferred to DRWs to protect them from bullying (YOI Brinsford); to alleviate the general lack of prison beds (HMP Brixton); and to house high-risk or violent prisoners (High Down and Chelmsford prisons).<sup>191</sup>

### Principle Two: Prison staff must be committed to recovery

Residents need the support of prison staff for the best chance to tackle their addictions. Prison staff need to encourage prisoners in their recovery and ensure the integrity of DRWs.

Caroline Cole, Working Group Member and Head of Research and Implementation at RAPT, stressed that *'there is a systemic culture discernible in some prisons of low aspirations for clients underpinned by pessimism about clients' ability to become abstinent and recover'*. One of the most significant challenges DRWs face is the principle of abstinence-based recovery not being enforced in practice. For example, at HMP Chelmsford, despite there being a *'reduction ethos enshrined in the compact that all prisoners were required to sign on coming to the wing'*, it was reported that:

<sup>190</sup> Ibid, p40

<sup>191</sup> Ibid, pp34,12,17,20

*'While staff spoke about the importance of achieving reduction on E Wing [DRW], the prisoner interviews suggested that there had been little pressure on them to achieve this.'*<sup>192</sup>

Some prisons have ensured that prison staff are supportive. For example, the following was reported from HMP Styal's DRW:

*'It was clear that they [prisoners] trusted the staff, and though they often had the closest relationship with their key worker, felt that they could talk to whoever was on duty in the house if they had a problem and found them to be approachable, empathetic, and understanding.'*<sup>193</sup>

This success is undoubtedly, in part, because the staff are all drug workers, as opposed to general members of staff.<sup>194</sup>

### **Principle Three: Residents must be given opportunities for progression**

Overcoming addiction is an extremely difficult task that demands resolve and dedication. It is important that every-day actions aimed towards recovery are recognised to encourage residents to continue in their efforts.

'Progression' must operate in two senses. First, prisoners who are prescribed an opioid substitute should have a clear reduction plan in place. HMP Styal is impressive in this regard as only one DRW resident does not have a clear end date for when they plan to achieve abstinence.<sup>195</sup>

Secondly, prisoners should have the opportunity to support others to recover: HMP Styal runs an effective "Recovery Champion" system where prisoners are enabled to do this. Those we interviewed for this review were widely supportive of this approach. Prisoners were particularly positive about peer support. One told us that *'it's nice listening to a peer mentor 'cause they've been where you've been'* and that *'when you deal with people who care, it makes you want to care'*.

#### **Styal Prison: A Recovery Champion's story**

*'My name is Cherie Cooper. I am 28 years old and have been in Prison for nearly three years. I have 10 years left on my sentence.*

*'I developed a drug and alcohol problem when I was 12 years old because of the issues in my life. Every drug I took wasn't enough and I tried to take my own life. I was crying out for help and still didn't receive the help I needed in the community.*

<sup>192</sup> Ibid, p22

<sup>193</sup> Ibid, p281

<sup>194</sup> Ibid, p274

<sup>195</sup> Ibid, p26

*'When I came to HMP Styal in August 2013 I immediately became abstinent as a result of working with the Drug and Alcohol Recovery Services (DARS). But my rehabilitation didn't stop there. I was delighted to be offered the opportunity to become a Recovery Champion on the Wing – I will have been one for two years by May 2015. It has opened my eyes about a lot and given me many opportunities to keep learning and learn about myself and my addiction.'*

*'In my role I get to help other women who are struggling with addiction – I help them realise why they should care about recovering and how they can do it. I try to show them how much I have changed, and how much happier I am now as a result of tackling my addiction. It tends to help. I get paid prison wages for this role too.'*

*'As well as being able to support other women I have been supported to gain qualifications to enable me to do this ever more effectively. I have been helped to get qualifications in health improvement, peer mentoring and business administration.'*

## Principle Four: Drugs must be kept out

Drug Recovery Wings must be free from all drugs, bar those substitute opioids from which residents are detoxing and legitimately used prescribed medication. Despite prisoners' best efforts, abstinence-based recovery is far more difficult if drugs are freely available. A prisoner told the CSJ that if *'someone is clean for three months and they have drugs dangled in their face, they are going to take it.'*

A secure and distinct physical environment is crucial for success. HMP Styal has done this more effectively than many other prisons by creating a community-oriented wing where prisoners eat, sleep and exercise separately from the rest of the prison. It is easier to do this in relatively large and spacious prisons as opposed to smaller, more crowded prisons.

