

the **Howard League** for **Penal Reform**



Prison work and social enterprise:

the story of Barbed

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Executive summary

In 2005 the Howard League for Penal Reform, with the support of the Prison Service, launched a unique graphic design social enterprise, 'Barbed', based in Coldingley Prison.

'Barbed' is the first such prison enterprise in the UK and possibly the first of its kind in the world. The initiative is part of the Howard League's campaign for real work in prisons and is a bold and path-breaking response to the widely acknowledged failure of prison work.

The Howard League initiative had three primary aims:

1. To provide high quality and professional graphic design employing a social enterprise business model
2. To diversify the Howard League for Penal Reform's existing traditional funding streams for penal reform.
3. To provide a model for a new and innovative approach to prisoners' work in prison

Given the acknowledged relationship between employment and desistance, the impoverished experience of Prison Service workshops and the crisis of prison work more generally, Barbed offers a demonstrable, exciting and realizable future for prison work.

Barbed designers are serving lengthy prison sentences and their training and employment furthers the social goals of rehabilitation, inclusion and a reduction in re-offending.

The meaningful wage is a central pillar of the Barbed experiment. All Barbed employees (11 to date) are employed on the same contracts as other Howard League staff, which include provision for sick pay, holiday pay, grievance, disciplinary, pay and promotion procedures. This contrasts with the approximately 10,000 prisoners employed in prison workshops paid between £10 and £30 for a maximum 32 hour week.

To mimic payments for utilities, transport, food, rent or mortgage, it is a condition of Barbed employment that prisoners contribute 30% of their wages into a separate fund which makes charitable donations.

The Barbed studio produces high quality graphic design products. While the studio has been able to rely on clients who support the principles of social enterprise, new business has increasingly been gained through competitive tender and cold pitches. Barbed now services over 40 clients and new contracts include a Primary Health Care Trust, the Big Issue in the North, a number of major law firms and the Parole Board.

The Studio operates to the same professional standards as other graphic design studios and its products include magazines, pamphlets, flyers, promotional material, business cards, letterheads, annual reports, newsletters, greetings cards, and illustration web site pages.

Two main obstacles confront the future of Barbed, social enterprise and real work more generally in prison and both relate to the legal status of the working prisoner:

1. The tension between Prison Service and the employer over the exercise and control of authority over prisoners represents the most intractable problem for the success of real work in prison. British working prisoners have no employment rights and are afforded none of the usual social protections consequent upon those rights. Every prisoner employee of Barbed is first and foremost a prisoner – subject to the rules and whims of the Prison Service regime and its operatives irrespective of how that might impact on the working life of the Studio. This report documents in detail the negative impact of this tension on the productive capacity of the Barbed design studio.
2. HM Revenue and Customs has now deemed that prisoners may not legally be taxed. This is because the Prison Service argues that the prisoner is working under prison rules and cannot be treated as an employee. The initial agreement between the Howard League and the Prison Service was based on the view that if prisoners were earning a real wage they must also pay tax and National Insurance, which was also commensurate with prison rules that explicitly state this. The inflexibility of the Prison Service on this point jeopardises the whole idea of real work in prisons and appears to condemn prisoners and prisons to a bleak future.

The continued success of Barbed and the future of social enterprise in prisons thus requires the urgent resolution of the legal employment status of prisoners. Government must initiate legislative change in order to transform the negative experience of prison work into something which will benefit prisoners, the Prison Service and society. This will require a wholesale commitment on the part of the Prison Service which to date is absent.

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Introduction

In 2005 the Howard League for Penal Reform, with the support of the Prison Service, launched a unique social enterprise in Britain's Coldingley Prison. 'Barbed' is a graphic design business located within, but wholly independent of the prison. This independence, however, is severely compromised by the local and national actions of the Prison Service as this report documents. From within the confines of Coldingley prison, the Howard League recruits, trains and employs a small group of prisoners in graphic design. City law firm Clifford Chance, Surrey Primary Care Trust and the film Production company Shine North are representative of a range of public, private and charitable organisations included in Barbed's client list. Drawing on the principles of the Fair Trade Movement and the Howard League's historic mission to encourage meaningful and paid work in prison establishments 'Barbed' represents not only the first such prison enterprise in the UK but possibly the first in the world¹. 'Barbed' is now into its third year of operation.

In establishing 'Barbed' the Howard League had three primary aims:

1. To provide high quality and professional graphic design employing a social enterprise business model
2. To diversify the Howard League's existing traditional funding streams (i.e. to channel profits derived from 'Barbed' into the core funding of the Howard League for Penal Reform)
3. To provide a blueprint for a new and constructive approach to prisoners' work in prison

Barbed has already succeeded in realising aims 1 and 3 and it seems likely, given the analysis of its financial records, that the second aim is achievable within two years.

Only eleven prisoners to date (June 2008) have experienced the opportunity of training and working for Barbed and the current workforce stands at five (see Appendix 1 for relevant details of Barbed employees). No Barbed employee has yet been released from prison so the impact of the enterprise in terms of re-offending cannot be measured. This report is, therefore, a qualitative analysis of the initiative thus far. The research was undertaken between January and May 2008 and involved two visits to the Barbed Studio. Interviews were conducted with the Director and Assistant Director of the Howard League for Penal Reform; senior members of staff from the Prison Service; the Governor, Head of Prison industries and Head of Education and Training at Coldingley; Barbed Studio Manager, Barbed marketing officer and six Barbed designers (two of whom were trainees).

This evaluation relates the history of Barbed and its still early beginnings. It explores the motivations and the philosophy behind the initiative before examining the operational issues and obstacles that have been encountered along the way and it assesses Barbed's achievements against the Howard League's original published aims and objectives for the social enterprise. The report necessarily begins with a brief review of relevant research findings drawn from the prison work literature.

I was commissioned to do an independent evaluation which was funded by the Esmée Fairbairn Foundation, and the Howard League for Penal Reform has requested that a record is made of this generous support.

¹A similar social enterprise appears to operate in the French prison Maison Centrale Poissy (see below).

Early beginnings

The Howard League has, since its foundation in 1866, prioritised the value of meaningful, paid work in prison. In its first Annual Report published in 1867 the Howard Association, as it was then, focused its priorities around two issues, one of which was the poverty of prison work. In 2005 it launched its first major work-based initiative, the Real Work Project which comprised two key elements:

1. Barbed, a flagship graphic design social enterprise based in Coldingley prison
2. A major campaign to educate businesses and the public on how to develop commercially successful partnerships with prisons in order to secure a profit whilst at the same time benefiting prisoners, prisons and society.

There is little doubt that the current state of prison work requires a major re-orientation. (Wilson and Wahidin 2006; Shea 2005; Howard League 2000; Smartt and Vagg 2004). The powerful findings of Evelyn Shea's comprehensive review of prison work across three European jurisdictions – England, France and Germany - suggest that prison labour is currently 'in crisis' (Shea 2005:) Citing the low employment rate of prisoners, prison overcrowding, the correlation between unemployment and offending and the failure of existing prison work opportunities to rehabilitate Shea calls for radical reform:

The reform of prison labour is thus urgent.... 1) Give back to prison labour its place as the central tool for the rehabilitation of inmates. If Prison Services saw work again as the best means to assure the social inclusion of the persons in its care, funds would become available and constraints could be reduced to their strict minimum. 2) Make sure that inmates get every help possible to find and keep a job after release, knowing that the recidivism rate of those who find stable employment is 33-50 % lower than for those who apply in vain (Evelyn Shea 2005).

What now follows, in this report is a detailed review of the most radical work initiative in a British prison today – an innovation which promises the possibility of precisely the kind of reform Shea is arguing for. All that is required is political will and imagination on the part of government and Prison Service policy makers.

Employers and prisoners

Understanding the relationship between the world of employment and the world of prisoners is crucial to the successful reform of prison work. Two sets of research findings will be briefly examined here; the attitudes of employers to employing prisoners and the relationship between employment and recidivism.

There is a general willingness among the employing public to recruit former prisoners. A survey conducted by the British Chartered Institute of Personnel and Development reported positive attitudes towards employing ex-offenders with two-thirds of HR professionals interviewed reporting that it was reasonable to expect organisations to make a conscious effort to recruit ex-offenders. The survey also found that in those instances where the experience of working with ex-offenders had been less than positive, the primary cause of problems related to the attitudes of other employees and customers and not to the work performance or behaviour of the ex-prisoner. Re-offending was cited as a cause for problems in only 14 percent of cases (CIPD 2002).

Similar findings are reported internationally. A US survey of prisoner employers found that employers attributed their main source of dissatisfaction not to the prisoners who worked for them but to the prison bureaucracy and prison environment (Enterprise Prison Institute 2002). Prisons have an opportunity to develop and exploit this employer goodwill by creating conditions inside prisons in which meaningful work is prioritised and prisoners become more employable through training and experience. In order to make progress, however, it is clear that significant changes are required within the prison bureaucracy. As the evidence presented in this report reveals, the nature of the regime in UK prisons represents a major obstacle to the successful development of meaningful employment opportunities inside prison.

