

Private Punishment: Who Profits?

Prisons have been at the forefront of privatisation in the UK since the first privately managed jail was opened thirteen years ago. Prison privatisation is now the flagship of the Government's private finance initiative (PFI). So much so, that the Confederation of British Industry (CBI) has highlighted that, unlike other areas of public service reform, the private sector's role goes '*beyond traditional facilities management and infrastructure support; it has taken on and delivered core public sector goals*' (CBI, 2003).

Today there are over seven thousand adults and young offenders held in ten private prisons in England and Wales, just under ten per cent of the prison population. It is the highest proportion of prisoners in privately run jails in Europe. This briefing paper assesses the impact, and raises questions about the benefits, of privately financed, designed, built and operated prisons. It also examines the record of the private companies involved and considers the Government's future plans under the National Offender Management Service for extending the private sector's role. It argues that there is a need to reassess the merits of privatisation and for a wider public and parliamentary debate on the issue.

"The involvement of the private sector in public service provision is something we have become used to - in hospitals, schools, universities, for example - though it remains controversial.

What the Prison Reform Trust is asking is: are there some specific concerns, beyond the general debate about privatisation, that apply when prisons are involved? If numbers in prisons need to be reduced - as most agree - is it helpful to create an interest in their growth among companies and their shareholders? Are there some real conflicts of interest which we are likely to have to address: for instance will judges and jurors have to be vetted to ensure that they do not have an interest in sending more people to prison? More generally, if prisons become part of the 'commercial sector', do those running them have an interest in reducing regimes or staffing

levels in ways that militate against the restorative aims of imprisonment?

Even if particular prisons - the majority - remain in the public sector, does 'contestability' mean that the ethos of the whole service is actually dictated by the aims of the private sector? Or does the whole service benefit by the presence of private 'providers'?

These are just some of the questions which private prisons raise, and it is good that the Prison Reform Trust is raising them. They ask for a vigorous public debate, and I join them in hoping for a good response."

Rt Revd Dr Peter Selby
Bishop of Worcester and
Bishop to HM Prisons

Foreword

The TUC welcomes this timely and thorough report from the Prison Reform Trust. It lifts the lid on the economic realities of our network of private prisons - the largest in Europe. And it should act as a wake-up call to those making the case for greater private sector involvement in the prison system and indeed in our public services generally.

In particular, the TUC welcomes the finding that savings made by operators have largely been achieved at the expense of employment conditions for Prison Service staff. The report clearly demonstrates the harsh realities of working in a private as opposed to a public prison: basic salaries for prison officers nearly a third lower, longer working weeks, fewer holidays and less generous pensions.

As a result of these vastly inferior terms and conditions, many staff are young, inexperienced and have little prior knowledge of the prison system. And there are less of them: in private prisons, there are 17 per cent fewer staff per prisoner. It is no surprise the staff turnover rate is at least double that in the public sector - hardly a recipe for effective service delivery.

The upshot of cutting corners and trimming costs is that safety may be compromised for both staff and prisoners - six out of the 10 private prisons fail to meet their targets on serious assaults. And the drive for profit also affects the quality of prison regimes, with just one private prison meeting its target for purposeful activity for inmates.

One of the biggest problems with private prisons is the lack of accountability. The lucrative market for building and running prisons is also a highly secretive one. Significant profits are being made out of our criminal justice system at the same time as Parliament and the public are denied the opportunity to scrutinise the contracts handed out to prison operators. Whereas public prisons are subjected to rigorous evaluation, the same rules do not apply to privately-run facilities.

And many of the private contractors are also making vast windfall gains during the refinancing

of PFI loans. This is something that needs further investigation - both within the prison system and elsewhere in the public services.

Taking all of this into account, one thing is clear. There must be a mature, vigorous debate about who runs our prisons. With the scope for competition in the service due to be extended in 2005, the time is right to reassess the merits of prison privatisation and more widely the ethics of profiting from the administration of criminal justice.

The risks of getting our approach wrong are significant. We know companies will go where returns are likely to be greatest, and the danger is that a two-tier prison service is developing: the private sector running profitable modern establishments and the public sector left to manage outdated Victorian prisons. And at a time of record prison numbers and chronic overcrowding, we must question a system where companies have a vested interest in keeping the prison population as high as possible.

A fundamental change of direction is required. All the evidence presented in this report suggests private prisons perform no better than their public equivalents. And there are some significant downsides, not least employment conditions for staff and a lack of accountability to the taxpayer.

As Tony Blair said in 1993 when shadow Home Secretary: *"I believe people sentenced by the state to imprisonment should be deprived of their liberty and kept under lock and key by those accountable primarily and solely to the state"* (Prison Service Journal No. 90).

What has happened to our prison system since 1992 is one of the most under-reported political stories of recent years. With the Government keen to extend the same model of private provision into our education and health services, I urge everybody with an interest in the future of public services to read this excellent report - and act on it too.