Yet there are simple things that all prisons need to get right to clamp down on drugs getting onto the wing. For instance, until recently HMP Brixton's Drug Recovery "Wing" was in fact only half of a wing, with the other half filled with regular prisoners. The CSJ heard from staff within Brixton how originally, they used to open up the doors between the two halves of the wing during lunchtimes so that one prison officer could patrol both parts.

DRWs have an important part to play in facilitating abstinence. Yet to be effective, they must ensure that each of these four principles are being upheld to ensure addicts are given the space and support they desperately need.

## 4.3 Connecting prison and community treatment

The need for drug treatment rarely ends at the prison gate. Instead, most prisoners recovering from addiction continue to require treatment after they leave prison. It is crucial that they receive continuity of treatment.

A lack of continuity can have significant consequences. A current prison substance misuse worker told the CSJ:

*'Clients need continuous support. If they are on a recovery pathway when they are in prison and they do not have that continuity of care, they will have to go all the way back to the start again.'*

There is also a greater risk of drug-related deaths in the few weeks after release. Upon release from prison, the risk of a drug-related death for UK prisoners is 7.5 times higher during the first two weeks, compared with weeks three to 12.<sup>196</sup> Substance misuse specialist Dr. Joss Bray told the CSJ:

*'The danger period is when you leave prison having got off drugs – the risk of death from unintentional overdose is much greater because of loss of tolerance.'*

There is some good work under way to help bridge the treatment gap. In particular, Ministry of Justice (Moj) has implemented 'Through the Gate Substance Misuse Services' (TTG SMS) pilots in 10 prisons across the North West of England. We detail this in the case study below.

#### North West 'Through the Gate Substance Misuse Services' Pilots

In April 2013 the Moj and the Department of Health (DoH) started 10 pilots to improve prisons' approach to addiction. The two main goals of the pilots (which are on-going) are to encourage offenders to engage in their own rehabilitation and recovery and to improve links between prison and community treatment.

First, it seeks to improve the identification of drug users in prison. This has involved increasing the frequency of testing so that every prisoner in the pilot prisons was drug tested both on reception and immediately before they were released. It also involved increasing the number of searches and dogs in operation in the prisons.

Secondly, it is seeking to improve the pathway from prison to community treatment. It has made it easier for ex-offenders to enter prisons to mentor prisoners. This is helping prisoners build trusting relationships with mentors before they enter the community. This approach was recommended by Jonathan Aitken's paper for the CSJ, *Meaningful Mentoring* (2014). Substance misuse services in the prisons have also made a concerted effort to assist prisoners in improving their family ties. Abstinence-based housing is also made available to those offenders who would otherwise be homeless upon release.

The pilots are an encouraging step forward in bridging the gap between prison and the community. There is also good work being done in other prisons. For example in 2014, RAPT set up a Transitional Support Service, which we detail below.

<sup>196</sup> Merrall, E et al, 'Meta-analysis of drug-related deaths soon after release from prison', *Addiction*, 105(9), 2010, pp1545–1554 [accessed via: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2955973/> (22.02.15)]

## RAPt's Transitional Support Service

Following consultation with thousands of former imprisoned drug addicts, RAPt realised how often good work to tackle addiction in prison was being undone in the first few weeks after release. RAPt set up a Transitional Support Service in 2014 to tackle this problem.

As part of the service a practitioner engages with substance misuse prisoners six weeks prior to discharge and supports them in the community for up to three months to help embed their recovery. A prisoner who benefited from the service told the CSJ:

*'When I first came on to the programme the peer supporters were able to help me massively, and I trusted them as they had been through the same sort of life that I have had. Peer supporters aren't just another authority figure – they were prisoners like me.'*

In some prisons, such as HMP Stanford Hill, RAPt has started to use the Release on Temporary Licence (ROTL) function to allow serving prisoners, who are in recovery, to fulfil this bridging role for other prisoners.