The evidence for prioritising and delivering meaningful work in prison is compelling. Prisoners have a complicated and generally negative relationship with legitimate employment. A review of the evidence reveals that in the twelve months leading up to imprisonment, prisoners have six to ten times higher rates of unemployment (Shea: 2005: 8). Employment rates following a period of imprisonment are equally poor. Mair and May (1997) reported that only 21 percent of offenders released on probation found employment despite the efforts of the Probation Service to assist in the process. Prison clearly fails to prepare prisoners for the world of work once they are released. In a study in England and Wales Frances Simon (1999) found that out of a sample of 178 prisoners 63 percent had been largely or wholly out of work in the twelve months leading up to their offence. Lack of regular legitimate employment is clearly correlated with re-offending. Five months following release 75 percent of those who hadn't sought regular work on the outside had re-offended compared with only 28 percent of those who were actively looking for work. Recidivism rates were even lower, at 15 percent, for those former prisoners in regular employment. (Simon 1999).

Whatever the reasons for the relationship (employment providing informal social control (Sampson and Laub 1993) or unemployment exacerbating pre-existing personal and social difficulties (Albrecht 1988)) regular, legitimate employment seems strongly correlated with reduced recidivism. Unfortunately the research findings outlined above strongly suggest that existing work opportunities and training in prison have done little to improve the employment prospects of prisoners upon release.

It is from these premises – long appreciated by penal reformers – that Barbed with its vision of social enterprise as penal reform was born.

Social enterprise

'Barbed' is an explicitly social enterprise which according to the Department of Trade and Industry is a form of 'business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners.' Thus profits from the business are used either to support explicitly social aims (related or unrelated) or those aims are achieved through the operation of the business itself. 'Barbed' set out to achieve both – a) to provide a diversified funding stream for the Howard League and b) to provide prisoners with appropriately paid and meaningful work with a wider aim of reducing recidivism.

According to Social Enterprise London (2008) there are three distinguishing features of social enterprise:

1. Enterprise orientation: social enterprises are directly involved in producing goods or providing services to a market. They seek to be viable trading organisations, with an operating surplus.
2. Social aims: They have explicit social aims such as job creation, training or the provision of local services. They have ethical values including a commitment to local capacity building, and they are accountable to their members and the wider community for their social environmental and economic impact.
3. Social ownership: They are autonomous organisations with governance and ownership structures based on participation by stakeholder groups (users or clients, local community groups etc.) or by trustees. Profits are distributed as profit sharing to stakeholders or used for the benefit of the community.

Barbed meets all the requirements of a social enterprise. It is an autonomous enterprise governed by a penal reform charity, the Howard League for Penal Reform. It openly and competitively pitches for graphic design work in the market place and aims to produce an operating surplus. While the enterprise is still young and a surplus has yet to be attained, Barbed aims to create a profit which will then be used to develop and support the work of the Howard League. By breaking even the primary social purpose is still achieved. Barbed's primary social purposes are thus two-fold:

1. to provide meaningful work and employment experience which is in turn driven by an ethical concern to extend and promote social enterprise as the dominant model of work in British prisons
2. to provide an alternative funding stream for penal reform.

Barbed also draws on the principles of 'fair trade', a market-based social movement concerned with the alleviation of global poverty and the promotion of economic sustainability. The movement advocates the payment of a fair price as well as social and environmental standards in areas related to the production of a wide variety of commodities. It focuses in particular on exports from developing countries to developed countries.

Fair trade's strategic intent is to deliberately work with marginalised producers and workers in order to help them move from a position of vulnerability to security and economic self-sufficiency. It also aims at empowering them to become stakeholders in their own organizations. Fair trade and social enterprise are most commonly associated with economic developments in the third world. Fair trade in the charity sector was developed by Oxfam in the 1990s both to raise revenue for the charity but also as a social intervention which would bring important economic and social benefits to small producers. Fair trade principles are concerned with the dignity of the producer and a recognition of power and economic imbalances. In countries like the UK there is a reasonable assumption that citizens do not require a fair trade model; the existence of a national minimum wage, health and safety legislation, trade unions and human rights legislation are seen to offer important protections to workers. However, one clear category of marginalised UK citizens for whom these protections do not exist is that of prisoners. For Frances Crook, Director of the Howard League, the connection was obvious 'if you are going to have fair trade in this country it makes sense to have it in prisons' (interview 14th March 2008).

The Howard League was quick to recognize the market potential of the enterprise they were establishing. They adopted a target client-base likely to be supportive of the specific social aims of Barbed as well as the concept of fair trade more generally. The fair trade nature of Barbed was envisaged to be a unique marketing tool whereby clients who believed in the enterprise could gain the design service they required with the added bonus of contributing to the benefit of society more widely. It was argued that investment in social enterprise (and in the rehabilitation of prisoners through work) would reflect favourably on the membership, customers and supporters of the clients. In addition it was recognized by the Howard League that the Barbed product was likely to have enhanced appeal for clients looking for something a little out of the ordinary, produced as it would be by prisoners whose own life experiences would be reflected in the product (Howard League 2005). An examination of Barbed's client list for 2007-08 suggests the accuracy of this vision (see Appendix 2).

Wages

Wages are a crucial element of work not only in terms of the remuneration to the worker but significantly because of the social contract implied in the working relation. The meaningful wage is a central pillar of the Barbed experiment.

'Most of the prisoners worked cash-in-hand, and that does no one any good. It is theft from the state. For me real work is much more than the wage – no matter how important that is. It is also about the relationship with an employer and the state. Most prisoners don't come from that world. A world where they pay taxes and are held accountable to an employer. Real work is about the relationship with the employer and then the rights and responsibilities that come with that such as paying tax and National Insurance. And then of course the state has responsibilities to you.' (Frances Crook cited in Wilson and Wahidin 2006)

Despite a 2005 Green Paper² and a raft of Prison Service programmes which acknowledge the value of gaining 'real' work experience and skills in the reformatory process³ the Prison Service has never seriously linked the issue of wages to rehabilitation. On April 30th 2008, for example, the Ministry of Justice retracted its decision to increase prisoners' 'wages' from £4 to £5.50 per week ostensibly so that the issue of prisoner wages could form part of the discussions around the introduction of a new offender contract designed to prepare prisoners for life outside jail⁴.

Real work for prisoners has not been prioritised by the Prison Service. Fewer than 10,000 prisoners are employed in prison workshops, out of a total prison population of more than 82,000. Prisoners are typically paid between £10 and £30 for a maximum 32 hour week. The majority of prisoners are employed who do engage in some sort of work are used to support the running of the institution, for example in the kitchens, cleaning, gardening or decorating. They are allowed to spend no more than £33 per week on a restricted range of goods (including cigarettes, food and toiletries). This sum includes money that families can send in to supplement their prison income.

These token sums do little to incentivise legitimate work as meaningful activity which brings a range of adult rewards. As the Howard League (2000) has documented, few prisoners have ever had a true, legitimate employment experience nor the experience of the legal rights that accompany that employment. They have never worked outside the illegal economy. Prison work extends and compounds that experience. Legitimate work in the prison context is presented in all its aspects as a negative experience with a marginalised relationship to financial remuneration. Denied a meaningful wage and legal employment rights prison work, from the prisoner's perspective, is thus linked more with exploitative punishment than reward, and as such does little to challenge offending behaviour. The pocket money offered, paid 'cash in hand' has, what can only be described as, an infantilising effect. There is no positive link between the work done and the money handed out. Pocket money does not equate to a meaningful wage. As Shea notes from her comparative research, 'Actual pay levels leave thus

² *Reducing Re-Offending Through Skills and Employment* December 2005

³ See for example, the *Reducing Re-Offending Employer Alliance; Custody to Work and Business in Prisons Initiatives*

⁴ <http://news.bbc.co.uk/1/hi/uk/7374276.stm>

little margin for taking care of family responsibilities or to reduce the debt burden that weighs on many inmates. Even if German and English prisons provide more of the basic essentials, the lower salaries make it virtually impossible to put aside a sufficient amount for a new start after release (2005:12)'. Prisoners are thus unable to engage in the full work experience (which importantly includes deductions for taxation and National Insurance purposes) and for many in prison the message remains that crime is a more lucrative and easier option than legitimate work. The Prisoners Earnings Act (1996) which would have facilitated increased wages in productive sectors of prison work (and provisions for the deduction of board and lodgings and victim support) has not been implemented because of required accompanying changes to prison legislation which have yet to be made.

Prison work

Employment is now recognised as one of the key factors in reducing re-offending (Social Exclusion Unit 2002). In addition there is a strong body of penological work which suggests that a prison environment which seeks to reproduce normalised community life complete with the responsibilities that such a life entails, is more strongly correlated with the successful reintegration of prisoners into the community (Rutherford 1984, Pryor 2001.) Moreover it is now clear that the element of normalised employment is likely to play the most important role in establishing stable reintegration. Home Office research has demonstrated that finding and maintaining secure employment upon release from prison plays a very significant role in reducing re-offending (Haines 1990). Work is one of the central elements of living successfully in society and provides individuals with financial independence, a sense of self-worth, community involvement, satisfaction, status and belonging (van Zyl Smidt 1999; Howard League 2000 ; Smartt and Vagg 2004; Shea 2005).