**Brendan Barber, General Secretary,
Trades Union Congress**

The Background

Faced with a rising prison population in the late 1980s the Conservative government turned to the private sector to provide extra prison places. Privatisation was seen as the most cost effective solution to the crisis and was part of the Government's determination to promote private enterprise and extend the free market into public services. Championed with vigour by the right wing Adam Smith Institute the policy was ideologically driven rather than motivated by a developed plan to improve penal practice.

In 1986 the Parliamentary Home Affairs Select Committee concluded that the principal advantages of contracting out prison building and management to the private sector were that:

- 1 It relieves the taxpayer of the immediate burden of having to pay for their initial capital cost
- 1 It dramatically accelerates their building
- 1 It produces greatly enhanced architectural efficiency and excellence.

The Select Committee proposed that as an experiment the Home Office should enable private sector companies to tender for the construction and management of prisons (Home Affairs Select Committee, 1987). However, it did not recommend how extensive this should be or give a time frame and no evaluation process was set out.

The Conservative government accepted the Committee's recommendations and said it would take privatisation '*step by step so that we can test it properly*' (Financial Times, 28th January 1992). This decision fitted in with the Conservatives wider agenda to reform public services and tackle the '*restrictive practices*' of trade unions, in this case the Prison Officers Association (Ryan, 2003).

Following a tendering process in which the public sector was barred from participating, Group 4 was awarded a contract to manage HMP Wolds, a newly constructed 320 bed prison for unsentenced male prisoners that opened in April 1992. The prison had a number of initial problems that were highlighted in reports by the Chief Inspector of Prisons, Prison Reform Trust and the National Audit Office. Despite the Company's and the Government's claims, it was not an unqualified success, and there was genuine cause for concern about aspects of the regime in its early stages.

The Conservative government, however, pressed on without a full evaluation and in 1993 announced that all new prisons would be privately built under the private finance initiative and privately operated. It was not deterred when Home Office commissioned research which evaluated the Wolds concluded in 1996 that:

'..similar, and some might argue, better achievements are to be found in some new public sector prisons, showing that the private sector has no exclusive claim on innovation or imaginative management able to deliver high quality regimes...' (Bottomley et al, 1996).

During the Conservatives time in office, as well as the Wolds, a further three prisons (Doncaster, Blakenhurst and Buckley Hall) were opened that had been built with public funds but were privately managed jails. The Conservatives also commissioned the private sector to build and run two more prisons, Parc in Wales and Altcourse in Liverpool.

The Labour Party vehemently opposed the Conservatives' policy on private prisons. But within a week of being elected in 1997, it made

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a dramatic U-turn. On 8 May 1997 Jack Straw announced: *“If there are contracts in the pipeline and the only way of getting the [new prison] accommodation in place very quickly is by signing those contracts, then I will sign those contracts.”*

In a speech to the Prison Officers’ Association the following year Mr Straw announced that all new prisons would be privately built and run (Nathan, 2003). Under Labour six more PFI prisons have been opened and another, HMP Peterborough, is due to start taking prisoners in March 2005 (see table below).

Retendering exercises have led to the companies running Wolds and Doncaster retaining their contracts but both Blakenhurst and Buckley Hall are now run by the Prison Service. Furthermore, market testing exercises for one public sector prison, Manchester, have resulted in the Prison Service successfully beating off bids from the private sector. And in 2001 an attempt to contract out the management of a public prison, Brixton, identified by the Service as under performing, failed when none of the companies submitted a bid.

Private Prisons in England and Wales - November 2004

Prison	Open	Operator	Population (26th November 2004)
PFI (25 year contracts to finance, design, build and operate)			
Parc	1997	Securicor	1,018
Altcourse	1997	Falck A/S	1,004
Lowdham G.	1998	Premier	520
Ashfield	1999	Premier	295
Forest Bank	2000	UKDS	1,008
Rye Hill	2001	Falck A/S	654
Dovegate	2001	Premier	853
Bronzefield	2004	UKDS	406
Peterborough	2005	UKDS	n/a
Contractually managed			
Wolds	1992	Falck A/S	354
Doncaster	1994	Premier	1,134

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The Companies and their Profits

Premier Custodial Group - This is the UK's largest private prison operator. It was formed in 1992 as a joint venture between the American private prison operator Wackenhut Corrections Corporation and a British facilities management firm, Serco PLC.

The company's turnover for the year ending 1994 was £7.52m. Nearly a decade later, by the end of 2002, Premier's combined turnover for all prison and correctional services contracts had grown to £127.4m with pre-tax profits of £9.98m. A dividend of more than £2m was paid to shareholders in June 2002 on top of the £4m paid out in 2001 (Premier Company Accounts 1994-2002).

On 1 January 2000 Premier benefited from refinancing windfalls in respect of its PFI contracts for Lowdham Grange, Ashfield and Dovegate, making £1.60m, £1.54m and £3.20m respectively (Hansard 31st March 2004). The Prison Service did not directly share in any of these gains¹.

In May 2002 the Wackenhut Corporation, which owned Wackenhut Corrections Corporation, was acquired by Group 4 Falck. This ended Wackenhut's involvement in the UK market and meant that Premier Prisons was now jointly owned by Group 4 Falck and Serco. In July 2003 Serco acquired control of Premier for £48.6 million, which represented 90 per cent of the full market valuation. Wackenhut Corrections Corporation made *'a one time after tax gain of approximately \$32.7 million'* from the sale (GEO Group Press Release, 5th February 2004)².

