

As in other areas, effective resettlement provision was hindered by a lack of an effective analysis of needs. Offender management was badly managed so that there was a large backlog of risk assessments, and contact between prisoners and offender supervisors was inconsistent. There were insufficient offender behaviour programmes so prisoners found it difficult to make progress. Practical resettlement support was reasonable, although 15% of men were homeless on release. Visits provision was good and there were effective family support services. In our survey, 7% of respondents identified themselves as armed services veterans and there was very good support for them.

Until shortly before the inspection, HMP Winchester was neglected and drifting. There had been pockets of good practice and although many staff did their best, their efforts were often haphazard, inconsistent and badly coordinated. However, a new governor was appointed shortly before the inspection. The new leadership was aware of many of the problems and we saw early signs of a determined effort to tackle them. But the prison is just at the start of the process of putting things right again, and it will be a long, hard task to do so. We hope the recommendations in this report assist that process.

#### **Custody Death of Thomas Orchard: IPCC Hands File To Prosecutors**

The IPCC has submitted a file of evidence in the Thomas Orchard investigation to the Crown Prosecution Service. This file of evidence relates specifically to one officer during Mr Orchard's arrest and the level of force used. On 3 October 2012, Mr Orchard was restrained and arrested in Exeter on suspicion of a public order offence and was taken at about 11.10am by police van to custody at Heavitree Road Police Station.

At about 12.15 pm Mr Orchard was taken by ambulance to the Royal Devon and Exeter Hospital, where he subsequently died just after 6pm on 10 October. The investigation surrounding the circumstances of his death is still ongoing. The IPCC independent investigation is now being overseen by Commissioner Rachel Cerfontyne, who has recently been given responsibility for police forces in the South West. She said: "This is a criminal investigation and we have, at an early stage, submitted a file of evidence to the CPS. Our investigation continues and may lead to further evidence being passed to prosecutors.

"The IPCC has been informed by Devon and Cornwall Constabulary that it has made a decision to place six members of its officers and members of custody staff on restricted duties. While this is a decision for the force to make as the employer, the IPCC made representations that they be suspended pending the consideration of criminal charges. We also continue to keep Mr Orchard's family regularly informed of the progress of our investigation.

**Hostages:** Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinane, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva, Terry Smith, Hyrone Hart, Glen Cameron, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurlley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

#### **Basic Regime - Incentives and Earned Privileges (IEP) Schemes In Prison**

Incentives and earned privileges (IEP) schemes in prison are designed to encourage good behaviour and challenge Misbehaviour. Schemes generally have three levels and the "basic" level is the most austere. There is current Ministerial interest in whether the schemes are properly calibrated, for example whether they are too generous and whether more prisoners ought to be on the basic level. This bulletin originates from a request to me by the Prisons and Rehabilitation Minister, Jeremy Wright MP, for any learning about the IEP scheme from my fatal incident investigations that might inform Ministers' deliberations.

In essence, learning from my investigations suggests that disproportionate numbers of self-inflicted deaths occur among those on the basic regime. There is no simple causal relationship, but the statistics emphasise the dilemma for prisons, particularly where vulnerable prisoners also display challenging behaviour. Thus between 2007 and 2012, 8% of self-inflicted deaths investigated by my office were of prisoners on the basic regime. This is considerably higher than the national average percentage of prisoners on the basic regime (2%).

Accordingly, the use of the basic regime, with its reduction in contact with other prisoners and the outside world and the removal of television, needs to be carefully coordinated within a wider plan of care and support for prisoners who are at risk of self-harm. This is already required under current Prison Service safer custody policy, but does not always happen. There is also a need to examine, particularly with younger prisoners, whether the challenging behaviour masks underlying distress.

Whether or not the numbers of prisoners on the basic regime is to grow, vulnerabilities need to be managed effectively to avoid the risk of self-harm. This bulletin is designed to encourage the learning of that lesson and achievement of appropriate balance between care and control. *Nigel Newcomen Incentives and Earned Privileges (IEP) System:* All prisons and young offender institutions (YOIs), as part of Prison Rule 8 and YOI Rule 6 are required to provide a system of privileges in addition to the minimum entitlements detailed in the prison/YOI rules. Prison Service Instruction (PSI) 11/2011 lays out the framework for the Incentives and Earned Privileges (IEP) scheme. The scheme aims to encourage good behaviour and participation in interventions to reduce re-offending and challenge poor behaviour and noncompliance. The scheme works by offering key earnable privileges including extra visits, higher rates of pay and in-cell television. These privileges are removed if behaviour deteriorates. Prisons are required to provide regimes for at least three levels: basic, standard and enhanced. On entering custody, all prisoners are placed on the standard privilege level. The loss of an earned privilege or demotion to a lower level is expected to be seen as a consequence of a general deterioration in behaviour or a refusal to engage in interventions designed to reduce the risk of re-offending.

*Basic regime:* Demotion to basic, the lowest of the three regime levels, is normally from standard level. Prisons are expected to avoid demoting prisoners directly from enhanced to basic level, except in the most serious cases of misconduct, for instance assault. Prisoners at basic level should have their level reviewed within seven days and be informed of the steps they must take to return to standard level. Following this review, adult prisoners who remain at this level must have a monthly review. Young offenders should receive a review at least every fourteen days.

*Deaths in custody:* The IEP levels were available for 215 fatal incident investigations of apparently self-inflicted deaths between 2007 and 2012. Seventeen prisoners (8%) were at basic level; substantially higher than the national percentage of prisoners on basic regime (2%1).

Of these 17 prisoners, two had had their IEP status reduced in the 72 hours before they died and a further seven had had their status reduced within the month before. The prisoners were aged between 18 and 45 and all but one were male.

*Effects of basic regime:* Our investigations show that the restrictions of the basic regime can have a significant effect on individuals. They reveal that, as a result of being placed on basic, some prisoners became introverted and spent a great deal of time in their cells with very little to do in the lead up to their death. For others, the effect of the move to basic regime had a significantly negative impact on their mental wellbeing. Some prisoners exhibited extreme or strange behaviour and others threatened to self-harm.

