
Older people in prison

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INTRODUCTION

This paper examines the current state of provision for older prisoners in England and Wales and considers what improvements are possible.

BACKGROUND

The recent enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 has focused attention not only on the perennial issue of law and order, but also on the growing prison population and the ability of the system to cope with any further significant influx of inmates; even as the Act was receiving Royal Assent, the number of imprisoned people had reached record levels. But it is not just young people being sentenced; a significant proportion of prisoners are elderly and people aged 60 and over represent the fastest growing age group in prisons; the number of sentenced prisoners aged 60 and over rose by 128% between 2000 and 2010.

In December 2011, the total number of prisoners reached 87,960, taking the population to about 1,500 short of the usable operational capacity of

89,482. And yet when introducing the Bill to Parliament, the Prime Minister stated that: “We have got to stop this massive acceleration in prisoner numbers. But the right way to do that is to reform prison and make it work better.”

The timing of the Act was therefore prescient, coming as it did after last summer’s brief unrest and consequent rise in numbers of those incarcerated. But more importantly, it also made the link between making prison work properly as a means of rehabilitating inmates and reducing the overall rate of reoffending, which remains dispiritingly high. For example, 49% of adults are reconvicted within one year of being released – for those serving sentences of less than twelve months this increases to 61%. The rate of reoffending for those who have served more than ten previous custodial sentences is 79% (PRT Bromley Briefing December 2010).

GROWING OLD IN PRISON

The proportion of the sentenced prison population serving indeterminate sentences (life sentences and indeterminate public protection sentences) increased from 9% in 1995 to 18% in 2010. This is part of

the reason why the numbers of older prisoners is growing. It follows that the majority of these will have been imprisoned for serious offences and no one should be in any doubt about the need to protect the public from those convicted of such crimes where appropriate. For example, 40% of men in prison aged over 50 have been convicted of sex offences. The next highest offence among older prisoners is violence against the person (26%) followed by drug offences (12%) (PRT Bromley Briefing December 2010).

It is worth pointing out here that any person held in prison aged 50 years and over may be considered to be an 'older prisoner.' Though the age at which a person is considered to be 'older' is usually 60 or above, there is evidence that many prisoners in their 50s and over have a physical health status ten years greater than their contemporaries in the community.

In any event, older people in the criminal justice system remain a hidden and little recognised population. Few people tend to think about the role of prisons in housing those that have committed crimes in their old age, or who have grown old in jail.

In addition to the growth in indeterminate sentences, what are the reasons behind this growth in the older prison population? From the few studies conducted to date, the cause is generally attributed to:

- changes in social and police attitudes to older people;
- less tolerance by the courts of deviant behaviour by older people and therefore a greater readiness to imprison them;
- tougher sentencing in general, especially longer sentences for sex offences and mandatory life sentences;
- the accumulation in prison of older habitual offenders and those ageing through long sentences;
- the impact of the Criminal Justice Act 2003, which will continue to increase demand for prison places, with an expected increase of prisoners on Extended Sentences for Public Protection.

(HMIP 2004; Wahidin 2009)

The increase in the older prison population is not then just a phenomenon attributable to demographic changes, nor can it be explained by a so-called 'elderly crime wave'. The increases in numbers cited are part of a trend as a result of changes in attitudes within society and the criminal justice system, coupled with an ageing population.

However, to date no additional resources have been made available to meet the needs of this particular group of offenders, either within or outside prison. And according to 'Older prisoners in England and Wales' HM Inspectorate of Prisons (2008), apart from short sections in the Prison Service Orders on disability and women, there remains no national strategy for older prisoners as such, supported by mandatory national and local standards.

SUPPORT IN PRISON

As has been noted above, many older prisoners have been found guilty of serious crimes, and the public has a right to expect protection from them. But equally, this is not a reason for them to receive sub-standard support within the prison system.