In September 2003 Serco estimated that Premier's total revenue over the life of the existing UK contracts for five prisons, one secure training centre, two immigration facilities and court escort, custody and electronic monitoring services was £2 billion (Serco PLC, 3 September 2003).

Premier built and runs HMP Lowdham Grange, a closed training prison, Ashfield Young Offenders Institution which only holds juvenile prisoners aged 16 to 18 and HMP Dovegate which is a closed training prison that contains a therapeutic community. It also manages the large local prison Doncaster.

UK Detention Services (UKDS) - UKDS was set up in 1987 by Corrections Corporation of America (CCA) - then, as now, the largest private prison operator in the USA - as a joint venture between two long established British construction companies, Sir Robert McAlpine and Sons Ltd and John Mowlem and Co. UKDS was instrumental in lobbying the then Conservative government to privatise prisons and for MPs to vote for enabling legislation.

In 1996, CCA bought out the two British firms and eventually sold half of UK Detention Services to Sodexho, a Paris-based multinational corporation. In September 2000, Sodexho became the sole owner of UKDS after CCA sold out for £3.5m. CCA (UK) made a profit of more than £2m on the sale to Sodexho and shareholders received a £3.16m dividend in year ended 31st December 2000 (CCA (UK) Ltd company accounts, 31 December 2000).

Between 1995 and 2001, UKDS had a turnover of £97.6m and made pre-tax profits of £4.74m. In 2003 its turnover was £30.3m and pre tax profits were £1.95m (UK Detention Services Ltd company accounts, 1995-2003).

UKDS first won a contract to manage a prison, HMP Blakenhurst, in 1992. The company became the first to be fined (more than £41,000) for failure to comply with its contractual obligations. Ten years later it lost the contract after the Prison Service was allowed to bid in a market testing exercise.

In 1998 UKDS won a further contract to finance, build and operate Forest Bank, a local prison near Manchester. More recently, UKDS and its construction and banking partners were awarded contracts to finance, design, build and run the country's first private women's jail with a combined value of more than £478m. HMP Bronzefield in Middlesex opened in June to hold up to 480 women and in March 2005 an 840 bed prison at Peterborough for men and women is due to open.

Group 4 Securicor - This company was created in July 2004 when Securicor was acquired by Group 4 to create the world's second largest security company, Group 4 Securicor. In the same month Group 4 sold off its international corrections business (see below). Securicor's UK corrections businesses were operated by a subsidiary, Securicor Justice Services, and this is now a subsidiary of Group 4 Securicor.

Securicor won the contract to finance, design, build and manage Parc, a local prison in Wales which opened in 1998. In May 2001, Securicor refinanced Parc making £1.4m. The Prison Service did not share in this windfall (Hansard 31st March 2004).

For the year ended 30 September 2003 Securicor Justice Services had a combined turnover from prison management, prison escort and court custody services of £70.6m and pre-tax profits of £8.3m. The dividend to shareholders was £3.5m (Securicor Justice Services, company accounts, 30 September 2003).

Denmark based security firm Group 4 won the contract to manage the first ever private prison in the UK, HMP the Wolds, which opened in 1992. The contract for Wolds was recently renewed for a further ten years. In 1994 the company also opened HMP Buckley Hall, but it subsequently lost the contract to the Prison Service after market testing in 2000.

Group 4 also won contracts in the 1990s to finance, design, build and run HMP Altcourse, a local prison in Liverpool, and Rye Hill, a Category B male prison in Warwickshire. After refinancing the loan for the construction of Altcourse, Group 4 and its construction partner, Carillion, made a windfall profit of an extra £10.7m, of which the Prison Service received only £1m. However this was offset against accrued financial penalties of £0.5m (NAO, 2000).

Falck A/S - This company came into existence in July 2004 when Group 4 Falck sold off its Global Solutions international corrections business division to private equity firms Englefield Capital and Electra Partners for £207m. Englefield and Electra each now own 50 per cent of Falck A/S which, as part of Group 4's restructuring, became the Denmark based holding company for the corrections businesses run by GSL. This includes the operation of Altcourse, Rye Hill, and Wolds prisons.

Financial Penalties - A system of financial penalties is in place to ensure prison operators comply with their contracts. However, the system appears to favour the operators: for example, the cap on penalties is set at five per cent of the annual fee. There is no standardised method of enforcement by Home Office controllers and, over the years, some penalties have been waived.

Premier was fined £426,597 for problems at Dovegate in the first nine months of 2002. It has also been fined £94,865 but has had £11,865 waived in respect of Lowdham Grange on condition that it provide additional services. (Hansard, 6 May 2003).

Group 4's accrued penalties at Altcourse were £0.5 million but were offset against the company's £1 million refinancing settlement with the Prison Service (NAO, 2000). The company was also fined £65,589 for two escapes and failure to implement recommendations made by the Standards Audit Unit at Rye Hill.