Of the prisoners on basic, a quarter (4) were being monitored under Assessment, Care in Custody and Teamwork (ACCT) arrangements - the Prison Service's suicide and self-harm prevention procedures - at the time of their death. The removal of protective factors, such as: activity, interaction with others and contact with friends and family as a result of being reduced to basic level, appears to be at odds with the goals of the care planning in ACCTs. PSI 11/2011 addresses this by stating that in situations where a prisoner is at risk of suicide or self-harm, the withdrawal of privileges should be considered alongside an ACCT on a case by case basis.

Our investigations have found that a more coordinated approach between ACCTs and IEP would have better managed the risk posed by these vulnerable prisoners. A coordinated approach would have worked more effectively to protect their wellbeing while subject to the withdrawal of privileges.

Case study 1: Mr A had been in prison for 8 years at the time of his death. He had episodes of instability and had been placed on suicide and self-harm monitoring on ten occasions, although no incidents of self-harm had followed. On the day of his death, he was subject to both IEP reviews and the opening of an ACCT following poor behaviour and food refusal.

Mr A had displayed hostile and abusive behaviour towards prison staff in the days before his death and an urgent meeting to review his IEP level was held where his status was reduced from enhanced to basic. After the meeting, in line with prison policy, Mr A was placed on an ACCT as it was his third day of food refusal. Mr A had told the nurse that food refusal was due to a number of ongoing issues with the drug users programme he was attending and his desire to be moved to a prison closer to his ailing mother. Mr A also told the nurse that he was feeling hopeless, that family concerns and his demotion to basic had worn him down and he had suicidal thoughts. Later that evening, Mr A was found dead in his cell.

The Ombudsman was not convinced that Mr A's behaviour was serious enough to warrant the downgrading of his level of IEP directly from enhanced to basic, and that these concerns could have been dealt with through other disciplinary measures. Prisoners do not usually move from enhanced to basic without an intervening period on standard, because the change in the prisoner's regime can be quite severe. The prison's own IEP policy stated that only in the most extreme cases should prisoners be demoted from enhanced to basic.

Although no formal recommendation was made to the prison, the Ombudsman suggested that the prison should ensure that the IEP policy was being properly implemented in the prison.

Removal of activities: Our investigations have shown that the removal of activities and increased time spent in a cell with little purposeful activity can have a negative impact on

prison, arrangements for supporting prisoners at risk of suicide and self-harm were reasonable, use of force was low and the regime and relationships in the segregation unit were satisfactory.

The prison had recently taken action to combat the supply of drugs and alcohol in the prison. However, we were aware that drugs remained readily available. One third of prisoners told us they were easily available, and one in 10 told us they had developed a drug problem in the prison. These findings were supported by a high drug testing failure rate. Medicine queues were badly organised and supervised, which created opportunities for prescribed drugs to be misused.

The day-to-day experience of many prisoners was poor. The core day, which should have provided a predictable and consistent schedule of activities across the prison, was operated in a haphazard and inconsistent way on different wings. There were insufficient activity places for the population and even these were underused. A fully employed prisoner might have eight hours a day out of their cell but those for whom there was no activity available were limited to 30 minutes outside exercise and one hour of association each day.

Prisoners on the main site shared small, single cells, some with inadequately screened toilets. Prisoners on the West Hill site also shared cells but these were a little larger and prisoners had free access to toilets on the landings. The offensive display policy was not enforced and some material on display in cells on the vulnerable prisoner wing was a particular concern. Prisoners were issued with insufficient and poor quality prison clothing and bedding. Most of those who wore their own clothes did not have access to laundry facilities. Meals were unappetising and portions small.

Staff-prisoner relations were generally polite but distant. The personal officer scheme was ineffective. Diversity and equality issues were neglected and the prison had little idea about the prisoners from minority groups it held or what their needs might be. Very unusually, the chaplaincy was not operating effectively. Prisoners of different faiths could not readily access religious services in an appropriate venue. The chaplaincy was not well integrated into the life of the prison. Health care provision was weak in some areas. A health needs assessment had only recently been completed and partnership arrangements were only slowly developing. This had serious consequences: men were sometimes not issued their prescribed medication or unlocked in time to collect it, and provision for prisoners with chronic diseases and some mental health problems was inadequate.

Two older, severely disabled men who shared a small cell, built by the Victorians for one, were not untypical. The small window, high on the arched wall, was painted over so the men had a choice between keeping out the cold or shutting out the light. Neither man was able to work so they spent 23.5 hours a day in their cell. Although there was a shower on the landing, it had not been adapted for use by people with disabilities and so they were unable to use it. Neither had had a shower for months but did their best to wash in their cell. They relied on other prisoners for help with tasks such as collecting meals. Wing staff were unaware of these problems when we brought them to their attention. At least the accommodation on the West Hill site was better, and prisoners there spent less time locked in their cells.

A new senior manager had conducted a useful analysis of prisoners' learning and training needs throughout the prison and was making a good start on delivering these. However, there was much to do. The range and quality of work and training places were insufficient and did not adequately prepare prisoners for employment. This was of particular concern on the West Hill site, which was supposed to act as a training prison. Education provision was better and supported by very valuable volunteers from the local community.

rience of many prisoners was poor, with insufficient activity places for the population and some places underused; - Medicine queues were badly organised and supervised, which created opportunities for prescribed drugs to be misused. - offensive display policy was not enforced and some material on display in cells on the vulnerable prisoner wing was a particular concern - prisoners were issued with insufficient and poor quality prison clothing and bedding; - diversity and equality issues were neglected and health care provision was weak in some areas; - two older, severely disabled men shared a small cell and spent 23.5 hours a day in it; - the range and quality of work and training places were insufficient; and - resettlement provision was hindered by a lack of an effective analysis of needs. There was a large backlog of risk assessments, and insufficient offender behaviour programmes for prisoners. - Delays in canteen purchases left new arrivals vulnerable to debt and associated bullying

Introduction from the report: Recent inspections have found HMP Winchester performing reasonably well and making good progress. This inspection found the prison had deteriorated sharply and was now of serious concern.