Older prisoners should receive the same level of basic social and health care support as non-prisoners and guidance should be developed and disseminated to Resettlement Teams outlining best practice and responsibilities in resettling older prisoners, including pensions advice, housing, and accessing healthcare. The 2008 HMIP report raised grave concerns that the social care needs, in particular, of older and disabled prisoners were not planned or provided for after release. Legislation clearly states that local primary care trusts have a duty to provide healthcare to prisoners, but, the equivalent legislation relating to social care provision is ambiguous. Prisoners are not explicitly included or excluded from a local authority's duty of care. But in practice this ambiguity allows many authorities to renege on their responsibilities; statutory responsibilities should be clarified so that local authorities have a clear duty to provide in-prison social care.

The report also indicated 'little evidence of multidisciplinary working' and found it 'disappointing that the social care needs of older and disabled

prisoners were still considered the responsibility of health services only.’ And over 90% of prison staff that responded to a survey conducted by the Prison Reform Trust said that social services had no involvement in their prisons. Only five prisons reported that an occupational therapist came in to the prison when required and would provide daily living aids (Cooney with Braggins 2010).

There is reference in the report to the ‘complete lack of staff training in identifying the signs of mental health problems among the elderly.’ This is especially worrying, as evidence of the health needs of older prisoners has been available for more than ten years (Fazel et al, 2001). Recent research by Staffordshire University (Le Mesurier et al, 2010), for example, revealed that 48% of older people in four prisons had at least one diagnosable mental health condition, excluding personality disorder. Most had some kind of physical health problem. Finally, the HMIP Annual Report 2007-08 revealed few prisons have a designated nurse for older prisoners.

THE PHYSICAL ENVIRONMENT

Older prisoners need greater choice in prison accommodation. According to NACRO (2009), many older prisoners wish to remain in a mainstream wing environment, with access to all the available resources, and they should be supported in doing this, but with the option of having quiet spaces, wings and cells. Simple environmental adaptations should also be considered and the creation of facilities with enhanced resources for accommodating older prisoners who may have mobility or other support needs. Resource mapping should be carried out at local and regional level to support moves to a more flexible regime for older prisoners.

MANAGEMENT OF OLDER OFFENDERS IN AND OUT OF PRISON

Public confidence in the management of older offenders in the community could be significantly improved. For example, Multi-Agency Public Protection Arrangements (MAPPA) are a set of statutory arrangements to assess and manage effectively the risk posed by certain sexual and violent offenders. They were established by the Criminal Justice Act 2003 and bring together the

Police, Probation and Prison Services into what is known as the MAPPA Responsible Authority for each MAPPA Area. It would make sense for older people’s advocacy and support services to be fully involved as part of these arrangements.

In order to further reduce the likelihood of these prisoners reoffending, it is imperative that those services which best aid rehabilitation – health and social care support, housing and pensions advice, education and training – be made available to them, both in prison and crucially, following release. For example, as noted above, prisoners are likely to have earlier onset of chronic health and social care needs than the general population. As a result, older offenders generally fall into that category at an earlier age than they would outside of the prison system and there is significant evidence that, in health terms, prisoners suffer greater health problems than the general population.

Pathways towards and through resettlement are not currently geared up to older prisoners. Offending behaviour programmes, employment opportunities and education and training schemes are primarily designed for and aimed at young men. Where older prisoners do gain access to appropriate opportunities, these are frequently disrupted by prison transfers. Programmes should be designed with the needs of older prisoners in mind; sentence planning should ensure access and continuity.

What is needed is better care, resettlement and rehabilitation of offenders and ex-offenders over the age of 50, in particular, but not exclusively through the provision of support services, advocacy, financial advice, mentoring on issues such as employment and training and advice on housing and health. This in turn will enable them to take control of their lives and remain free from offending and prevent them from becoming socially excluded on their release.

Perhaps what is also required is more of an emphasis on what is called ‘service user involvement’ or ‘user voice’. A good example is older prisoners forums, such as those delivered by RECOOP, a charity offering advice and support to older prisoners. Advocates of the idea make the basic point that you are far more likely to achieve a good service if you can incorporate feedback from the

users of a service, and involve them in its delivery or design. This echoes some of the ideas coming from the current UK government around localism and decentralisation and the provision of public services.