Between opening in 1997 and January 2001 Securicor accrued penalties of £1.02 million for problems at Parc. However, £750,000 of that was subsequently waived 'to take account of early problems with contract monitoring' (Hansard 6th May, 2003).

The most publicised difficulties were at Premier-run Ashfield Young Offenders Institution. In May 2002 the Prison Service took the unprecedented step of removing the jail's director and installing public sector management because of concerns over the safety of staff and anxieties that Premier might lose effective control. Premier incurred financial losses, including penalties, of £4.2 million but control was subsequently handed back to the company (Public Accounts Committee, 2003). The prison's capacity has since been reduced from 400 to 300.

Commercial confidentiality and secrecy - Due to commercial confidentiality the key financial and operational details of the contracts drawn up between the private companies and the Home Office are not available for public scrutiny. The process remains secretive³. It is therefore extremely difficult for Parliament to hold these companies to account as is illustrated by the following parliamentary question put down by Simon Hughes in December 2001 when he was the Liberal Democrats Home Affairs spokesman:

'To ask the Secretary of State for the Home Department if bid and tender documents relating to the (a) design, (b) build and (c) management of prisons are published; and if he will make a statement.

Beverley Hughes: The Invitation to Tender (ITT) issued by the Prison Service at the start of a competition for the design, construction,

management and financing of a new prison is freely available. The bids made in response to the ITT are commercial in confidence and therefore not published' (Hansard, House of Commons written answers, 11th December 2001).

Another example of the difficulty that MPs face in getting information about private contractors is provided in a more recent parliamentary question about prison officer vacancies. The Prisons Minister responded that '*Data on prison custody officers in private sector prisons is not included as this is commercial in confidence' (Hansard, House of Commons written answers, 2nd April 2003).*

Healthy profits - For the private companies the market in this country is a highly lucrative enterprise providing them with combined profits of millions of pounds a year.

Some recent pre-tax profits & dividends include:

- 1 The Securicor owned company which runs Parc, Bridgend Custodial Services, made £3.94m in the year ended 30th September 2003. Shareholders' dividends for the year were £2.76m (Bridgend Custodial Services Ltd, company accounts, 30th September 2003).
- 1 The GSL owned company that runs Altcourse, Fazakerley Prison Services Ltd, made £2.5m in the year ended to 31st December 2002 (Fazakerley Prison Services Ltd, company accounts 31st December 2002).
- 1 UK Detention Services Ltd, which runs Forest Bank and Bronzefield, made £1.95 million in the year ended 31st August 2003 (UK Detention Services Ltd, company accounts 31st August 2003).

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Mixed Performance

An argument often used in favour of prison privatisation is that private companies can be more innovative and reform minded, deliver a higher quality regime, or at least the equivalent of the best of the public sector, for lower costs.

A government commissioned report into how best to develop the contribution of the private sector and in particular PFI to achieve the objectives of the Prison Service which was published two years ago noted:

"...experience in this country and abroad is that the specification of requirements and responsibilities, essential to a contracting process, brings a focus to operations which results in higher quality and lower costs." (Carter, 2001)

However, this pursuit of a better quality service through innovation with efficiency savings has not necessarily lead to improved regimes. As the Chief Inspector of Prisons noted in her report on HMP Dovegate the private sector has been open to change which the public sector has in the past found hard to achieve, but this has come with significant drawbacks.

'There was some welcome innovation, and good staff-prisoner relationships. But there was also a worrying lack of experience and confidence amongst a young, locally recruited staff, few of whom had any previous prison experience, and who were operating with low staffing levels and high staff turnover. By contrast Dovegate's prisoners were not inexperienced' (HM Chief Inspector of Prisons, 2003).

Overall the performance of private prisons has been mixed:

Pay and conditions - Last year the Chancellor, Gordon Brown, said that private prison management was an area in which *'we can show that the use of private contractors is not at the expense of the public interest or needs to be at the expense of terms and conditions of employees...'* (Brown, 2003).

'...experience in this country and abroad is that the specification of requirements and responsibilities, essential to a contracting process, brings a focus to operations which results in higher quality and lower costs. (Carter, 2001)'

While overall savings to the taxpayer are yet to be proven, companies appear to have made substantial savings - and higher profits - through inferior pay and conditions for staff compared to their public sector counterparts.

The average basic salary for prison officers in state run prisons in England and Wales in April 2003 was £23,071. In the private sector prisons it was £16,077, nearly a third less (Hansard, 23 March 2004). The average contracted working week is two hours longer and annual leave is 23 days per year, rather than the 25 to 33 in the public sector. The overall package is more attractive in the public sector with better overtime pay and pension entitlements. When all the these factors are combined the difference becomes even more stark, with estimates that staff in private prisons are up to 70 per cent worse off than their public sector counterparts (Sachdev, 2003).

The Parliamentary Public Accounts Committee in 1998 found the cheaper running costs of the private sector were *'almost wholly to do with different wage rates and different staff levels, and also pension arrangements, sick leave arrangements and different lengths of the working week'* (Public Accounts Committee, 1998).