There are two parts to the prison. The main, larger site is a typical Victorian, category B local prison of radial design. A more modern annex, West Hill, was built in the 1960s and has had a variety of uses since then but now fulfils a category C training function. The prison suffered many of the problems typical of its type. It was seriously overcrowded and the resources to deal with a challenging and needy population were very stretched. At Winchester these problems had been exacerbated by a lack of stable leadership and outcomes were much worse than we usually see in comparable establishments.

The prison was inconsistent both in the way the regime was operated on different wings and in the relationships between individual staff and individual prisoners. A running theme of our inspection findings was that managers did not have the information and data they needed to identify and address these inconsistencies.

So it was not surprising that more than half the prisoners in our survey told us they had felt unsafe at some time. The prison did not have a full picture of either the nature or extent of violent incidents. Individual incidents were not investigated thoroughly, and there was insufficient action to address the behaviour of the perpetrators or support the victims. More than a third of prisoners, 35%, told us they had been victimised by other prisoners (against the comparator of 21 %), and 45% by staff (against 25%).

The crucial first 24 hours of a prisoner's time in Winchester were badly managed. Reception was busy and congested but reasonably efficient. Prisoners were then placed wherever there was space on the main site. Cells for new arrivals were often dirty and badly prepared. Nonvulnerable prisoners were placed on the vulnerable prisoner wing, and some who needed detoxification services were not located on the relevant dedicated wing. Delays in canteen purchases left new arrivals vulnerable to debt and associated bullying. Evening and night staff did not systematically check on new arrivals.

The situation for vulnerable prisoners was worse. Almost four out of five said they had felt unsafe at some time, and almost three out of five said they felt unsafe at the time of the inspection. We witnessed foul abuse directed at vulnerable prisoners in their exercise yard from the adjacent general wing. Processes for locating prisoners on the vulnerable prisoner wing were unclear. The neglectful management of vulnerable prisoners was also shown in their very poor access to activities - 70% were unoccupied at the time of the inspection.

However, the experience of prisoners on the West Hill site was much better, and throughout the

the mental health of a prisoner. Provisions such as radios or reading materials are alternatives that can be offered to prisoners when subject to reduced association time.

The removal of in-cell televisions from prisoners placed on basic regime was noted in four self-inflicted deaths. PSI 11/2011 states that establishments can use their discretion when removing televisions from vulnerable prisoners: "All prisoners considered to be at risk from self-harm/suicide may be considered for in-cell TV irrespective of privilege level on a case-by-case basis." We observed good practice in one investigation where a vulnerable prisoner, who was subject to basic regime, was able to continue using their television.

Case study 2: Mr B was in prison less than a month before taking his life. He was a foreign national whose first language was Farsi. He appeared to speak little English and did not tend to interact with other prisoners. Mr B was reduced to basic level ten days after arriving in prison. He was moved to a single cell, had his television removed and was escorted when collecting his meals. As a result, he spent long periods of time alone in his cell with little to do. During the following three weeks, his behaviour deteriorated and he would continuously press his cell bell and throw furniture. He also acted strangely by removing his clothes from his cupboard and then putting them back several times over.

Mr B did not receive information in his own language about the basic regime and did not have the opportunity to see the foreign national orderly (a prisoner responsible for supporting foreign national prisoners). Farsi reading material was available in the prison library but depended on the prisoner asking for it. With little knowledge of the prison, it is unlikely he would have known that he could ask for these materials.

Mr B was on basic regime for nearly three weeks before his death. His IEP status was not reviewed during this time, contravening the PSI's guidance that prisoners placed on basic must have their level reviewed within seven days.

The Ombudsman raised concerns about the effect of the restrictive basic regime and noted that long periods alone in a cell are likely to exacerbate any frustrations as well as bring mental health issues to the fore. The Ombudsman recommended that provisions, such as reading materials, be offered to prisoners on basic regime to counterbalance this time alone and that reviews be conducted at the specified intervals.

Lesson 1 - Prisons should consider the withdrawal of privileges on a case by case basis alongside the ACCT process. In line with the guidance in PSI 11/2011, where prisoners are downgraded to basic regime, prisons need to consider the effect this may have on the prisoner's behaviour and wellbeing. Consideration needs to be given to whether a deterioration in behaviour masks underlying distress or any mental health problems. Coordination of the decisions of IEP boards and the needs outlined in ACCTs will best support vulnerable prisoners.

Lesson 2 - Prisons should ensure that prisoners at risk who have privileges, in particular television, removed when demoted to the basic regime, have the impact of this decision carefully assessed. To avoid vulnerable prisoners spending long periods of time alone in their cell with nothing to do, consideration should be given to providing a radio or other materials to occupy their time. Foreign national prisoners and those with poor English skills should be made aware of materials available in an appropriate language or at the right reading level.

Lesson 3 - Prisons should ensure reviews of prisoners' basic status are conducted at specified times. Reviews of prisoners on basic regime are important in ensuring that the prisoner's behaviour and wellbeing is managed effectively. Prisons should follow the PSI 11/2011 guidance that the first review must take place within seven days and at least monthly (fourteen days for young offenders) after.

### **Ched Evans Continues to Maintain his Innocence - Online**

On 20 April 2012 Chedwyn Evans, a 23 year old professional footballer, was convicted of rape at Caernarfon Crown Court. He is currently serving a 5 year prison sentence.

Chedwyn Evans maintains his absolute innocence and his family, friends and many who know the true facts of the case believe that his conviction was a gross miscarriage of justice.

We believe that due to Ched's profession, the reporting of the facts by much of the media leading up to the trial, during the trial itself and subsequent to his conviction was highly sensationalised and gave a very negative and biased impression of what had transpired.

This website endeavours to re-dress that balance by presenting the evidence to the public in a balanced and accurate way in order that people can assess the salient facts of this case and make their own judgement as to whether the Jury's decision in this case was a just one.