Yet, while there are pockets of good practice, many areas have poor links between prison and community treatment. We heard from substance misuse workers that *'while some areas are linking community and prison treatment well, this is rare. In too many areas offenders are left to fend for themselves'* and that *'due to a lack of support people are leaving prison, not getting supported and are spending their discharge grant [of £46] on their addiction as a way of coping'*.

A further concerning aspect of the current approach is a practice known as "retoxing". Retoxing (also known as re-induction) is the practice of increasing a prisoner's substitute opioid dosage prior to release to increase their tolerance and thereby reduce the chances they will overdose if they relapse.<sup>197</sup>

There is some evidence that retoxing can reduce the chances of overdosing on release.<sup>198</sup> However, those working with addicts and former-addicts repeatedly stressed to the CSJ that retoxing can also put recovering addicts back into a mind-set of using drugs at the very moment when the day-to-day structure of prison life is being withdrawn. There is significant concern that it encourages people in recovery to relapse. For example Huseyin Djemil, Working Group Member and former London Drug Strategy Coordinator, told the CSJ:



<sup>197</sup> Strang, J et al, *Drug misuse and dependence: UK guidelines on clinical management*, London: Department of Health et al, 2007, p80 [accessed via: [http://www.nta.nhs.uk/uploads/clinical\\_guidelines\\_2007.pdf](http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf) (27.02.15)]

<sup>198</sup> Ibid

*'There is a "double danger" with retoxing: it doesn't address the trigger to revert to drugs that people face when they leave prison; and supplying the methadone itself acts as a trigger for further drug use. It is a fundamental misunderstanding of where an individual is at in their recovery.'*

Caroline Cole of RAPt also held this concern. She said:

*'My experience and understanding gleaned from over 20 years working in substance misuse services sees retoxifying with substitute drugs as counter-productive to supporting people into recovery; it keeps people small. Propping people up with substances fosters dependence on both the substance and the agency delivering it.'*

The CSJ also heard concerning examples of prisoners being pressured into retoxing. Prison officials told the CSJ:

*'There have been a number of cases where prisoners, especially those on longer sentences, successfully tackled their drug addictions and became abstinent, only to be retoxed and put on 80mls [of methadone] just before being released. It undoes all their hard work.'*

*'While increasing doses can help to reduce overdoses on release, it is overused – prisoners are often railroaded onto more methadone when they don't want it. That isn't right.'*

*'The message that retoxing gives clients is that they are destined to stay stuck in addiction forever and that being a drug addict is all they can aspire to be.'*

James McDermott, director of RIOT, told the CSJ that the practice is *'completely counter-productive and the money could be better spent.'* A significant majority of prisoners the CSJ spoke to agreed. They told us that retoxing is *'setting you up to use'* and that *'if I got retoxed, I would definitely use again'*.

### Improving continuity

A reliance on retoxing is symptomatic of a failure to properly support prisoners with an addiction into community treatment. The TTG SMS pilots are helping to change this and the CSJ recommends that they both continue and expand across a greater range of prisons. In addition to this we recommend that three broad changes are made across the entire prison estate.

First, all prisons should use peer mentors to bridge the gap between prison and community treatment services. The MoJ's "Transforming Rehabilitation" reforms have brought in new private and voluntary sector providers to deliver the majority of probation services. They have flexibility to innovate in the way they deliver their services. They should use this flexibility to build up an army of 15,000 mentors to help support offenders to fully recover from drug addictions.

Mentors should meet prisoners while they are still in prison and, where possible, should be ex-offenders. Both of these factors will help to ensure meaningful relationships develop between prisoners and mentors. Prisoners should be allowed out with their mentor prior

to the end of their prison sentence under ROTL to enable them to connect with recovery communities outside of prison. The significant role mentoring should play is discussed in detail in a report written for the CSJ by the former-Cabinet Minister and -prisoner, Jonathan Aitken, called *Meaningful Mentoring* (2014).