High staff turnover - Low pay is a contributor to the high turnover in many private prisons. Overall, among Prison Custody Officers turnover is 25 per cent - 10 times greater than the 2.5 per cent rate among public sector prison officers (DLA MCG Consulting, 2003). This figure masks regional differences; while in private prison establishments in the North rates averaged 13 per cent, in the Midlands and South this rose to 32 per cent (one had a rate of 49 per cent). In turn, high levels of turnover have:

'caused continuing problems in maintaining staff levels. This put more pressure on existing staff and further exacerbated turnover difficulties' (Prison Service Pay Review Body, 2004).

According to the National Audit Office (NAO) there was a very high turnover of staff in most private prisons and in each case the turnover was higher than in equivalent establishments in the public sector (National Audit Office, 2003). Thus, compared with a public sector average of six per cent, Rye Hill had a turnover of over 40 per cent and Ashfield of nearly 40 per cent; for no private sector prison was turnover less than around 12 per cent - that is, at least double the public sector average.

Low Staffing levels - High turnover is exacerbated by low staffing levels. Overall private prisons have 17 per cent fewer staff per prisoner (Sachdev, 2003). This has been a recurring concern of the Chief Inspector of Prisons. For example at Forest Bank the Chief Inspector noted that relationships between staff and prisoners were 'extremely positive' but 'most wings only had two or three staff on duty to supervise between 60 and 80 prisoners so, in most instances, it was prisoners who took the initiative and approached staff. Staff-prisoner ratios did not allow for high levels of interaction or much pro-active work'. She recommended that 'the prison should continually review its staffing profiles to ensure that staff have the time to engage proactively with prisoners...' (HM Chief Inspector of Prisons, 2002).

And in her report on Lowdham Grange she found that 'low staffing levels (sometimes as low as one officer per unit) made meaningful personal contact difficult' (HM Chief Inspector of Prisons, 2004).

Inexperienced staff - At basic officer level prison companies do not usually hire staff with prison experience: the inferior wages and conditions ensure that this is not a good career move. On the other hand, managerial and senior staff are drawn from the public sector and enjoy superior pay and benefits packages. Overall, the majority of staff in private prisons have no prior experience in a prison setting.

The Chief Inspector of Prisons in her report on Rye Hill last year noted:

'Most officers were fairly new and young, often with far less experience of prison than the long-term prisoners in their care....We were not clear, on all wings, that the appropriate boundaries had been drawn and were being maintained. At a practical level, there was considerable frustration from prisoners that relatively simple queries could not be dealt with quickly and informally' (HM Chief Inspector of Prisons, 2003a).

These concerns are supported by the Independent Monitoring Board at Rye Hill which in its annual report notes:

'..lack of experience has led to instances of different staff giving conflicting information to prisoners. The Board has received a number of applications from prisoners who do not feel their concerns are taken seriously enough' (Rye Hill IMB, 2004).

Assaults and safety - The evidence suggests that some private prisons do not perform well on safety with high levels of assaults. In 2003-2004 six private jails failed to meet their target on serious assaults. The target is for the number of serious assaults against prisoners or staff expressed as a proportion of the prison population.

Parc, which had the seventh highest level of serious assaults compared to all prisons in England and Wales, had the highest rate in the private sector. The rate of serious assaults on prisoners or staff that resulted in a positive adjudication was three times higher than the target it is contracted to deliver. The serious assault rates at Dovegate and the Wolds were also particularly high and amongst the highest compared to all prisons in England and Wales.

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	Actual performance on serious assaults (rate on prisoners and staff)	Target on serious assaults
Altcourse	2.41%	1.50%
Ashfield	2.52%	2.60%
Dovegate	2.36%	1.30%
Doncaster	0.09%	0.40%
Forest Bank	0.80%	1.40%
Lowdham Grange	1.15%	0.90%
Parc	3.98%	1.00%
Rye Hill	1.07%	0.00%
Wolds	2.32%	1.50%

(Source: Prison Service Planning Group)

The NAO found that in 2001-2002 five private prisons had more assaults compared to an equivalent public sector prison. In interviews carried out with prisoners there were concerns about safety issues related to the relative inexperience of staff. Prisoners are capable of manipulating and conditioning staff who due to their lack of experience are less able to challenge prisoners' behaviour.

Respect and staff prisoner relations - A

noticeable private sector innovation has been in the attitude of staff towards prisoners. The NAO's prisoner surveys found that prisoners held in private prisons felt that they were shown greater respect and were treated better than prisoners in public prisons. It is the norm in private jails for staff to address prisoners by their title and to develop a different style of staff-prisoner relations. In her inspection of Rye Hill in 2002 the Chief Inspector of Prisons reports:

'Prisoners are treated with respect by staff - one man, who had recently arrived there after serving ten years of his sentence, said 'This is the first time in ten years anyone has called me "Mr"' (HM Chief Inspector of Prisons, 2003a).

Purposeful activity - More respectful relations do not mean that staff are effectively engaging with prisoners to meet their needs or that daily routines are necessarily improved with prisoners spending productive time in purposeful activity.