The prison, however, has proven an inefficient and inadequate employer on a range of indices. The Howard League in a review of prison workshops found that there was no clear or unified guiding principle behind prison work; that it was menial and did little to enhance or build an ethic in support of legitimate work; that the nature of the work offered inside prison did not reflect a real employment experience in the outside workplace; that the opportunity to undertake integrated qualifications was rarely available; and that prison wages were so low as to create a 'negative picture of legitimate work' (Howard League 2000). Evelyn Shea's research reinforces these findings. The majority of English prisoners were, she found, critical of the quality and type of work available to them 'They complain about monotonous, boring tasks that do not teach them anything and do not improve their chances on the labour market. They would like to see them replaced by jobs in more promising fields like in information technology, the service sector or in construction' and they '...desire to be given more responsibility and to be taken seriously as competent workers' (2005:13).

Barbed employees in interviews were quick to note the stark contrast between the prison work which they had previously been involved in and that offered in the Barbed Studio:

'It's woken me up, before this I had just been in mind-numbing jobs. Normally in B Cat you just go where the money is but then this came up. Here I have the opportunity to use the latest technology, things I would never have dreamed of. I wouldn't have been one to sit down and read – I have dyslexia. Design gives me the opportunity to give something back to society... National Insurance, income tax, supporting my family and giving gifts,' (Barry)

The Prison Service supports four basic models of prisoner work:

1. In-house work, located inside prison (in workshops, kitchens, laundries or gardens) and relating largely to sustaining the prison regime. This is the work which characterises prison regimes; a low risk business model from the Prison Service's perspective in which demand, production and stock levels are readily predicted because of the large internal market offered by the Prison Service. From the prisoner's perspective it is an exploitative model remunerated with 'pocket money' (payments typically range from £10 - £30 per week).

2. Contracts with the private sector to provide a wide range of goods and services. In this model concession workshops are established by outside businesses (through the private provision of equipment, materials and finance to cover overheads and prison salaries) in exchange for premises and labour power. The work proposed is normally menial requiring no previous training or experience. Prisoners are again remunerated with pocket money only. The Prison Service acknowledges this work to be both mundane and potentially exploitative. The Howard League argues that 'These private companies are effectively using prisoners as cheap labour, giving them the most menial tasks that might otherwise be exported' (Howard League 2000). There is also a concern that in this process of sub-contracting the prisoner is distanced from the employer and rather than developing a normal employee/employer relationship is instead returned to a relationship between prisoner and prison.
3. Prisoners work but in a training capacity to develop service and production skills. This model is seen as an attractive one for the private sector who provide the equipment and technology (at low cost to themselves on premises freely provided by the Prison Service) in return for skilled labour force upon release.
4. Re-settlement work which is offered to some prisoners in open prisons as their release date approaches. In this model, prisoners on day release in the community complete a period of voluntary work followed by a period of trying to secure paid work. Some 1,500 prisoners are currently released on licence to undertake paid work in the community. Re-settlement prisoners are employed by the outside workplace and pay tax and NI contributions, although still subject to prison rules.

To these four models we should now add a fifth – social enterprise but it can hardly be said that it is a form of prison work that the prison service actively supports and sustains. The future of the social enterprise model of prison work will depend not only on the success of Barbed (which in turn is wholly dependant on the cooperation of the Prison Service) but more importantly on the political will of government to realise in prison practice the social value of meaningful paid work for all prisoners.

The Howard League for Penal Reform's own research into prison workshops has demonstrated that much is required to improve the prison work experience – wages remain pitiful, the work monotonous and unfulfilling and with a vastly increased prison population many prisoners are unable to accrue valuable experience which would be recognised on the outside (Howard League 2007). The Woolf Report's recommendations (1990) for more normalised wages and working hours for prisoners, for the coordination of regime services to facilitate work and for an increase in working with outside private employers were ignored or abandoned in the face of security and prison expansion concerns. Almost twenty years on the government shows no sign of taking them seriously.

The Prison Service and Barbed

While Barbed was not designed with Prison Service objectives in mind; it nonetheless explicitly addresses one of the government's key stated penal concerns. In December 2005 the Government published its Green Paper, *Reducing Re-Offending Through Skills and Employment*. A focus 'strongly on jobs' and a belief that 'sustained employment is a key to leading a crime-free life' underpin the Green Paper which recognised that 'Activity to improve individuals' employability while serving a sentence can be better connected to real job opportunities with employers more involved in design and delivery of training' (HM Government 2005:17). Under 'Deliverables for 2006-07' the Prison Service specifically identified a link between employment and re-offending and one of the seven pathways from the National Reducing Re-offending Action Plan is 'Education, Training and Employment' (HMP 2004). Under its priority heading of Reducing Re-offending it lists as one of its key performance targets to, 'Ensure that 35,870 prisoners have a job, training or education outcome on release.' (HMP 2006). The Prison Service has not, however, seriously or systematically pursued real work options for prisoners in its care.

According to a senior official within the Prison Service, developing employability skills and creating work opportunities is a key function of the Prison Service. 'We know that the combination of finding a partner, a job and somewhere to live encourages desistance. Having sustainable work is a key factor' (interview April 24th 2008). The rhetoric has yet to demonstrate substance. The Prison Service places considerable value on what are sometimes described as the 'softer' elements of work and it is within this framework we can identify a potential resistance to fully developing social enterprise in prison. According to another Prison Service source 'We don't necessarily want employees who are skilled only for a particular job. In most cases we want educated, punctual, trustworthy, responsible people – these are the 'softer' work skills. If employers get someone like this they can train them.' While laudable in itself, this comment does suggest a preference for training and education over real employment strategies. Given the established correlation between employment and re-offending, described above, a concentration on the 'softer skills' is a higher risk, although undoubtedly less challenging, option for the Prison Service.

John Robinson, Governor of Coldingley sees Barbed as a 'great idea' and would like to see more social enterprise in prison. The problem for him, and it is a significant problem, is what he describes as a lack of support from the Prison Service, 'I'd like to see some Prison Service policies on social enterprise. We should be doing more of it in a much more structured way. I've discussed it with my peers, other Governors but there's no great desire to take social enterprise on board' (interview March 13th 2008).

Because of this isolation and the small scale nature of Barbed John Robinson hasn't felt moved to defend or advocate on its behalf. 'Barbed remains a minor issue because the Prison Service hasn't sought to expand it'. He worries that unless there is a national Prison Service drive Barbed will become an elitist 'project' housed in his prison out of reach to the vast majority of Coldingley inmates. In keeping with Prison Service ethos, he would, he says, be more enthusiastic if Barbed resulted in a workplace qualification and acknowledges the genuine and widespread desire amongst prison Governors for better workplace training. 'I struggle with the idea that just four⁵ people are employed in this way, the gap between the different forms of work in the prison is huge, it becomes elitist, the rest of my group, another 385 odd prisoners are on £15 per week' (interview, March 13th 2008 emphasis added).

Like his enthusiastic predecessor, Paul McDowell who welcomed Barbed into his prison in 2006, John Robinson is largely supportive of attempts to 'normalise the workplace' for prisoners and sees the key to successful resettlement as resting with real employment opportunities. But he remains sceptical that the 'elitist' nature of Barbed has come to define it more as a 'project' rather than the 'first step in a journey' toward employment normalisation in prison. He argues that the only way forward is for the Prison Service to adopt a policy which encourages social enterprise in prison. He has not, however, been moved to either promote or defend Barbed in wider prison circles. Whilst equivocal he recognises Barbed as an essentially good idea and is tacitly behind its expansion in the Prison Service, 'It's a frustration for most people because it hasn't moved on despite the Howard League's efforts – but it's still here... we should be doing more of it in a much more structured way' (interview March 13th 2008). What becomes clear, however, is that despite this formal support for Barbed the prison authorities at Coldingley have, in reality, acted to disrupt and thwarted its productive success. It took more than a whole year to get a telephone installed, apparently more through a toxic mixture of incompetence and risk aversion inside the prison than any deliberate policy to obstruct. Once the business was launched and the charity had to invest considerable resources in both financial and human terms to train raw recruits to become skilled graphic designers. Arbitrary, repeated and unannounced withdrawal of prisoners from the studio have repeatedly affected the business.