From the outset we would like to state that this website in no way seeks to undermine the seriousness of rape or trivialise the suffering that rape victims suffer. We recognise that rape is a terrible crime which, if committed, ought to carry a severe sentence. This website is not about the severity of the sentence, we are stating that Ched did not commit the crime of rape at all. Furthermore, we recognise and acknowledge that in rape cases the anonymity of the victim is a fundamental legal principle that should be upheld and respected.

When reading this website these fundamental points should be kept in mind:

It should be noted that the complainant who was alleged to have been raped in this case stated when interviewed by the police and subsequently maintained in Court that she could not remember anything at all, other than a very brief period in a take-away.

She remembers being in the night club and waking up the next morning in the Premier Inn, a time span that specifically covers the entire sexual activity which led to Ched being convicted of rape and his co-accused Clayton McDonald acquitted.

The only evidence of what sexual activity occurred came from the accounts of his co-accused Clayton McDonald who also had sex with the complainant and was found not guilty of rape, Ched, and the night porter who was listening outside the room.

As this case revolves around the issue of intoxication and consent, it should be noted that it is established in the case of R V Bree that drunken consent to sexual intercourse is nevertheless consent in the eyes of the law. This does not mean that if a person is unconscious through drink or drugs it is acceptable to have sex with that person but rather, where an intoxicated person is functioning and able to make conscious decisions at the time of intercourse and then subsequently regrets that decision and decides to make a complaint of rape, her self-inflicted intoxication ought not to be considered as relevant to the issue of consent.

The police arrested both Ched and Clayton at the station, they acknowledged that the only evidence that sexual activity had taken place was their admission. There was no complaint of rape, no forensic evidence, no injury and no complaint.

Finally it should be noted that the burden of proof in criminal law lies with the Prosecution and that in order to gain a conviction the Prosecution must prove 'beyond reasonable doubt' that a crime was committed i.e. the Jury has to be sure an offence has taken place. Essentially, this means that following the submissions of the Prosecution if there remains any doubt that a crime has been committed the accused must be acquitted. It is not for the accused to prove his innocence.

[In November Three judges at the Court of Appeal sitting in London refused to give leave to appeal by the former Wales and Sheffield United striker. The judges also threw out a bid by Evans originally from Rhyl, Denbighshire, to have his sentence cut.]

problems raised at the previous inspection remained. Strategic thinking about the resettlement needs of the population was underdeveloped and leadership was weak. While offender management arrangements were good, provision in some key reducing reoffending pathways was poor, and there was only limited custody planning with remand and short-term prisoners. We continued to be disappointed with the unimaginative and somewhat limited support provided to women in maintaining links with their families and friends. This was a particular omission in a women's prison.

In summary, sufficient progress had been made in implementing our previous recommendations in the areas of safety, respect and providing an active environment for the women held but, as with the previous inspection findings, more needed to be done to ensure that women were able to benefit from resettlement opportunities. *Nick Hardwick / HM Chief Inspector of Prisons*

### **Asen Kostov v. Bulgaria (application no. 48445/06) - Barborski v. Bulgaria (no. 12811/07)**

The applicant in the first case, Asen Kostov, is a Bulgarian national who was born in 1961 and lives in Striama (Bulgaria). The applicant in the second case, Ivan Barborski, is a Bulgarian national who was born in 1969 and lives in Sofia. In both cases the applicants complained that their detention had exceeded the actual sentences imposed on them in criminal proceedings. Mr Kostov had been convicted of a number of offences committed between 1991 and 1998 and alleged that his detention of more than one year and two months, until his release in June 2004, had exceeded his overall sentence of one year. Mr Barborski had been convicted in two sets of proceedings and, having had an overall sentence of three years and six months' imprisonment imposed on him, alleged that his total detention, until his release in December 2005, had exceeded that sentence by more than two months. Both applicants complained of a breach of their rights under Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights. Mr Kostov further complained, in particular, that he had not had an enforceable right to seek compensation in respect of his detention, in breach of Article 5 § 5.

Violation of Article 5 § 1 – in both cases / Violation of Article 5 § 5 – in the case Asen Kostov  
Just satisfaction: EUR 2,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses) in respect of Mr Kostov; as regards Mr Barborski, the Court held that the finding of a violation constituted sufficient just satisfaction for any non-pecuniary damage sustained.

### **Report on an Announced Inspection of HMP Winchester**

This inspection found the prison had deteriorated sharply and was now of serious concern  
Inspection by HMCIP, 15/19 Oct 2012, report compiled January 2013, published 20/03/13

Inspectors were concerned to find that: - the prison was seriously overcrowded - problems had been exacerbated by a lack of stable leadership and outcomes were much worse than we usually see in comparable establishments. - more than half of prisoners said they had felt unsafe at some time; - the prison did not have a full picture of the nature or extent of violent incidents and there was insufficient action to address the behaviour of the perpetrators or support the victims; - the crucial first 24 hours of a prisoner's time in Winchester were badly managed; - situation for vulnerable prisoners was worse. Almost four out of five said they had felt unsafe at some time, and almost three out of five said they felt unsafe at the time of the inspection. - inspectors witnessed foul abuse directed at vulnerable prisoners in their exercise yard, processes for locating prisoners on the vulnerable prisoner wing were unclear and vulnerable prisoners had very poor access to activities; - the prison had recently taken action to combat the supply of drugs in the prison, but one third of prisoners said drugs were easily available and one in 10 said they had developed a drug problem in the jail; - the day-to-day expe-

ly review and act on the serious systemic failings exposed by this inquest. Whilst sentencing policy remains outside the scope of the inquest serious questions must be asked of Government as to the decision to imprison a vulnerable man for such a trivial offence.”

Nancy Collins, representing James Best’s family, said: “The circumstances of James’ tragic death are symptomatic of a prison service in crisis. The evidence heard at the inquest shows that James was failed by the prison staff, the prison healthcare staff and the London Ambulance Service. Unless urgent measures are implemented to address those failures there is a very real risk that there will be other avoidable deaths in prison custody.”