PROBLEMS FACED ON RELEASE

Many older prisoners experience problems related to housing and pensions/income on release from prison. These problems are often closely linked, and self-perpetuating. A significant number will have lost their homes, or will find it difficult to find affordable accommodation; resettlement grants are not adequate to pay for housing. In addition, many prisoners will not previously have been able to claim a pension.

It is therefore vital that older prisoners are able to access effective advice, support and signposting services both inside and outside of prison. Ensuring that older prisoners have access to appropriate accommodation on release should be a priority for prison resettlement/probation teams and local authority/housing association housing officers.

Voluntary sector agencies also have a key role to play in improving the lives of older prisoners both inside and outside prison; there are excellent examples of the third sector providing support services, advocacy, information and advice and signposting to prisoners, amongst others. Greater opportunities need to be given to the third sector to provide these and other services to older prisoners.

IMPLICATIONS FOR THE PROBATION SERVICE

Many older prisoners find the resettlement process unsatisfactory in terms of the support and guidance they are given and the blame for this tends to fall on the probation service. They in turn admit that the service, particularly inside jails can be patchy (Crawley 2004), but suggest this is due to insufficient resources and those that are available being allocated according to the perceived risk to the public. Most older prisoners are deemed to be a low risk while still locked up and only as their release date nears are their needs addressed. They are also generally less assertive than their younger counterparts and do not request information, or at least do not do so repeatedly if it is not forthcoming.

Probation staff need to take account of the particular needs of older prisoners in terms of their resettlement and support prior to release and ensure they are not overlooked. They should ensure all the relevant information is made available and that it is fully understood.

SUPPORTING OLDER PRISONERS PRIOR TO RELEASE

Age UK is a national charity working on behalf of older people and it believes there is significant scope for improving the day to day lives of older prisoners, most obviously by offering practical support in tackling the more common age related conditions. We have previously called for older prisoners' forums to be established in all prisons with an older population, but beyond this there should be a focus on promoting activities suitable for them and ensuring that their health needs are properly addressed. There is also the physical environment to be considered and the impact that this can have on well being.

In July 2009, NACRO and the Department of Health published a resource pack for working with older prisoners, aimed at wing-based prison staff, disability liaison officers, peer support workers and anyone else who has an interest in enhancing the lives of older prisoners. It includes good practice ideas and suggestions for setting up activities in establishments for older prisoners. It is also intended to act as a reference on different organisations to encourage prison workers to contact other agencies for information and improve the quality of their information, advice and guidance service for older prisoners.

Meanwhile, the Legal Aid, Sentencing and Punishment of Offenders Act gives the Secretary of State new powers to make prison rules about the employment of prisoners, pay and deductions from their pay. The intention of these provisions is that prisoners should make payments which would support victims of crime and make prisons places of hard work and industry, where prisoners will be expected to work a full working week. With recent changes in UK legislation affecting the statutory retirement age, it is likely to be the case that many older prisoners will still choose to work, but others

may not be able to do so (perhaps because of a health condition) and prison authorities will need to provide the opportunity for older inmates to take up alternative activities. The resource pack makes a number of suggestions and Age UK has encouraged its use as widely as possible in establishments catering for older prisoners.

For some older prisoners, the routines of prison life and close proximity to health services can provide a measure of security that is not available in the community. But for many, their time in prison is spent in a limbo of inactivity. HMIP's own review, *Time Out of Cell*, recommended that a minimum of ten hours a day should be spent out of cell by all prisoners as a Key Performance Target, and that adequate opportunities for stimulation be provided besides television in cell. Its recommendations were based on findings that showed that most prisoners spend much less time than this out of their cells in education or employment. Older people in prison, some of whom are retired or unable to take part in these activities, are particularly likely to remain all day inside their cells with little or no occupation or stimulation, and at a risk to their health. Few prison cells are adapted to the needs of older or disabled people in prison.

DECENTRALISATION AND THE BETTER MANAGEMENT OF OFFENDERS

The UK Government has made clear in its recent White Paper on Open Public Services (2011) a desire to see public services opened up to a range of providers competing to offer a better service. However, we would anticipate a need for on going lines of accountability for public bodies. While they may transfer more roles to different organisations, they are still ultimately responsible for meeting their statutory functions. There will still need to be continued oversight and inspection of the performance of services commissioned and delivered by public bodies.