⁵ At the time of the interview only four prisoners were employed by Barbed

Formal training and qualifications

The issue of formal qualifications remains a point of contention for the Prison Service. The original aim was to ensure that all Barbed employees received formal qualifications, either NVQs or modern trainee apprenticeships leading to certification. In the Howard League's Real Work Strategic Document and Business Plan, it is stated that 'Prisoners participating will be fully trained, gain professionally accredited work-related qualifications and compile their own portfolios' (2005:6). In practice the focus has been on the compilation of individual portfolios. There are two main reasons for this revised focus (which appears to neither disadvantage the individual prisoner nor Barbed):

1. Initial attempts to provide training opportunities (toward a BTEC) with a local college presented real operational and financial obstacles. Of particular concern to the Howard League was the very significant amount of paid time away from work which would be demanded from Barbed workers in pursuit of formal qualifications. Given the tendency of sudden prisoner removals this in practice would have been a risk-laden approach for the business
2. The realisation that within the industry a portfolio provided greater recruitment opportunity than a design qualification

There is little doubt that prison authorities are keen to encourage and gain recognised qualifications for prisoners. There is a genuine concern, evidenced within the Prison Service and in Coldingley prison in particular, that prisoners return to the community with skills and qualifications which will enhance their ability to find employment. According to Governor John Robinson 'I'd be happier if the enterprise came with work-related training, a vocational qualification which will allow prisoners to make the next steps. I want all my prisoners to acquire formal qualifications which will help them in the workplace, even if it is just a health and safety certificate' (interview March 13th 2008). And while this makes sense in the general context of employability and many occupations which prisoners may pursue, it does not pertain to graphic design. Nonetheless Coldingley's Governor and Heads of Industries and Learning and Skills have focused on the lack of an opportunity to develop a formal graphic design qualification as their major criticism of Barbed.

The culture of paper qualifications operating in prison education and industries is also, however, driven by government designed performance indicators. As cited above the Prison Service has set specific targets in relation to training and education. Providing paper qualifications (including the health and safety training certificates cited) can be a relatively easy and economical way of meeting such targets.

Frances Crook remains critical of a Prison Service approach which prioritises training over employment for long term prisoners:

'The discourse was all about training for future employment. Even now it is the same. But what is the point of training someone if they are serving ten years, or Life? They've done all the training; all the group therapy. They need work and no one ever talks about proper work inside – real work.'

Barbed: the making of a social enterprise

Barbed is the culmination of five years of research, commitment and strategic planning. (Howard League 1991, 1994, 2000) It is also the realisation of one of the Howard League for Penal Reform's central missions. In its 2000 briefing paper on prison workshops the Howard League recommended a 'real-world' approach to prison work which included inter alia: meaningful wage scales; savings accounts for all prisoners; a system of deductions from those prisoners earning enhanced wages; full civil employment rights; ongoing training and promotion opportunities and an assumption that just as in the world, outside work should take precedence over other forms of activities organised in prison. Alongside the underpinning principles of social enterprise and fair trade, these particular recommendations were to form the core of the Barbed initiative.

To take the initiative forward in 2004/5 the Howard League visited and assessed a range of training prisons for their willingness and suitability to house the enterprise. Early consideration was given to a printing business at the Mount prison but two feasibility studies and the capital intensive nature of the printing industry suggested a different model would be more likely to succeed. Following consultations with the design industry it became clear that for a number of reasons establishing a graphic design social enterprise was a potentially exciting way forward. A graphic design business requires minimal equipment and capital investment, it is a twenty first century industry which lends itself to freelance patterns of work and, of considerable importance from the Howard League's perspective, is the profession's reliance on a portfolio rather than explicit formal qualifications. Acquiring a portfolio of professional and successful design work is the most important prerequisite for securing a job in graphic design.

Perseverance was required to deal with the culture of security, inertia and inflexibility endemic within the Prison Service:

'There were detailed negotiations over prison rules and regulations, how long prisoners could spend in our workshop, whether or not they could work over lunch, when could dental and family visits be accommodated and so on. It began to look as if prisoners would only be allowed to work part-time and that simply wasn't a possibility from our perspective in setting up a commercially viable business. All these obstacles were justified in the name of security' (Frances Crook, interview 14th March 2008).

Discussions also commenced with the Prison Service. After the two year period negotiating unsuccessfully with the Mount an observational visit to Coldingley industrial prison changed the fortunes of the enterprise. The Howard League found in the then Governor of Coldingley Prison, Paul McDowell, an enthusiastic supporter of the social enterprise concept who was keen to house the Studio in his prison. Paul McDowell liked thinking outside the box and lent his fulsome support to Barbed. The prison's Head of Industries, Dave Royle was, at the time, equally accommodating and delivered the space in which the enterprise was to be situated. While the Prison Service initially supported the enterprise initiative and drew up the partnership agreement between Coldingley and the Howard League there is certainly a tension between the two over the nature and potential of social enterprise. The evidence suggests that the Prison Service saw Barbed as a worthwhile venture and one which they were comfortable in supporting if it remained at the limited level of a 'project', a vision the Howard League did not share. Barbed was regarded as a largely self-supporting initiative which required little involvement on the Prison Service's part, as long as it operated in a limited and unproblematic fashion.

Six trainee design positions were originally advertised in the prison job club and applicants submitted an application form. Those shortlisted were invited to interview and the successful candidates began their training in October 2005. The salaries and job descriptions were assessed as part of the mainstream structure of the organisation. The starting salary at that time was £8,880 pro rata and without London Weighting (for a 32hr week)⁶. This was well above the minimum wage but was judged to be the rate for the job. Under a recently negotiated contract all Howard League employees receive an annual increase of £1,000 plus cost of living adjustments. All Barbed employees, in the spirit of social enterprise, are employed on exactly the same contracts as other Howard League staff which include provision for sick pay, holiday pay and grievance, disciplinary, pay and promotion procedures. In recognition that most prisoners have only a cursory knowledge of legitimate work and the issues surrounding it, workshops were held to explain the full nature of the contractual requirements to the prison employees and the Finance Director in conjunction with a banking employee conducted a presentation on bank accounts, pensions, pay, tax, National Insurance and donations.

Because of the cuts in hours imposed by the Prison Service, the prisoners have experienced several wage cuts. The studio was originally working a 32 hour week but are now doing only 24 hours, and even this is often curtailed through random shut downs. This means that the prisoners are now being paid less than when they started work three years ago, despite having had cost of living rises and increments.

The Howard League is committed to the principles of restorative justice and invited its prisoner employees to make voluntary contributions to Victim Support in this spirit. Victim Support was approached at the outset and insisted that the donations be voluntary. The money is donated from the prisoners' bank accounts, benefited from Gift Aid and the amount is confidential.

⁶ The starting salary is now lower because of Prison Service cuts to the core working day. New recruits are now earning £6,669 for a 24 hour working week. The most senior designer, Mr B, is currently earning £8,444

Because prisoners may not pay towards their “bed and board” it was felt that in order to make the enterprise fully acceptable to the public, prisoners should not be allowed to retain all their wages. If they are to be paid a real wage, it would be unfair that they should be able to keep the full amount whereas members of the public must pay for utilities, transport, food, rent or mortgage. The Howard League made it a condition of employment that prisoners contribute 30% of wages into a separate fund that would be managed jointly by a representative of the Barbed workforce team, the Howard League and the prison. The fund would make charitable donations. Despite the fund accumulating and some charitable donations being made, it took longer than anticipated to have it fully functional. Donations were made to the Prisoners Education Trust to support distance learning and to organisations supporting families of prisoners. The fund now has an application process and guidelines and is publicizing its remit to encourage charities and voluntary organisations working with prisons to apply. This was an expedient measure in the face of rules that prohibit prisoners from paying for their keep. The Howard League’s view is that prisoners should not pay for security in prisons, but that if they earn real wages they should be able to pay for luxuries like duvets, televisions, better food, DVDs or even better cell conditions such as the installation of a shower.

All prisoners are restricted in the amount of money they are permitted to spend inside the establishment; indeed the range of goods on offer in the prison canteen is very limited anyway. Barbed prisoners have been using the most part of the remained of their wages to support families and save for their release.

Working for Barbed

The Barbed working week begins with a Monday production meeting in the Studio. The meeting provides a forum to discuss all work related issues and to note any production problems or concerns which may have arisen in the preceding week. David Allen, the studio manager reports on jobs he has quoted on and the kinds of businesses Oscar (Marketing Officer) is approaching for business. The designers are reminded of the different projects currently scheduled for each of them and in this way are encouraged to appreciate the collective nature of the business. Three new recruits (bringing the current cohort of inmate employees to 5) are currently undertaking training with a freelance senior designer enlisted for the purpose. The training offered takes 6 months and is a compressed version of a college based graphic design programme. Most inmates don't have a creative background so the initial training encourages trainees to become 'design aware' and to understand the computer as simply a tool in the design process. According to David Allen much of the training is also focused around confidence building and challenging the issues of institutionalization which all prisoners confront – characteristics which can present real impediments to the creative work process.

'I want them to 'think outside the cell', the lads are so institutionalized they expect everything on a plate... it can be a real battle to break through this much of the time because the lads just aren't confident' (interview 28th April 2008).

The Howard League's Assistant Director, Euginia Lolomari, line manages Oscar and the immediate civilian staff based at Coldingley (currently David Allen, and formerly his predecessor Eleanor Black and Josie Cluer, the original project manager). David Allen in turn line manages the Barbed designers in Coldingley. Regular supervision sessions are carried out and an annual appraisal takes place as with all Howard League staff. The original desire to involve prisoners in the strategic direction of the enterprise has not yet proven realistic. Ensuring that the work is finished to a high standard and on time remains the priority. The commitment of the Howard League staff to address these issues and to create a productive and ethically framed business is evident at every level.