1. In 2011 inspectors at HMP Wandsworth reported that the prison, which holds over 1,500 prisoners, was branded the most "unsafe" in the country for prisoners. There were 11 deaths at the jail between January 2010 and June 2011, and last week’s inquest was the third this year.

### **Unannounced Short Follow-up Inspection of HMP Foston Hall**

Inspection 19 – 22 November 2012, report compiled January 2013, published 19/03/13

HMP Foston Hall - female closed prison for local, training and life-sentenced prisoners.

Inspectors had Concerns: - induction interviews still did not take place in private;

- there were weaknesses in the management of equality and diversity and not all the protected groups were well supported; - Outcomes for the small number of foreign nationals were improving but consultation with them needed to be better - there was still insufficient full-time purposeful activity for everyone and better use could have been made of what was available; - most of the key resettlement problems raised at the last inspection remained: leadership was weak, and strategic thinking about the resettlement needs of the population underdeveloped; - provision in some key reducing reoffending pathways was poor - limited support provided to women in maintaining links with their families was disappointing.

Introduction from the report Foston Hall women’s prison remained a multi-purpose prison, holding a complicated mix of remanded prisoners, those awaiting sentence, and those serving short, long and indeterminate sentences. The small separate juvenile unit had closed. A short follow-up inspection such as this focuses only on the progress the prison has made in implementing the recommendations made at the last inspection and so does not provide a complete picture of the establishment as a whole.

First night and induction arrangements had improved and there was good use of peer workers, during the early days and in a range of other areas, but interviews still did not take place in private. Substance misuse services were also much improved and now covered both alcohol and drugs.

The physical environment remained generally good, although D wing continued to offer poorer accommodation. Personal officer work and health services were both improved. However, there were ongoing weaknesses in the management of equality and diversity and not all the protected groups were well supported. Outcomes for the small number of foreign nationals were improving but consultation with them needed to be better.

The number of activities available had increased in line with the rise in the prison’s population, and most women had an activity to attend. However, there were still insufficient full-time opportunities for everyone and better use could have been made of what was available. In addition, the frequent interruptions to learning had not been addressed, although there was now equality of opportunities for remand and convicted prisoners. Both the library and PE services were in need of improvement.

Resettlement remained the weakest area and, despite some improvements, most of the key

### **Interview with Acquitted Protester Alfie Meadows** by Siân Ruddick for Socialist Worker

A jury unanimously acquitted student protesters Alfie Meadows and Zak King on Friday of last week. The two were accused of violent disorder after taking part in a protest against government attacks on education on 9 December 2010. Their two-year fight through three trials has ended in a massive defeat for the Metropolitan Police.

Zak said, “This verdict has vindicated us for standing up. We tried to defend ourselves and others. We want to focus now on making the police accountable.” Alfie said, “I was defending myself and others. The jury unanimously acquitted us on the basis of self defence. Having access to that defence is so important and has political significance.”

Alfie talked about how the process has changed him. He told Socialist Worker, “I’m much more aware of state violence and the huge injustices that take place at the hands of the police.” On the day of the protest, police kettled thousands of young people for hours in freezing conditions. Protesters were hit with batons and shields and police repeatedly rode horses into the crowd.

On the day, Alfie was hit so hard on the head with a police baton that his skull fractured and his brain began to swell. He was rushed to hospital for life-saving surgery while doctors told his parents he might die from his injuries or suffer serious brain damage. Alfie filed a complaint against the police, only to be arrested days later and accused of violent disorder. The charge carries a maximum sentence of five years imprisonment.

“The student protests were the first major fight back against austerity,” said Alfie. “Although the movement has ebbed and peaked, I’m looking forward to the struggle reigniting. I’ve received a huge amount of support from families whose loved ones have died at the hands of the police. That includes the relatives of Sean Rigg, Anthony Grainger and Mark Duggan. “I have gone to their inquests and joined the United Families and Friends Campaign against deaths in custody demonstrations.”

Alfie was keen to stress that the policing of the students was not a one off he said, “It’s part of a history going back the attacks on miners’ picket lines and the clampdown on urban riots through the 80s and 90s. It’s also part of the day to day harassment of black and Asian people by the police. We have to support all those people fighting for justice against the police and the state. We can use this victory to turn the table on injustice.”

Alfie’s legal team has contacted the Independent Police Complaints Commission. It is calling for police actions on the day to be fully investigated, including how Alfie came to be so seriously injured.

### **Y’all Feel Free to Insult, Cameron, Clegg, The Queen, Pope Francis Prison Governors**

Conviction of political activist for insulting the French President infringed his freedom of expression In Chamber judgment in the case of Eon v. France (application no. 26118/10), which is not final, the European Court of Human Rights held, by a majority, that there had been: a violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the applicant’s conviction for insulting the President of France. During a visit by the President to the département of Mayenne, the applicant had waved a placard reading "Casse toi pov’con" ("Get lost, you sad prick"), a phrase uttered by the President himself several months previously. The Court held that criminal penalties for conduct such as that displayed by the applicant were likely to have a chilling effect on satirical contributions to discussion of matters of public interest, such discussion being fundamental to a democratic society. Just satisfaction (Article 41) The Court held that the finding of a violation of Article 10 constituted sufficient just satisfaction for the non-pecuniary damage sustained by the applicant.