In 2003-2004 both Dovegate and Parc were well below their targets for the average number of hours of purposeful activity that they are contractually required to provide per week. Altcourse was the only private prison that met its targets.

	Actual performance on purposeful activity (average hours per prisoner each week)	Target on purposeful activity
Altcourse	34.4	32
Ashfield	29.3	30
Dovegate	25.5	35
Doncaster	19.6	20
Forest Bank	20.9	24
Lowdham Grange	26.8	28
Parc	26.3	32
Rye Hill	28.5	30
Wolds	29.2	30

(Source: Prison Service Planning Group)

There is also a lack of constructive activity at Lowdham Grange. The Inspectorate's report this year found that on average 100 prisoners - one fifth of the population - do not have enough purposeful activity (HM Chief Inspector of Prisons, 2004).

Despite these shortcomings, the overall average amount of time that prisoners spend in purposeful activity in private prisons (26.7 hours) is higher than the public sector Prison Service's performance. In 2003-2004 the Prison Service failed to meet its target for prisoners to spend an average of 24 hours each week in purposeful activity (HM Prison Service, 2004).

Drugs - In 2003-2004 a number of private prisons failed to meet their targets for the rate of positive drug tests. Each prison has to randomly test a proportion of prisoners for drugs every month. There were particularly high levels of drug use at Dovegate, Forest Bank and Parc:

	Actual performance (percentage of positive random drug tests)	Target on drug testing
Altcourse	12.0%	11.0%
Ashfield	8.1%	11.0%
Dovegate	17.5%	15.0%
Doncaster	10.7%	9.0%
Forest Bank	21.4%	14.0%
Lowdham Grange	4.9%	9.0%
Parc	23.8%	9.0%
Rye Hill	7.3%	12.0%
Wolds	3.3%	7.0%

(Source: Prison Service Planning Group)

Innovative work - The private sector has been eager to be innovative and enterprising initiating a variety of projects that have benefited prison regimes. At the Wolds and Rye Hill prisoners are trained to design and market websites on behalf of a private company. Media workshops at the two prisons employ 50 highly trained prisoners producing website and online marketing services to companies doing business on the web.

Some private prisons have also been prepared to encourage a high degree of prisoner participation in consultative forums known as Prisoners Information and Activity Committees. At Lowdham Grange and Doncaster, prisoners are consulted on a wide range of issues, encouraging them to make a positive contribution to changes in policy and practice.

This approach to prison management is believed to have been beneficial for the public Prison Service. According to Martin Narey, the Chief Executive of the National Offender Management Service, competition and private sector involvement has been critical in stimulating 'radically improved performance of public sector prisons' (memorandum to the Home Affairs Select Committee, July 2004). However, when asked in Parliament to list any innovative working practices, methods or programmes introduced at privately run prisons that have been subsequently introduced into publicly run prisons as best practice, the Minister for Prisons and Probation, Paul Goggins, replied:

'There is no simple way to track the spread of innovative working practices between the private and public sectors of the Prison Service. However since the first private prison opened in 1992 significant improvements have been achieved in the treatment of prisoners, regimes and facilities, staff deployment and the use of technology' (Hansard, House of Commons written answers, 22 July 2004).

Market Testing

From 2005 the scope for competition is to be extended under the Government's proposals to introduce 'contestability'. Martin Narey, the Chief Executive of the National Offender Management Service, has said he plans to market test all public sector prisons. Mindful of the failure to attract bidders for Brixton which demonstrated the private sector's reluctance to take over individual under-performing public jails and eager to provide economies of scale, the plan is to offer clusters of prisons out to tender. The Minister for Prisons and Probation, Paul Goggins, has said that the Home Office is currently considering putting out to tender either four dedicated juvenile jails (Werrington,

Warren Hill, Wetherby and Huntercombe) that hold children under 18, or a regional cluster of prisons with different classifications.

The Prison Officers Association (POA) has voted overwhelmingly against the plans to market test prisons, which it believes could lead to increased privatisation. With a 70 per cent turnout, union members voted in a recent ballot by 87 to 13 per cent not to take part in the market testing that is to be introduced in 2005 and which the POA believes will take more prisons in to the private sector. The POA's general secretary, Brian Caton, has warned that industrial action is on the cards if the Government continues with its plans.

Looking to America

Despite the mixed performance of American companies that have operated in the UK, and their record in the United States, where independent research has found that, overall, the claims for cost savings, efficiency and innovation remain unproven, the Government is once again turning to the United States⁴. In an interview early last year, Martin Narey said:

'Last summer I visited the US and spoke to two viable US private providers that are not yet operating in England and Wales. I have started a dialogue with them about the possibility of their bidding for future work.' (Guardian, 10 March 2004)

Mr Narey has not stated which companies he has been in discussion with. Possible contenders include:

Correctional Services Corporation (CSC) - It has already bid to run contracts in the UK. In February 1998 CSC formed a UK joint venture, CSC UK Ltd, to pursue projects in the UK. CSC and construction firm Kier were short listed bidders for Dovegate and Rye Hill. A subsidiary of Correctional Services Corporation, which runs secure establishments for juveniles in America, has faced allegations of abuse and neglect.