Clients

"We would like to thank you and the team at Barbed for the excellent design of the website. Our trustees are very happy with the outcome" (McGrath Charitable Trust)

The target client base, as identified in Barbed's original Business and Strategic Plan has been the charitable and not-for-profit sector as well as other organisations whose approach to issues of social responsibility would indicate a likelihood to endorse the aims of the enterprise. Given the paper output of these organisations (magazines, flyers, appeals and promotions leaflets) the targeting is therefore commercially as well as ideologically rational. Between 2006 and 2007 Barbed's clients were chiefly the Howard League, other charities and various government departments. The challenge according to Assistant Director, Euginia Lolomari, was to attract a wider client base. While the studio has been able to rely on clients who support the principles of social enterprise new business has increasingly been gained through competitive tender and cold pitches. Dealing with real world clients and producing a real world service produces emotional as well as financial rewards;

'When I was providing stuff for customers (not the Prison Service) – for real people – and they'd ring up and praise you, it was a good boost for morale' (Oscar, former Coldingley inmate)

The appointment of David Allen as Barbed studio manager and the resettlement placement at the Howard League of former Barbed employee, Oscar have enabled the business to move beyond its in-house beginnings. Oscar, in his role as Barbed marketing officer, has generated a considerable amount of new business in the past eight months – taking the client list to well over 40.

While the Howard League remains Barbed's most important client, new contracts (including a Primary Health Care Trust, the Big Issue in the North, a number of major law firms and the Parole Board)⁷ indicate the growing success of the enterprise's marketing strategy. In terms of product, Barbed aims, and has achieved, the production of high quality design work increasingly reflected in the extent of return custom and praise for the work produced (see Appendix 3 for further client comments). The standard of the work produced by Barbed is also objectively reflected in its success at the 2007 Koestler Awards. Barbed designers won five prizes across two desktop publishing categories, winning first prize in the Establishment Magazines category.

Marketing necessarily promotes the quality of the Barbed design product but always in the context of the distinctive features of Barbed as a fully social enterprise: i.e. that:

1. the designers producing the work are serving lengthy prison sentences and that their employment furthers the social goals of rehabilitation, inclusion and a reduction in re-offending
2. for the first time in the UK prisoners are employed on fair trade principles and are subject to the same employment rights and conditions pertaining to other workers

The 40 plus clients Barbed now services receive a quality product which in addition benefits society. In the process they also acquire a 'fair trade' reputation which may enhance their own public image.

Barbed in situ: product and professionalism

To reach the Barbed Studio one must walk through Coldingley's sign-making workshop, one of the prison's important industrial sites. Here prisoners work in what can only be described as a lacklustre environment. A few prisoners attend to the task in hand but many prefer instead to read tabloid newspapers – the atmosphere is desultory, absent of energy and commitment. This is hardly surprising given that much of the work is for the Prison Service itself (there is something inherently paradoxical about requiring prisoners to produce the hardware of their own incarceration) and given that the remuneration offered will scarcely buy sweets and cigarettes for the week. According to Oscar one of the original Barbed employees, now working as a re-settlement prisoner in the Howard League's London offices,

'While I was in Coldingley I worked in the engineering department, making metal filing cabinets and stands. I was earning £20 per week... it felt like a waste of time, I wasn't learning anything new, nothing that would take me forward... I don't know why they can't give you something constructive – it was just a way to get you out of your cell so as not to be bored senseless' (Oscar interview 14th April 2008).

⁷ See Appendix 2 for a full client list

By contrast the Barbed studio workshop is a pleasant and welcoming space, an oasis of focused activity. In a relaxed and peaceful atmosphere employees concentrate on their screens, develop the designs they have been commissioned to prepare and discuss ideas and problems with each other and the Studio Manager. Concentration levels are high and there are few distractions, save for the occasional visits by those with a professional interest in the enterprise or curious inmates who wander in. Supervision operates with a relatively light touch. There is a very clear sense of mission and work ethic – plainly less visible in the industrial workshops. The Studio Manager reports a strong work ethic:

'Everyone works well until tea break then they jump back to work when it's over'.

The Studio operates to the same professional standards as others graphic design studios and its products include magazines, pamphlets, flyers, promotional material, business cards, letterheads, annual reports, newsletters, greetings cards, and illustration web site pages. Objectively the work produced compares very favourably with the work produced by other design studios and Barbed has beaten 'formidable rivals' to desirable contracts.

When asked to distinguish a Barbed designer from other graphic designers the studio manager reported,

'Well they don't have a design background and have clearly gone into the industry for different reasons but they aren't full of themselves as so many other designers are – they don't wear black polo-necks and shave their heads; they are naturally enthusiastic – there is no apathy in Barbed – they really do understand that they've been given an opportunity' (interview 28th April 2008).

Barbed employees appreciate the working environment offered by the Studio:

'When I come in here it's like I'm away from the prison, it feels like a proper job – we have deadlines, it's a very different environment, you feel relaxed...' (Mr B)

'I hate going back to the wing – it's the real world over here. Fridays we only come to work in the mornings so we are stuck on the wings for two and half days' (Leon)

'I really look forward to coming to work. If there's a lockdown I'm gutted' (Reuben)

Barbed has captured the imagination of a range of politicians, policy makers and employers. Cherie Blair, a prominent employment lawyer has publicly endorsed the Howard League's campaign for social enterprise in prison and Lord Dubs was able to secure a debate on Prisoners and Work in the House of Lords in late 2007. But the 'big idea' has yet to penetrate the Prison Service hierarchy who prefer to compartmentalise Barbed as a discrete standalone 'project' or 'Frances Crook's baby', servicing a tiny prison elite which in fact costs the Service little to support. For the Prison Service there is a sense in which the toleration of Barbed (there is certainly an absence of advocacy) serves a secondary purpose – that of assuaging/mollifying troublesome penal reformers.

In keeping with its 'Real Work' objectives the Howard League has sought to harness and develop the support that does exist by launching a campaign to demonstrate to both the commercial world and the Prison Service that Barbed is a viable social enterprise and that prisoners are a valuable human resource. The campaign taps the growing corporate responsibility/social enterprise zeitgeist and argues centrally for prison work of real value – adding real value to the lives of both prisoners and employers.

Alf Dubs, in a speech to the House of Lords made a trenchant case in support of meaningful prison work which captured the economic, social and personal benefits intrinsic to innovations such as Barbed. Prisoners, Lord Dubs argued, 'should be directly employed by social enterprises and business, not by the Prison Service. If that were to happen, the taxpayer would benefit, there would be increased revenue, National Insurance would be paid, prisoners would have a decent income, victims would benefit from charitable donations out of prisoners' earnings, the prisons would benefit from productive prisoners who were purposefully employed and easier to manage, and the prisons would have additional income. Importantly the families of prisoners would benefit – a source of income would come from the prison to the families and that would help in better relationships, financial support and self-respect ... [and it] ...would provide an opportunity for savings and contributing to pensions.' (Hansard 15th November 2007 col 632). Certainly Barbed employees speak with some pride of the contributions they make to buy presents for the children of other prisoners, of their donations to Victim Support and of supporting their families. 'I was earning well and I'd give money to my child's mother ... I felt quite special actually – it was a good feeling; seeing him with a new pair of trainers on that I'd worked for. I'd also pay her travel when they'd come to visit. I didn't feel so worthless I suppose, didn't feel I was sponging all the time – I had a good sense of worth' (Oscar).

Balancing the books/ financial viability

It is important to begin any financial assessment of Barbed with the qualification that Barbed did not begin its commercial existence in the way of typical graphic design studios. Six wholly untrained prisoners were employed on full pay for the initial six month period of training. As a social enterprise the business differed from other businesses in its financial objectives and expectations but it operated, nonetheless from a tight business and strategic plan.

Barbed's ambition, as identified in the Howard League's June 2005 Strategic Document and Business Plan, was to break even at the end of the financial year 2007-08. Figures for the first half of financial year 2007-08 suggest that Barbed is on target to meet its budget predictions for sales. Mid-year figures show sales amounting to £35,762, just under half of the £75,000 targeted by the end of the year. However targeted donations⁸ have continued to provide the main source of income to date for the enterprise with mid year donations amounting to £61,000. As planned, donated income is declining as income from sales increases, and the Howard League Assistant Director anticipates that donations will form no part of the 2010-11 budget. Staff turnover (i.e., the unanticipated loss of three experienced staff in accounting year June

⁸ These are donations to the Howard League from donors specifically interested in supporting Barbed

07-May 08) has played a major role in preventing the enterprise breaking even this year. The Howard League took a difficult but commercially necessary decision in 2007 not to immediately replace two staff members removed from the Studio. Replacement involves six months paid training to novice employees with no appreciable commercial output. Other prison regime factors, detailed later in the report, have delayed the commercial success of the business. Communication with clients has proven more difficult than initially envisaged. With only the Studio Manager permitted to communicate with clients by email and telephone Barbed is overly reliant on its most senior designer for administrative work which would normally be evenly spread across the workforce. Receiving and downloading all emails from clients and responding to all telephone enquiries is time consuming for the most productive designer in the business. In order to compensate for prison disruptions to the productive capacity of the studio (and to provide cover for the Studio Manager) a freelance designer was employed in 2008 to carry out the training of new recruits ensuring a consistent and successful management of work flow.