### **Kevin Lane Murder Conviction Going To Court Of Appeal**

Kevin Lane was found guilty of using a shotgun to kill Robert Magill while he walked his dog in 1996. Appeals judges are expected to hear concerns over a Hertfordshire police officer involved in the investigation who was later jailed. Lane's solicitor Maslen Merchant told the BBC: "This is a significant development in what has been a long and arduous journey for Kevin and his legal team." The case has been reviewed twice by the Criminal Cases Review Commission (CCRC) which refused to refer the case for appeal. He subsequently applied directly to the Court of Appeal which instructed the CCRC to look at "particular points". The announcement comes almost exactly a year after the Innocence Network UK (INUK) listed Lane's among 45 cases it believes should be heard by the Court of Appeal. No date has yet been set for the appeal. Kevin Lane: BV3290, HMP Wolds, Everthorpe, East Yorkshire, HU15 2J

### **John Anslow Recaptured In Cyprus**

Anslow had been sprung from a security van outside HMP Hewell in January 2012. He was on his way to a preliminary hearing at Stafford Crown Court over the murder of Chasetown businessman Richard Deakin. A Staffordshire Police spokeswoman said Anslow was arrested for immigration offences in the Alancak area of Northern Cyprus on Wednesday 14/03/13 before being deported by the Turkish Cypriot authorities. Represented by barrister Gary Bell, Anslow appeared via a video link at Stafford Crown Court yesterday afternoon 18/03/12 charged with murder and failure to face court on January 23 last year. The Judge told Anslow, who did not enter a plea, that a provisional date of October 2 had been set for his trial.

### **West Midlands Police Officers Arrested in Kingsley Burrell investigation**

Four West Midlands Police officers have been arrested today 22/03/13 by investigators from the Independent Police Complaints Commission (IPCC) as part of its investigation into the death of Kingsley Burrell. The four police constables were arrested on suspicion of gross negligence manslaughter and misconduct in a public office after refusing to be interviewed by the IPCC last month. They were arrested on arrival by arrangement at a police station in the West Mercia area today (Friday 22 March). They are being interviewed under criminal caution by IPCC investigators. The officers were due to be interviewed by the IPCC on 20 February but, after initially attending the agreed location, left the premises before interviews could take place.

The IPCC's independent investigation into the death of Kingsley Burrell is well-advanced and is expected to conclude shortly. A final investigation report will be compiled and a decision taken as to whether to refer a file of evidence to the Crown Prosecution Service. The four officers, who placed Mr Burrell while under restraint into a seclusion room at a mental health unit in Birmingham, have previously been interviewed by the IPCC under criminal caution. A further ten police officers have been interviewed as witnesses during the course of the investigation. At the request of the IPCC, an investigation into the involvement of non-police personnel is being carried out by Dorset Police. Mr Burrell died in hospital on 31 March 2011. In all over 100 witness statements have been obtained from police officers, medical professionals, ambulance staff and members of the public as part of the IPCC investigation. A number of reports from medical experts have also been gathered.

Mr Burrell's family have been told of the developments. The IPCC also established a community reference group to assist its investigation, made up of community representatives to whom updates have been provided.

*Police Complaints Commission (IPCC), 22/03/13*

come to their conclusions without them feeling in any way uncomfortable that their names might be known to anyone involved in this matter," he said.

However, Mr Mansfield insisted such a move should only be made in "exceptional cases where there could be threats", adding: "We say that does not apply in this case." Leslie Thomas, also representing the Duggan family, continued: "The jury might believe that they are being anonymised because of their safety, potentially there is some level of risk to them. That's a dangerous road to go down. It could lead to prejudice.

### **James Best: Jailed for stealing a 'Gingerbread Man - Dies in Prison**

HMP Wandsworth and London Ambulance Service severely criticised by jury at inquest concerning death of man imprisoned for stealing a gingerbread man during the London riots

A jury has severely criticised HMP Wandsworth and the London Ambulance Service (LAS) for 'failures within the systems and the consequent delays' which meant not enough was done to attempt to save the life of a man detained during the 2011 Croydon riots for stealing from a bakery. James Best, 37, was being held on remand at HMP Wandsworth when he collapsed and died of a heart attack after a gym session on 8 September 2011. At the conclusion of an inquest into his death on Friday, the coroner recorded a narrative verdict describing the symbolic response once James became ill. The jury described the timing of the call to the LAS, and the lack of priority given to the call by the LAS, as both 'potentially contributing to' James Best's death. James had a history of mental ill health and medical problems including Crohn's disease and asthma. In accordance with prison service policy he should not have been allowed to use the gym without the approval of healthcare staff. The inquest heard evidence that the gym assessment policy had broken down, with assessment forms being signed by prisoners rather than officers and no referrals being made to healthcare.

Evidence at the inquest raised serious concerns over the efficacy of the response of healthcare staff to James Best's needs following the heart attack. In addition there were lengthy delays with the dispatch of an emergency ambulance. The call from the prison to the London Ambulance Service lasted 13 minutes despite an officer telling the LAS that James was having difficulty breathing and repeated requests for an ambulance by the nurse attending to James. James was declared dead as the paramedics arrived. James had been convicted for stealing from a looted bakery. He was remanded in custody awaiting sentence. This was his first time in prison. At the time, magistrates were issued with advice from the courts and tribunals service to disregard normal sentencing guidelines for offences committed as part of the 2011 riots. Consequently there was a surge in the prison population, putting increased pressure on already crowded prisons.

James Best's foster mother Dolly Daniel, who looked after him from the age of 15, said: "He was such a loving person and our other children looked up to him as a hero. He was always looking out for friends and we just can't believe he has gone. To find out that his death may have been avoided if there were proper checks on his health is so hard to take in. He was let down by the justice system – he should never have been in prison in the first place – and they basically ignored his health issues. I just hope that the procedures can be improved so that no one else has to suffer as we have."

Deborah Coles, co-director of INQUEST said: "Not only should James never have been imprisoned in the first place but there remain serious questions about why a prison like Wandsworth that has seen a disturbing number of deaths is still failing to implement basic policies and procedures designed to protect the health and safety of its detainees. The Prison Service needs to urgent-

The Government were granted an extension of time pending proceedings before the Court's Grand Chamber in an Italian case concerning prisoners' right to vote (Scoppola v. Italy (No.3) (126/05), Grand Chamber judgment of 22 May 2005).

The Committee of Ministers has been following the UK Government's progress in complying with the Court's rulings. On 22 November 2012, the Government published a draft bill on prisoners' voting eligibility.

The draft bill includes three proposals: (1) ban from voting those sentenced to four years' imprisonment or more; (2) ban from voting those sentenced to more than six months; or (3) ban from voting all prisoners (i.e. maintain the status quo).