There also needs to be a process for members of the public to assess the suitability and quality of services and decisions. To ensure transparency and accountability, a form of performance management system is essential, although this could be more

locally, rather than nationally, determined. And some level of national oversight will be needed for ensuring local agencies meet public duties set at national, European and international level.

AGE UK AND SUPPORT FOR OLDER PRISONERS

The charity supports a national body, the Older People in Prison Forum, while some local Age UKs work closely with the prison service in partnership with health and social services and other voluntary organisations.

The work of local Age UKs can provide positive and cost-effective contributions to what is known as the 'dynamic security' of the prison (its activities and relationships, as well as its physical security) and can support prison audit measures. Local Age UKs can complement the work of equality officers, resettlement teams and prison health care services, primary care trusts and local authority social services. In addition, they provide information, advice and advocacy, support health and wellbeing and some provide what are known as 'through-the-gate' services, helping prisoners prepare for release.

For example, Age UK Bristol through the Older Prisoners Advice Service provides a weekly pensions and benefits help session for people aged 50+ at HMP Bristol. A recent evaluation concluded that a high level of confidentiality has been maintained, but records of sessions are detailed and are open to scrutiny as a full record of the service provided and the outcomes achieved. This is the responsibility of the project worker and monitored by the management at Age UK Bristol. From the records it is apparent that effective steps were taken to resolve issues to a 'case closed' outcome in most cases and particularly in cases when a prisoner was due for release. However, data from the project reveal that many sessions required the project worker to undertake 'follow-up' with outside agencies e.g. DWP, and this is a time-consuming process. Nevertheless the majority of queries relied on this thorough intermediary research, to resolve issues, and it was being undertaken effectively.

'Supporting older people in prison: ideas for practice' is part of Age UK's Expert series and offers accessible and practical information on how Age UK can assist the prison service and health and social care providers for older people to fulfil their duties under the Equality Act, 2010, and the HMIP review *Time Out of Cell* (2007). The guide presents a range of services for older people in prison that local Age UKs provide in partnership with prisons and providers of prison health and social care services, bringing to life the impact of services on older people's health and well being in prison.

Other organisations working with older people in prison include *Restore*, which is a peer-mentoring and support network founded in 1996 by a group of older people serving sentences in Bedford, Lincoln and The Mount prisons. Since then it has since worked with over 350 older serving and former prisoners and is moving toward becoming a registered charity and membership body for all older people currently serving, or having served a prison sentence – regardless of their disability, race, faith or non-faith, sex, or sexual orientation.

The Department of Health has funded a project in HMP Isle of Wight, which has recently been extended for another twelve months. This is used by the Older Prisoners Forum (see below) in the design of an integrated health and social care assessment for older prisoners for use as a 'passport to care and resettlement' prior to release, which will be of benefit also to probation.

Lastly, through Older Prisoners' Forums, local Age UKs can help older people in prison to play an active role in improving the quality of the prison regime. These have become a part of the regime in a number of prisons and are being developed in various forms in others. Older prisoners' forums are managed according to a formal constitution and officers are democratically elected. They are overseen by prison staff but are managed by older people themselves. Some forums have become formally affiliated to local and national older people's forums in the community. A constitution and processes to elect officers are developed with the prison service and publicised. Regular meetings are held according to an approved agenda and guest speakers may be invited. Topics can be of specific interest to older people in prison

(e.g. benefits and pensions advice) but may also be of general interest. They can raise issues and seek to influence and advise, but they are not a union and cannot make demands.

CONCLUSION

The issue of older prisoners and their needs within the prison estate is not going to go away. With the current sentencing policy in England and Wales and advances in forensic science, we can expect more and more people to grow old in custody, or begin sentences late in life and it is therefore important that their needs are recognised by those employed to care and rehabilitate them; at the same time, support for those who are released is equally as important, particularly if we are to prevent reoffending. It is hard to understand, even in a time of austerity, why a minimum level of resource has not been made available for this purpose and in particular why there remains no national strategy for older prisoners, supported by mandatory national and local standards.

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