Cornell Companies Inc - Cornell told the Competition Commission in 2002 that it was prepared and eager to expand its services and skills to other countries, particularly the United

Kingdom. Cornell also commented that perceived advantages to incumbents would not deter it from submitting a bid in the UK. It said that it had expressed interest in bidding for future projects to the Prison Service and the Youth Justice Board⁵. To date, Cornell has not bid for UK contracts.

Management & Training Corporation (MTC) -

MTC is another American private prison provider that has international aspirations and has recently established a London base. It has one prison contract in Australia and has been negotiating with the government of Costa Rica for another. In 2001 the company's president and chief executive, Scott Marquand, was quoted in the press saying that MTC hopes to run prisons in Australia, Britain, Canada and South America. But in America the company has been criticised for its performance at the Santa Fe County Detention Centre in New Mexico.

GEO - The Florida-based company has recently announced the setting up of a new UK headquarters in Reading. Its Chief Executive, George C. Zoley, said in a press statement in December that GEO intends to *'vigorously pursue new business opportunities in England, Wales and Scotland, which currently represents the second largest private correctional market in the world'*. The company used to be known as Wackenhut Corrections Corporation (WCC) which was, until recently, joint owner of Premier Custodial Group, the UK's largest private prison operator.

'Despite the mixed performance of American companies that have operated in the UK, and their record in the United States, where independent research has found that, overall, the claims for cost savings, efficiency and innovation remain unproven, the Government is once again turning to the United States.'

Loss of Oversight

Despite the commercial confidentiality surrounding private prisons and weaknesses in contract monitoring, the Government intends to hand more power to the private sector. As part of new measures included in a Management of Offenders and Sentencing Bill published in January 2005 the Government plans to transfer to directors of private prisons additional powers concerning the use of segregation, control and punishment of prisoners. Private prisons have had a Government appointed controller on site to monitor the contract and carry out these powers as part of a statutory duty in overseeing fair and lawful treatment of prisoners.

According to an internal Prison Service document, the role of controller was created because *'at the time, the provision of custodial services by private providers was controversial and... as a response to this the role of controller was created to administer the internal prison discipline system of adjudications; to authorise the use of physical force against prisoners and their segregation; and to investigate allegations of inappropriate behaviour by contractors and their staff'* (Prison Privatisation Report International, May/June 2004).

The Prison Service now believes that the *'growing experience and maturity of these providers*

combined with contracts robustly monitored by the office of contracted prisons and oversight from the independent monitoring boards for each establishment, means that the time is now right to pass these statutory duties to the contractors who carry the operational risks associated with them.' Central to the plans is the claim that transferring these responsibilities creates *'a level playing field'* in the competition between private and public sector prisons, by *'putting directors on a similar footing to prison governors in the public sector'*. (Prison Privatisation Report International, May/June 2004).

Even though the controllers will still remain in place the planned reforms raise concerns about the need to monitor and hold accountable the private contractors. If anything, as the National Audit Office concluded, the role of controllers *'is crucial as they ensure that contractors are performing satisfactorily'* and should be *'enhanced'* (NAO, 2003). In its report three years ago the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment *'underlined the importance of ongoing monitoring systems of privately managed prisons, capable of ensuring that the State remains in a position to discharge all its obligations vis-à-vis persons deprived of their liberty'* (CPT, 2002).

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Conclusion: the need for a public debate

For too long the fundamental question about whether the private sector should run prisons has escaped informed debate. This briefing paper demonstrates that overall the performance of the private sector has been no better than the public sector and thus far has been very mixed. At the same time companies have made significant profits without being fully accountable to parliament or the public and the details of the contracts have remained shrouded in secrecy.

With the Government keen to extend the model of private provision to health and education and to extend the involvement of the private sector in the criminal justice system it is more important than ever for there to be an open and vigorous public debate on the issue. There are a number of concerns to be discussed and questions to be raised about the actual performance and merits of private prisons:

Accountability and transparency - There are serious questions to be raised about how accountable the private contractors are. Parliament is unable to scrutinize fully the contracts as they remain '*commercially confidential*'. There is a clear lack of transparency which is a matter of great concern, especially when the public Prison Service has to present before Parliament a full annual report of its accounts and performance. Arguably the Prison Service is under a far greater degree of scrutiny and is more directly accountable to Parliament and Ministers.

A level playing field? - There is an assumption that the private sector competes with the public sector on a level playing field for contracts to run prisons, but this level playing field is an illusion. The private prison sector is composed of large companies with other business interests. They can

afford to walk away from areas which become unprofitable or bids they fail to win. The public sector is less diverse and so less resilient to market pressures. It can take fewer financial risks and is less well defended against failure. The danger is that the private sector will be in a beneficial position running modern establishments they see as profitable ventures and the public sector is left managing the many outdated Victorian local prisons.

Cost savings - The original argument for contracting out the management of prisons was based on the idea that there would be substantial cost savings and better value for money returns. It has been shown, however, in at least three of the recent tendering exercises for prison management contracts that the public sector can be as cost effective and even more so than the private sector. In terms of privately financed, designed, built and operated prisons (PFI), there is no doubt that new facilities have been constructed more quickly than before. But the public sector has not been allowed the opportunity to prove whether it can now commission and construct more efficiently.