The Committee of Ministers is overseeing the progress of this draft bill. It has decided to resume consideration of the case at the latest at its September 2013 meeting.

In view of the Committee of Ministers' decision, the Court decided to adjourn its consideration of the pending applications against the United Kingdom concerning prisoners' right to vote until, at the latest, 30 September 2013. In the meantime, it has invited the Committee of Ministers to keep it regularly informed of progress.

### **Mark Duggan inquest: IPCC Investigation 'Not Fit for Purpose'**

*Independent*

The commission investigating the police shooting that sparked the summer riots was accused of being incompetent and not fit for purpose today. A pre-hearing into the inquest of Mark Duggan, whose death led to widespread violence in London and across other cities in 2011, also heard that the coroner may take the very rare step of granting the jury anonymity. Mr Duggan was under surveillance when the minicab he was travelling in was stopped by armed police and he was shot by an officer who said he was sure the 29-year-old was holding a handgun despite supporters' claims that he was unarmed.

Today, the hearing was told that – despite initially promising a report by November 2011 – the Independent Police Complaints Commission (IPCC) had still not completed its work. Michael Mansfield QC, for the Duggan family, said: “This is intolerable. It cannot be allowed to go along the same lines. This is, we say, malpractice. This report has to be finalised.” “We say the reason is because there has been incompetence from the beginning,” added the barrister. He complained that key aspects of the investigation – such as injuries to Mr Duggan, markings on his jacket, event reconstruction and the line of sight to where his gun was said to have been found – had been started late and there was an “appalling omission” in ascertaining whether there was aerial images of the scene. “They're just not fit for purpose,” he told assistant deputy coroner, Judge Keith Cutler.

The IPCC, which has already disclosed a large number of files to the inquiry team, was given until 13 May to deliver a copy of its investigation report in advance of the start of the inquest in September. Robin Tam QC, representing the commission, said it had been delayed by matters such as the retrial of the man accused of supplying the gun to Mr Duggan. Last month Kevin Hutchinson-Foster, 30, was jailed for 11 years after being found guilty of supplying the BBM Bruni Model 92 handgun.

The pre-hearing was also told that a number of police officers involved in the case would be requesting anonymity. Judge Cutler revealed that he was also considering doing the same for the jury – where they would be referred to by letter rather than name in court - a move sometimes granted in criminal trials but exceptionally rare in inquests. “It's very important that those who are on the jury should feel that they are able to concentrate on the evidence, to

### **Positive Verdict For Kyal Gaffney In Prison Death Inquest**

On 15 March 2013, the jury sitting with HM Coroner Geraint Williams for the County of Worcestershire at Stourport on Severn returned their verdict following a five day inquest into death of Kyal Gaffney on 9 November 2011. Kyal Gaffney was from Coventry and died from a spontaneous intracerebral haemorrhage as a result of clotting malfunction due to Acute Myeloid Leukaemia (AML) (promyclocytic variant). The jury found: ‘...It is the conclusion of the jury that, Mr Kyal John Gaffney, died at 13.20 hrs on 9 November 2011 at Alexandra Hospital, Redditch, of an intracerebral haemorrhage. It is also the conclusion of the jury that there were a number of missed opportunities for further intervention prior to 7 November 2011. The jury concludes that had further intervention occurred, then it is more likely than not, that an intracerebral haemorrhage could have been avoided.’

In July 2010, Kyal Gaffney was involved in a car accident in Leamington. He was the driver and one of his best friends died. Kyal sustained significant injuries leaving him disabled. On 18 October 2011, Kyal Gaffney was sentenced to 21 months imprisonment having pleaded guilty to causing death by careless driving under the influence. He was immediately taken to HMP Hewell.

On 26 October 2011 Kyal tried to see a prison doctor but he was turned away as he did not have an appointment. On 31 October 2011 he saw a doctor who recorded that he had been bringing up blood for 5 days but who thought it was a chest infection. She later told the inquest that she did not consider a blood test that would have revealed the leukaemia. On 5 November 2011 Kyal saw another doctor who admitted that he did not read the earlier records and consequently did not ask about him bringing up blood, which the jury was told probably continued to occur. This doctor also failed to see extensive bruising on Kyal, and diagnosed oral thrush for what may have been the blood blisters that are common in leukaemic patients. The doctor did order blood tests, because Kyal seemed anaemic, but the tests were not ordered on an urgent basis. When those tests were carried out on 7 November they showed that Kyal's blood was severely abnormal. Kyal was rushed to hospital that night for treatment but very shortly thereafter he suffered the catastrophic bleed that killed him. The jury heard that had Kyal been blood tested on 31 October, or urgently on 5 November, then he would probably have survived. Kyal was 22 at the time of his death.

Kyal's mother Mary Currie said: “I wish to thank the Coroner and his staff for their compassion and fearless investigation into Kyal's death. My unflinching legal team for their guidance, support and expertise and INQUEST, who have been a pillar of strength.

“There was a catalogue of errors at the prison not only in relation to Kyal's medical care but his disability. The jury's verdict confirmed what we had always known, that despite our best efforts to alert the prison to Kyal's deteriorating health, there were missed opportunities. If there had been earlier medical intervention, it is more likely than not that Kyal would be alive today. Our family feels vindicated by the jury's verdict but devastated that Kyal's death could have been prevented. We felt powerless watching him decline whilst at HMP Hewell. We can only hope that lessons are learnt and no other family has to endure this heartbreak.

“Following a death in custody, there must always be an inquest. The Prison and Trust, which provides healthcare at the prison, are both legally represented at the taxpayer's expense. Yet I struggled to obtain funding for legal representation from the Legal Services Commission (LSC). Not only did it take months for a funding decision to be made but I was asked to make a financial contribution. Legal representation should be free for all families regardless of their financial circumstances.”

Solicitor Anna Thwaites from Hodge Jones & Allen LLP, said: “There were missed opportu-

nities at HMP Hewell that led to Kyal's tragic death. This case raises serious concerns about the care Kyal and other prisoners receive within the prison system. It is hoped that lessons are learnt from Kyal's inquest and in the future prisons respond more effectively to prisoners' health concerns."