The business plan ambition – to achieve a profit by July 2009 was optimistic. However, Barbed is well on the way to commercial viability and generating enough income through increased volume of sales to pay its staff and cover its costs. According to the Howard League's Assistant Director, if Barbed can retain five employees (and this, problematically, is outside its control, resting solely with the Prison Service), the enterprise could realistically break even in 2008/09. While new work is regularly commissioned, the studio plans to secure a more stable and predictable income stream by 1) ensuring an increase in contract work e.g. monthly or quarterly magazine runs and 2) becoming the sole designer for a number of organizations. Nonetheless, the evidence from the growing client base suggests the creative and commercial success of Barbed. The Studio Manager reports that repeat work is increasing, a clear endorsement of the quality of the Barbed product.

Obstacles, impediments and Inertia

There are two main obstacles confronting the future of Barbed and social enterprise more generally in prison and they both relate to the legal status of the working prisoner and the nature of the British prison regime. These are now explored.

1. Prisoners or employees: prison rules

It seems clear that the most intractable problem for the success of social enterprise in prison lies in the tension between the Prison Service (in the immediate form of the Governor and formal Prison Rules) and the employer over the exercise and control of authority over prisoners. Currently British working prisoners have no employment rights and are afforded none of the usual social protections consequent upon those rights. They are firmly under the control of the Prison Act 1952 which devolves absolute authority to the Prison Governor in respect of the control of prisoners in their keep. This point was emphasised by the Parliamentary Under-Secretary of State, Ministry of Justice, in the house of Lords debate on prison work when he responded to requests by Lords Dubs and Henley to initiate legislative changes which would make it possible for prisoners to be directly employed by social enterprises and business rather than by the Prison Service: Lord Hunt declared ‘...*there are clear accountability and management issues involved about which Governors and the Prison Service are involved. It is important that Governors retain the ability to fully manage their prisons*’ (House of Lords 15th November 2007, Col. 648 emphasis added). According to Frances Crook, prisons have always resisted any moves which bring prisoners into society or society into prisons and she cites the resistance the Prison Service exercised against the application of both the Race Relations (1976) and Children Acts (1989)⁹ to prisoners and detained young people. While she acknowledges that these legal developments present real difficulties for the Prison Service they are ‘*not insurmountable*’.

From the perspective of Coldingley’s Governor the anomalous position of prisoner-employees is a confronting one. To what extent should either role impinge on the other? Interestingly, at least rhetorically, John Robinson is willing to acknowledge this as a dilemma which is ‘not insurmountable’. There has, he argues been no policy steer from the Prison Service and he is unwilling to commit to Barbed’s future or extension without such a steer. In practice however, as evidenced below, his role as Governor has ensured that every employee of Barbed is first and foremost a prisoner – subject to the rules and whims of the regime and its operatives irrespective of how that might impact on the working life of the Studio. There is also evidence, despite the formal support of the Governor and Head of Prison Industries, to suggest that specific difficulties are imposed on Barbed employees by the Coldingley regime. The following examples, drawn from evidence provided by the Barbed studio manager, the Howard League and prisoners illustrate the conflict between the exercise of prison regime authority and the efficient operation of social enterprise:

⁹ In 2002 the Howard League for Penal Reform brought a judicial review against the Home Secretary, arguing that the Children Act of 1989 applied to children in prison. As a result, the Prison Service had to re-write Prison Service Order 4950, which deals with the regime for juveniles, so that a range of child protection measures could be incorporated.

- Sudden and unannounced movement of staff to other prisons or their removal from the enterprise by the prison authorities without consultation with Barbed employer. Three Barbed employees have been removed from either the job or the prison (and with it the job) without forewarning or even formally notifying the Studio Manager or the Howard League's Director
- Security staff training days, lockdowns and other administrative decisions which result in the closure of the studio to prisoners. According to the Howard League's Finance Director, 'we lose at least 1/2 a day per week for one reason or the other out of our control'
- Random urine tests which are held during the course of the working day rather than in the early morning. There is a perception in the Studio that Barbed employees are targeted out of spite; *'Urine tests are supposed to be random but they happen quite often with our lads – probably around once a month and sometimes everyone from Barbed is taken out of work, one after the other'* (Studio Manager)
- Barbed employees are effectively denied daily exercise because the Prison organises exercise at the same time as movement to the industry workshops. According to the studio manager, employees recognise the need to be punctual and do not want to arrive at the studio un-showered and covered in sweat. To exercise, shower and arrive at work on time is impossible under the current arrangements
- Hours of work are routinely compromised by the prison regime and this has a significant impact on print deadlines and studio productivity. The working week was shortened by the Prison Service in 2008 by two hours per week. The working hours available to prisoners now operate between 9 am and 4.45 with a two hour break over lunchtime (and studio closure from Friday 11.45)¹⁰. With the Prison Service's introduction of the standard core day time out of cells will be further restricted, a development the Governor of Coldingley describes as 'actively working against' the possibility of successful social enterprise. In addition the studio manager reports prison activity frequently means delayed starts for his employees. 'They'd love to stay longer and I'd love them to stay longer ...the lads can't wait for the weekend to finish so that they can get back to work' Power cuts have caused serious delays for the studio but there's no opportunity for overtime because of prison security requirements. The inability to work overtime is a significant competitive disadvantage making deadlines harder to meet. These perceptions are confirmed by Shea's comparative study of prison labour in Europe. She writes that, 'one of the main preoccupations of English inmates concerns the obsession of the prison administration with security, which shortens an already brief workday and discourages outside contracts' (2005:13)

¹⁰ The working hours when Barbed began operations were 8am-12 noon, 2pm-5pm

- The prison has actively intervened in staff recruitment practices despite the claim from Coldingley's Governor and the Prison Service more generally, that Barbed runs itself. Originally open to all prisoners, the prison quickly imposed restrictions which limited applications for vacant positions to prisoners on 'enhanced status' only. When the first positions were advertised in 2005 Barbed received 50 applications, during its second round 30 - 40 applied but in January 2007 only 6 prisoners applied for the two advertised position. Even then the prison filtered applications on 'security' grounds. One of the original Barbed employees who had been removed from work by the prison because of a disciplinary breach (possession of a mobile phone on the wing) sought to reapply when a vacancy arose. While the prison allegedly assured him of his eligibility to do so, the Howard League was never to receive his application. It was apparently blocked by prison security concerns with no explanation forwarded to the employer or to the prisoner.
- Prison officers have asserted their authority over Barbed civilian staff in various ways, as when the senior designer returned to work to train new recruits and was initially denied access to her own set of keys (which she had held in her previous position at Barbed). Prisoners expressed similar obstructions; 'I think, unfortunately officers don't really like to see people progress, they are all very negative people. Officers didn't like the idea of people learning. We came up against a lot of officers resentful of the fact that we working in Barbed'. This was an impression reinforced by prison Governor, John Robinson who claimed that 'the greatest suspicions' and resentment about Barbed lay with his prison officers (and not as anticipated with other prisoners).

These institutional impediments to a successful working environment are underpinned by an authoritarian penal philosophy which views employment as a mechanism in the regime's punishment/privilege arsenal. This is most clearly evidenced by the way in which the Governor of Coldingley (generally supportive of the Studio) has used removal from Barbed as a punishment for prisoners who have been found in breach of prison rules. The implications for both the prisoners involved and the Studio are significant. In the course of two and a half years one prisoner, Saf, has been withdrawn from Barbed (in addition to the standard punishments delivered by the prison) and effectively prevented from reapplying on 'security grounds' while two have been moved to other prisons with no warning to the Howard League. The case of Saf is illustrative. Saf was one of the original designers trained and employed by Barbed and was considered a particularly talented and creative designer. He undertook a six months full-time training programme and worked for the Studio for a year. On two occasions outside of work hours he was found in possession of a mobile phone. On the second occasion he was punished with seven days solitary confinement and immediate and unannounced removal from his employment at Barbed. This case illustrates a number of fundamental concerns about the rights and roles of employers in the prison setting. In Coldingley prison mobile phones have been linked with drug dealing. Any prisoner found in possession of a mobile phone is assumed by the prison authorities to warrant severe punishment independent of evidence establishing involvement in drug dealing, despite prisoners saying that mobiles are mostly used to enhance family contact. Mobile phone possession (for purposes innocent or

otherwise) is thus seen to represent a serious challenge to the regime. There was no proof that Saf was dealing in drugs but because of the general presumption made by the prison, his breach was viewed as particularly serious. From the Howard League's perspective this was an inappropriate and adverse interference in the employment relationship. 'If they could prove he was dealing in drugs, I don't want him as an employee but they had no proof. He should have been fined. If the offence had affected the employment relation, then we could have engaged in a dialogue worked together on negotiating a sanction' (Frances Crook interview 14th March 2008) .