The mounting evidence of official agencies (National Audit Office, Prison Service Pay Review Body, House of Commons Public Accounts Committee) is that much, if not most, of the '*efficiency gains*' have been secured at the expense of terms and conditions and staffing levels. The independent think tank, Catalyst, has noted:

'The balance of evidence suggests that only a small part of the cost savings achieved by private prisons are a result of innovative management practices. By far the largest part can be related to employees working longer hours, with fewer holidays, for lower pay and inferior pensions and other benefits' (Sachdev, 2003).

The danger is that the private sector will be in a beneficial position running modern establishments they see as profitable ventures and the public sector is left managing the many outdated Victorian local prisons.

Downward pressures - There is a serious danger that as bids to run prisons become more competitive, which is likely given the plan to market test groups of prisons, there will be a downward pressure on the quality of regimes and the pay and conditions for staff in both the public and private prisons. There is already evidence that this has happened with private contractors and successful in-house bid teams struggling to meet required standards of performance. This is apparent in the problems highlighted at Dovegate and Rye Hill, in recruiting and retaining staff to the levels expected of the contractors and in concerns regarding staffing levels voiced to Prison Reform Trust about Manchester and Blakenhurst, both of which went through demanding competitive tendering rounds. It is likely that in preparation for market testing all prisons will have to divert already scarce resources from day to day operations to prove they are competitive in terms of quality and cost.

Economies of scale – In his seminal report into the disturbances at Strangeways in 1991 Lord Woolf recommended a model of community prisons that he envisaged would be medium sized establishments closely linked to the local community enabling prisoners to maintain contact with family and friends (Woolf Report, 1991). Other studies have proposed smaller units for particular groups of offenders such as women (Prison Reform Trust, 2000). However, the vision set out in a Home Office commissioned review of PFI and market testing in the Prison Service is for much larger establishments holding up to 1,500 prisoners (Carter, 2001). Smaller units that are nearer to prisoners' home towns are not likely to be commercially viable for private companies. There were no private bidders to operate the five units for juvenile girls which are being set up by the Youth Justice Board with £16 million of funding from the Home Office.

The profit motive - The private sector is motivated by the need to make profits, a fundamentally different motivation from the public sector. It inevitably leads to cost cutting and a desire to 'grow' markets. This is evident from the recent Chief Inspector of Prisons report on the Dovegate therapeutic community. It states:

'..there was concern that in order to keep up the numbers on the TC [Therapeutic Community] required by the prison's contract.....prisoners from Dovegate main prison were taking precedence over those from elsewhere on the waiting list....and it was of concern that selection was apparently being skewed by commercial imperatives' (HM Chief Inspector of Prisons, 2004a).

Crucially it is not in the private sector's interest to see a reduction in the prison population. Alison Lieblich, director of the Prisons Research Centre at Cambridge University, has highlighted the conflict between the broader public interest and the drive to maximise profits:

'...there may be some less visible instrumental practices (such as making a decision to increase profits, investing in security companies engaged in military activities, or lobbying for prison or other correctional expansion) which raise serious doubts about the possibility in practice of keeping a public ethos centre stage, via the contract' (Lieblich, 2004).

Ethics - Jack Straw said when he was Shadow Home Secretary in 1995 *'it is not appropriate for people to profit out of incarceration'* (The Times 8th March 1995).

A prison sentence is the most severe form of punishment in this country and it should be the duty of the state to administer the deprivation of liberty. Without proper public and parliamentary debate questions of whether it is ethical for private companies to make financial gains from imprisonment are in danger of being swept aside through expedience and in the name of modernization.

'With the Government keen to extend the model of private provision to health and education and to extend the involvement of the private sector in the criminal justice system it is more important than ever for there to be an open and vigorous public debate on the issue.'

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End Notes

- ¹ Once a PFI project is up and running most of the so-called 'risk' of the project has been reduced and financial institutions are willing to offer finance at lower rates. This refinancing creates a windfall for the private companies involved. It boosts profits as the amount paid by the Government remains as contractually agreed. Under Treasury rules refinancing gains are shared 50/50 between the contracting authority (the Government) and the private companies.
- ² In 2003 Investors bought Wackenhut Corrections Corporation back from Group 4 and changed the company's name to The GEO Group Inc. GEO runs prisons in America, Australia, New Zealand and South Africa.
- ³ This information could possibly be disclosed under the new Freedom of Information Act if it is considered to be in the public interest.
- ⁴ See Corrections Corporation of America: A Critical Look At Its First Twenty Years, www.grassrootsleadership.org and PPRI No. 63 & 62, www.psir.org/justice.
- ⁵ When the UK's Competition Commission investigated the possible implications of Group 4's acquisition of Wackenhut in 2002 (see Prison Privatisation Report International No.51, www.psir.org/justice), the Commission 'asked UK and US security firms if they were planning to enter these [corrections] markets, and how attractive the markets were to them'.

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