Secondly, prisoners should stop being released on a Friday. More than a third (36 per cent) of all those released from prison in England and Wales are released on a Friday.<sup>199</sup> Most treatment and addiction support services are not open over the weekend. Having to wait three days before they can access any support can severely undermine prisoners' chances of continuing in their recovery. James McDermott told us that '*releasing people on a Friday is an absolute farce – it is leading people to fall off the wagon and it is happening far too regularly*'. Prisoners agreed. For instance, one said that '*if you don't get the support, you'll just go back to what you know*'.

Thirdly, we need a more sensible approach to prescribing. It is wrong that, in some cases, prisoners are being strong-armed into retoxing. If drug addicted prisoners were quickly and effectively connected to high quality treatment services outside of prison then retoxing should not be required. As prisons develop effective links between prison and community treatment, prison prescribing practices should reflect this change and keep those being retoxied to an absolute minimum.

Our vision of treatment is one where prisoners are properly motivated to work towards abstinence-based recovery and supported with individualised, intensive care. Continuity of care upon release is a vital aspect of this vision because it ensures that efforts made by people in prison are not wasted when they leave. As well as providing thousands of individuals with the opportunity to escape addiction and the problems associated with it, this system would reduce crime, violence and social unrest for the country as a whole. This chapter has five primary recommendations, which we summarise below.

## Chapter Four Recommendations

**Recommendation 20:** The National Health Service (England) to commission abstinence-based drug treatment in prisons.

**Recommendation 21:** Prisons in England and Wales to ensure that Drug Recovery Wings uphold the four principles outlined in this chapter.

**Recommendation 22:** Community Rehabilitation Companies to ensure that all drug addicted prisoners who come under their care are mentored through-the-gate and are supported into community treatment.

**Recommendation 23:** The Ministry of Justice to ensure that prisoners are never released on a Friday.

**Recommendation 24:** The Department of Health to ensure that retoxing is used only as a last resort in substance misuse services in prisons in England and Wales.

<sup>199</sup> Please note that the data were only available for the first three quarters of 2014 at the time of publication and that our statistic is based upon this. Written answers and statements, 9 February 2015 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-02-02/222892/> (22.02.15)]



# Conclusion

Prisons are awash with drugs. No-one interviewed for this report suggested otherwise. The data back them up: just under a third of prisoners admit that it is easy to get illegal drugs in prison; and seizures of NPS have boomed over this Parliament.<sup>200</sup>

It does not have to be this way. Change is possible. It requires a three-pronged attack:

- Drugs must be kept out of prisons;
- Demand for drugs must be reduced;
- Drug addicted prisoners must receive effective support into recovery.

This paper has set out practical, cost-effective ways of achieving these three aims. The introduction of Body Scanners in prison – which can identify whether someone has drugs hidden in body cavities – will be a game-changer in reducing drug smuggling. Testing more prisoners for a greater array of drugs and sanctioning them quickly and fairly will ensure prisoners are incentivised to tackle their addictions. And ensuring prisoners have access to abstinence-based treatment, rather than being parked on methadone, will help them overcome their addictions and fully recover.

The barriers to change are political, not practical. Politicians have been promising to address this problem for decades, yet little has been done. Focusing on and investing in prison reform has never been a top political priority.

Yet the evidence from this report should make them think again: it shows that everyone – bar drug dealers – is losing under the status quo. The failure to keep drugs out of prison and to support prisoners with an addiction into recovery is driving insecurity within prisons, leading to debt and violence against prison staff and between prisoners. Drug addicted prisoners are suffering from serious physical and mental health issues and are far more likely to commit crime upon release. It is not possible to transform the lives of many prisoners without tackling addiction. Finally, society is suffering as drug addicted former-prisoners are committing crime to pay for their habits.

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200 Hansard, Written answers and statements, 21 October 2014 [accessed via: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-26/209374/> (27.02.15)], and Her Majesty's Chief Inspector of Prisons for England and Wales, *Annual Report 2013-14*, London: Her Majesty's Inspectorate for England and Wales, 2014, p30 [accessed via: [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR\\_2013-14.pdf](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf) (19.02.15)]

Whoever wins the UK General Election in May 2015 must make tackling drugs in prison a top priority. By doing so, they can significantly improve rehabilitation by making prison an effective intervention that turns around lives and cuts crime.

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