In a letter to Frances Crook, justifying the prison's decision to remove an employee from Barbed, the Governor of Coldingley, John Robinson exemplifies the regime authority which ultimately trumps the independence of employers in the prison context:

'It is regrettable that 'Saf's' removal from the studio has resulted in work being postponed; I would suggest that is primarily his responsibility not ours... I cannot allow a situation to develop in which the project, or an individual prisoner's role within it, takes precedence over the good order of the prison or our ability to address offence related risk behaviour' (17th September 2007).

There were two potentially more fruitful ways forward in this case which would have acknowledged the significance of the Barbed work experience and demonstrated the prison's commitment to the enterprise; a) the Governor could have entered into a communication with the Howard League over the disciplinary offence and b) Saf could have been punished in the usual manner and any loss of work time because of time spent in solitary confinement could have been calculated by the Howard League against his leave entitlement. As it was, the Governor's right to rule was asserted and Barbed was not merely ignored, but of perhaps greater concern, used to enhance the punishment meted out.

Discussions with current Barbed employees and one of those who was later suddenly and without forewarning removed to another prison suggest that the personal disappointment consequent to such a removal would be extreme. Because the prison has declared that all prisoners not in work will lose their enhanced status (and only those on enhanced status may apply for positions at Barbed) the Studio has also become a tool of control for the prison management - a privilege for 'good behaviour' which can be withdrawn as a particularly potent form of punishment. The regime's approach to the relationship between employment and punishment is of considerable concern to the success of any social enterprise in prison. The use of Barbed as an additional form of punishment is an issue which fundamentally undermines the integrity of the social enterprise. To operate as a successful, commercially viable business the integrity of the Studio cannot be compromised by arbitrary and petty disciplinary decisions which in nature and scale have no bearing on the employment relation.

2. Taxation and National Insurance contributions:

In November 2007 one of the central social pillars underpinning the meaningful nature of Barbed employment was seriously destabilised. In its 1999 Briefing Paper 'Rehabilitating Work' the Howard League argued strongly for a system of socially responsible deductions for those prisoners on enhanced wages. Prison work, it argued, 'should also reflect the realities and responsibilities which face people on release by requiring those on higher wages to contribute to their keep, pay National Insurance contributions and open a savings account. This is an important element in encouraging long-term planning and the responsible use of earnings' (Howard League 2000). For these reasons the deduction of tax and National Insurance contributions was seen as an essential element to the success of Barbed. It was a demonstration of the way in which prisoners could seriously engage with the social contract. It also accorded with the law. Under the Prisoners Earnings Act 1996 (not enacted) section 1 paragraph 4 specifies Taxation and National Insurance as legitimate deductions from 'net weekly earnings'. Regularising this position, Prison Service Order 4460 (2000), which is still in force and is apparently being flouted by the Service, stated that prisoners were not exempt from Income Tax and National Insurance contributions if they earned over the normal thresholds and section 2.8.2 stated that 'Governors, Directors of contracted-out prisons and outside employers are legally required to deduct National Insurance contributions and income tax from the earnings of prisoners whose wages exceed thresholds. They are also legally required to make employer's National insurance contributions'. The initial agreement between the Howard League and the Prison Service was thus underpinned by a view that if prisoners were earning a real wage, they must also be paying Tax and National Insurance. A system was established so that both were to be levied from the wages paid and Barbed proceeded as a foundling social enterprise. The Howard League had thus succeeded in a radical 'normalisation' innovation, a model they hoped to see spread widely in the Prison Service.

However after almost two years this crucial normalising element of the work relation was to be jeopardised by a realisation that, legally, prisoners were unable to be taxed. This realisation came about initially because Barbed employees, as low income earners, applied for tax credits early on in their employment. For several months they received tax credits until each prisoner was individually informed that as prisoners they were no longer entitled to claim. In December 2006 the loop-hole which had enabled tax credits to be made to prisoners working in Barbed was formally closed. According to Euginia Lolomari, Assistant Director for the Howard League, 'Following two financial year returns made by the Prison Service combined with PAYE returns without the Prison Service Code questions began to be raised in relation to the Barbed employees who were not 'legally' employees of the Howard League.' (interview April 28th 2008). The issue of tax credits led to a more intrusive examination of the Barbed employees and their position vis a vis tax-paying. In November 2007 HM Revenue and Customs delivered a view that 'prisoners working inside prisons cannot be treated as employees for tax and National Insurance Contributions (NICs) purposes'. That view elaborated in a letter from HMRC's Bill Streeter to Frances Crook dated 20th November 2007 explains in Kafkaesque fashion that, 'Prisoners working under prison rules have no rights of redress under civil law should a disagreement arise under one of these arrangements...The Governor will decide what monies they are entitled to and the Governor may also dock the 'pay'. The prisoner has no redress under civil law but can only ask to have the Governor's decision reviewed for reasonableness (under a

process similar to Judicial Review). This means that the prisoner working under prison rules is not providing service under an enforceable contract of service and therefore cannot be treated as an employee for income tax and NICs. In order to pay tax a prisoner must be an employee. As already noted, prisoners working under prison rules – either inside a prison solely for the prison or doing work the prison is contracted to undertake for outside organisations – are not employed under a contract of service and are, therefore, not employees.’ In an extraordinary caveat which follows this statement Mr Streeter then appears to conjure a justification for retaining the right of prisoners undertaking paid work outside the prison to be charged both tax and NICs. Despite the fact that these 1500 odd prisoners are also working under prison rules he writes, ‘However, in light of the terms of the Placement Agreements and memoranda of understanding to which prisoners will be a party in order to undertake such work, and also in light of the Employment Tribunal decisions in Wombwell and Brougham v Downs Holdings (t/a Judges Hotel), and the likely view any future tribunal would take as to the employment status of prisoners in this category, in my view these prisoners are likely to be within the charge to tax and NICs’. This correspondence strongly suggests a ‘making it up as we go along’ approach.

This position was, from the perspective of the Howard League, to undermine one of the more important and potentially reformatory elements of the social enterprise – the real work component of tax-paying and contributing to one’s own entitlement to certain social security benefits including the state pension. While acknowledging the potential value of the contributions the response of the Prison Service was to acquiesce. In 2007 HM Revenue and Customs returned a cheque of £18,000 to the Prison Service, money which will be returned to the Howard League at some point in the future. The current position is that Barbed staff are paid the same amount they were earning before this decision but are no longer paying Tax. They are paying National Insurance as this may be a voluntary contribution. Prison Service Order 4460 (2000), however, remains un-amended and the role of tax-paying prisoners remains highly ambiguous. It is unlikely that the Howard League and supporters of Barbed will allow this fundamental issue to disappear from the debate around meaningful prison work and social enterprise.

In the parliamentary debate on prison work the government’s position was equivocal, ‘I know that Noble Lords wish me to take not a leap in the dark but a leap of imagination. I assure them that there is no lack of will on the part of the Government or her Majesty’s Prison Service to ensure that as much opportunity as possible is given to prisoners to develop skills and to use work in terms of the value it brings both to their experience in prison and their preparation for leaving it... I understand the frustration about some issues relating to employment and the HMRC. We will continue to discuss those matters’ Lord Hunt (Parliamentary Under Secretary of State for Justice and former minister in the Department for Work and Pensions) (Hansard 2007 col. 650).

International prison work innovations

Barbed is a unique social enterprise in the UK prison system but it is clearly also an international pioneer. In a report of this kind we cannot hope to review all innovations in prison work. For comparative purposes it is, however, worth describing two initiatives, one in the United States and one in France.

While we can find no evidence of social enterprise in US prisons it is worth mentioning the 1979 Prison Industry Enhancement Certification Program (PIECP) – a US Congress approved scheme encouraging partnerships between the corporate sector and prison establishments with the aim of providing real work opportunities with real wages for prisoners. Under the scheme certified prisons are exempt from legislative restrictions on the transportation and sale of prison made products. These exemptions are authorized only if prisoners employed are paid the prevailing wage and afforded benefits similar to government employees, and the companies involved meet the national Environmental Protection Act and consult with local trade unions and don't displace workers outside the prison. According to Correctional Industries Association, more than 20,000 inmates have participated in PIECP since its inception in 1979 (cited in Chang and Thompkins 2002). The program additionally authorizes deductions of up to eighty percent of gross wages for taxes, room and board, family support, and victim compensation. (Misrahi 1996) Unlike Barbed however, businesses operating under PIECP are motivated by purely commercial interests with no broader social purpose and the PIEC programme has been criticized for, among other things making the prison appear meaningful and servicing particular powerful constituencies including business, prison administrations and the state. (Parenti 1999).