Deborah Coles, co-director at INQUEST said: "This is a tragic case which raises serious concerns about the treatment of prisoners with disabilities and ongoing concerns about the quality of prison healthcare. Recommendations for learning must be implemented as a matter of urgency, not just in this one prison but across the board."

Kyal Gaffney's family was represented by INQUEST Lawyers Group member Anna Thwaites from Hodge Jones & Allen LLP and Counsel Nick Armstrong from Matrix Chambers.

### **Campaign for Justice for the 21 victims of the Birmingham Pub Bombings**

Two bombs exploded in the Tavern in the Town and The Mulberry Bush pubs in Birmingham, killing 21 people, in November 1974. A mother of one of the victims was taken to the morgue and asked if she could identify her daughter Maxine : She was shown two bodies at the morgue. Their injuries were such that it was almost impossible to know what gender they had been some hours earlier. Neither of these were her daughter. There was one more body to be identified, this unfortunately was Maxine. Due to the severity of her injuries the mother was only able to identify Maxine by her finger nails (she used to bite them) and a little ring she always wore.

Paddy Hill, Gerry Hunter, Johnny Walker, Hugh Callaghan, Richard McKenny and Billy Power, who came to be known as the Birmingham Six, they were jailed for life in August 1975 for the bombings. All six had their convictions overturned in 1991.

22 years after their release and 38 years since the bombing still no answers or anyone brought to justice for the bombings

Aims & objectives of the Justice for the 21 campaign: To get the authorities to do the job they should have done nearly four decades ago. That is, to find and bring to justice the mass murderers of those killed in the Birmingham Pub Bombings. Please if you are so minded sign our petition:

We the petitioners, call upon the UK Government to: 'Implement a fresh inquiry to establish the truth in order to identify and bring to justice the perpetrators responsible for the worst outrage on British Mainland in the 20th century in respect of the memory of the 21 innocents who were slain in the 1974 Birmingham Pub Bombings'

### **Stephen Lawrence Killer Drops Appeal Against Conviction**

One of the two men jailed for the racist murder of the teenager Stephen Lawrence has dropped his appeal against his conviction, the Judicial Office has confirmed. Gary Dobson was given a life sentence at the Old Bailey in January last year. The second man, David Norris, is continuing his battle against conviction. There will be a hearing in his case at the court of appeal in London. A date has not yet been set.

A spokeswoman for the Judicial Office confirmed: "Gary Dobson has abandoned his renewed application to appeal his conviction for the murder of Stephen Lawrence. David Norris's renewed application seeking permission to appeal his conviction will be heard on a date to be fixed."

### **Alternatives to Prison**

*House of Commons / 20 Mar 2013 : Column 725W*

Members of the public are encouraged to identify Community Payback work projects for offenders. Public involvement in the identification of work projects for offenders helps to ensure that Community Payback provides tangible benefits to local communities.

### **Transsexual Prisoners**

*House of Lords / 20 Mar 2013 : Column WA162*

Lord Storey to ask Her Majesty's Government what arrangements are in place for transsexual people who change their gender while being held in custody by Her Majesty's Prison Service.

The Minister of State, Ministry of Justice (Lord McNally): NOMS issued Prison Service Instruction 7/2011 on the care and management of transsexual prisoners in March 2011. This instruction gives detailed guidance to prison governors and their staff on caring for and managing transsexual prisoners, including issues relating to their medical treatment, location within the prison estate, change of name and living in their acquired gender role.

### **Plight Of Women in Jail Tackled With New Policy On Sentencing**

Courts will be encouraged to hand more community sentences to women offenders – backed by curfews, tagging and unpaid work – in an attempt to reduce the female prison population. The move, combined with treatment programmes for women with alcohol and drug problems, is designed to reduce the number of families that are broken up when a mother is jailed.

In an interview with The Independent, the Justice Minister, Helen Grant said: "There are some women who are bad and a risk to the public and society and they need to go to prison. But there are other women who are in the system, low-risk women, who would benefit greatly from punitive, credible punishments in the community." *Nigel Morris, Independent, 21/03/13*

### **HMP Moorland Prison Riots: 15 men sentenced**

Aaron Graham six years, Daniel Baldham six years, James Kelly six years, Adam nine years, Daniel Hallgate six years, Jake Johnson six years, Kyle Sherlock six years, Lee Pidcock nine years, Michael Beale nine years, Mark Maclean nine years, Douaine four years. Sentenced to one year and eight months each for violent disorder: Luke Oliver, Robert Sawyers, Jack Millington, Thomas Beadle. All of the above were convicted of rioting in November 2010, but the cases didn't get to court until August and November 2012

### **ECtHR Adjourns 2,354 Prisoners' Voting Rights Cases**

The European Court of Human Rights has decided to adjourn its consideration of 2,354 applications against the United Kingdom concerning prisoners' right to vote pending before it.

In its first judgment against the United Kingdom regarding prisoners' right to vote, *Hirst v. the United Kingdom (no. 2)* (74025/01) of 6 October 2005, the Grand Chamber of the Court found that a blanket ban preventing all convicted prisoners from voting, irrespective of the nature or gravity of their offences, constituted a violation of Article 3 of Protocol No. 1 (right to free elections) to the European Convention on Human Rights.

It did not give any detailed guidance as to the steps which the United Kingdom should take to make its law compatible with Article 3 of Protocol No.1, emphasising that there were numerous ways of organising and running electoral systems and that it was for each Member State of the Council of Europe to decide on its own rules.

In its Chamber judgment in *Greens and M. T. v. the United Kingdom* (60041/08 and 60054/08) of 23 November 2005, the Court again found a violation of the right to free elections, as the Government of the United Kingdom had failed to amend the blanket ban legislation.

The Court held that the Government should bring forward legislative proposals to amend the law and to enact the legislation within a time-frame decided by the Committee of Ministers, the executive arm of the Council of Europe, which supervises the implementation of the Court's judgments.