The European enterprise most similar to Barbed is probably that situated in the French prison Maison Centrale Poissy. Here, Nicolas Frize, a private contractor with a strong commitment to social enterprise has established two creative studios (Sound, and Photo and Text) The inmates officially work for Prison Industries, but their "real" employer is Frize. Frize subcontracts digitalizing work from the National Audiovisual Institute (work requiring considerable skill and for which inmates are provided six months training). The small number of prisoner employees (around 15) are expected to work as a team with very little supervision. While French law does not grant inmates employee status, the contractor driven by a belief that interesting work is not enough to rehabilitate, has extended the rights and protections granted to prisoner employees to include paid leave, job security during periods of illness, health Insurance, the minimum wage and maternity leave. Despite the French Prison Service expressly forbidding binding contracts between employers and prisoner employees Frize honours the contracts as if they were legally binding. From their total wages, 12.5% is taken off as the workers' part of social security contributions. This leaves them with roughly 473 euro per months. Twenty – thirty percent of this will be paid to a victims fund (or if there are direct claims to their immediate victims) and 10% is deposited into a savings account to be drawn upon post release (Shea 2005: 74-75).

Conclusion

Barbed is a bold and visionary social enterprise, which in just under three years of operation has become remarkably successful. The first of its kind in a UK prison it has established itself as a beacon of innovation, one that Lord Dubs has argued 'should be seen as a pilot or a model to be followed by other employers' (Hansard 15th November 2007, col. 633).

This review has demonstrated how Barbed has met its initial aims of providing a high quality graphic design business, modelled on the principles of social enterprise and fair trade, and has succeeded, as the House of Lords debate attests, in providing a harbinger for a brave new approach to prison work. Financial viability is well within sight but the timely success of this aim has been hampered by the tensions inherent in the competing sites of authority. As we have seen Barbed managers, where possible, have developed strategies to compensate for the arbitrary and capricious nature of the prison regime. While prison rules and security concerns continue to override and determine the nature of all other considerations (including commercial ones) in relation to prison work, the champions of social enterprise will need to campaign precisely around these core issues if social enterprise is to become the defining model of prison work. Addressing the legal status of prisoner employees is the most crucial stage in this process. Once employability rights are guaranteed to prisoners and once their employment is no longer the sole preserve of the Prison Service, it seems entirely reasonable to predict that resolution of the thorny issues of punishment and taxation (discussed above) will follow.

Barbed has also made a significant impact on the lives of the few prisoners it has trained and employed. While recognising the potential reformatory elements of work, the Howard League is cautious in its ambitions for the desistance impact of the enterprise. 'I'm not going to claim that this is going to turn people away from crime nor am I there to train them as graphic designers – I don't care what they work at when they are released so long as they get work, but when my employees leave my employment I like to feel we made a difference and while they are in prison the least we can do is mitigate the awfulness' (Frances Crook interview 14th March 2008). The evidence presented here, however, suggests reasons for optimism. While it has yet to be tested in practice the positive work experience at Barbed has encouraged new ways of working and new ways of aspirational thinking not only about work but about life on the outside. There was a strong sense that returning quickly to prison was a likely outcome for many of their fellow prisoners. Barbed employees saw their employment as a protection against the revolving door as the following quotations suggest:

'The good thing about the way this scheme is designed is that we could be self-employed one day – even if we had trouble getting interviews because of our past' (Mr B).

'It's not only given us employment skills but real work – going through an interview process, sticking to deadlines, managing pay and holidays – all the things we'd be doing if we had a job outside. It makes me feel that we can realistically apply for a job on the outside' (Barry).

'When you leave prison you are given a small grant which goes nowhere – here we can save some money so that we'll be protected financially for a while when we are released' (Leon).

According to David Allen (Studio Manager), 'I don't think I could do the job if I saw that the lads working here were thinking that they would return to violence and so on once they left Coldingley. I was really pleased the other day when one of my lads showed me a printout map of the town he was going to live in once released. He asked me to show him on the map just which were the bad crime areas because he was adamant about not returning to that kind of environment' (interview 28th April 2008).

The importance of this visionary experiment cannot be overstated. Barbed represents an economically rational, meaningful and socially productive approach to prison work, which is already demonstrating impressive results. It provides an employment mechanism through which life on the outside doesn't simply end for the period of a prisoner's confinement. It offers prisoner employees the opportunity to engage in constructive, challenging and rewarding work which, as the testimony of Barbed employees affirms, enhances their experience of family and community life. There is also a strong possibility that the impact of social enterprise will be to reduce re-offending – a possibility that cannot be measured until Barbed employees begin to be released and employed in greater numbers. Future social enterprises have much to learn from the Barbed experience. The years of hard work and energy expended by the Howard League in establishing the Studio provide an excellent blueprint for those enterprises which will follow.

Given the acknowledged relationship between employment and desistance, the impoverished experience of Prison Service workshops and the crisis of prison work more generally, Barbed offers a demonstrable, exciting and realizable future for prison work. What is urgently required is for government to recognize the fundamental impediments presented to such enterprise by the prison regime and to initiate legislative change in order to transform the negative experience of prison work into something which will surely benefit prisoners, the Prison Service and society.

Appendix 1

Employees of Barbed Studio 2005 to 2008 (June)

Saf

Serving a life sentence, had spent 13 yrs in prison when he started in Barbed in October 2005. He was removed by the prison Governor following disciplinary hearing on charges of possessing a mobile phone in November 2007.

B

Serving life sentence and had spent 11 yrs in prison when he started in Barbed in October 2005. He is still working for Barbed.

Oscar

Serving nine years. He had spent 3 years in prison when started in Barbed in October 2005. He moved to HMP Ford, a category D open prison as part of his sentence plan in September 2006. He then transferred to Latchmere House, another open prison on the outskirts of London in December 2006. He was released on license as a volunteer to the Howard League for Penal Reform in February 2007. He was employed as the Marketing Officer at the Howard League for Penal Reform in June 2007 and remains there in full time paid employment.

Barry

Serving life sentence, he had been in prison for six years when he started in Barbed in October 2005. In April 2008 he was summarily removed from the studio and transferred to Maidstone prison.

Garry

Serving a six year sentence, he had been in prison for two years when he started in Barbed in October 2005. In May 2007 he moved to Ford open prison as part of his sentence planning. He has completed a BTEC in Art & Design due to be released in 2009.

Dom

Serving a life sentence, he had been in prison for 11 years when he started in Barbed in October 2005. He moved to an open prison in January 2008 as part of his sentence planning and has gained admission to start an Art & Design honours degree course in September 2008.

Terry

Serving a life sentence, he had served 11 years when he started in Barbed in September 2006 and moved to another training prison as part of his sentence planning.

Reuben

Serving four and a half years, he had served eight months in prison before starting in Barbed in February 2008.

Leon

Serving five years, he had spent 16 months in prison before he started in Barbed in February 2008

Robert

Serving four and a half years, he started in Barbed May 2008. Despite the agreed criteria being that prisoners should have at least one full year to serve in Coldingley, he was moved to an open prison after three weeks, during which time he had received full time training from the charity.

Billy

Serving nine years, he had spent two years in prison before he started in Barbed in May 2008.

Appendix 2

| | |
|------------------------------|--|
| Barbed Studio Client List | Action for Prisoners Families |
| Basic Skills Agency | Bedford Row |
| BGPR | Blue Sky Groundwork |
| Business in The Community | Big Issue in The North |
| Butler Trust | CJA |
| Clifford Chance | CLN Associates |
| CSAS | Diocese of Guildford Social Responsibility |
| ECO ACTIF Services | Fair Trials International |
| Feltham Community Chaplaincy | Fine Cell Work |
| Garden Court Chambers | Geese Theatre |
| Hardman Trust | Inside Job Productions |
| Jenny Webb | KFC |
| NIACE | Nick Herbert MP |
| NOMS Communications | NOMS Partnership |
| Parole Board | Prisoners Advice Service |
| Prison Fellowship | Prison Week |
| RDS NOMS | Reset |
| ROMS | Seeda |
| Shine North | Social Enterprise Magazine |
| Sole Natural Mineral | St Clements Hospital |
| Street Vibes | Surrey Primary Care Trust |
| The McGrath Charitable Trust | Work This Way |

Appendix 3

Client comments on Barbed's work:

Hi Barbed, We really like the work and we will certainly use you again and value the business relationship. Regards, Anna, Eco Actif Services

*Thank you so much. The cards look great. I particularly like the wise men going in the wrong direction. My boss is out this afternoon and Monday but as soon as we have a date and location for our January do I'll get back to you.
Jenny Webb, Business in the Community*

Hi, I am in the process of putting together an eight-page leaflet on Diversity. You did such a grand job with our delivery plan last year, so wanted to get a quote and some ideas with you first. Thanks, Stephen Gregson, Communications Manager, National Offender Management Service

Thanks a lot for your work on the inaugural issue of the NOMS Special Report. I really appreciated your patience and flexibility. Elizabeth Collins, Senior Editor, NOMS

The layout looks superb. I'm impressed. It's modern, and simple which is just the look I think will work.... Laura Thornton, RESET

Just to let you know we've just had delivery of the report and it looks really nice. Barbara is very chuffed, so well done to all of you ... I feel we've established a good working relationship which I'd like to see continue and am sure you'll give us good competitive estimates in the future. Naomi Delap, Radio for Development

*The leaflet is terrific. Everybody here thinks it's great.
Matthew Denney, Prisoners Advice Service*

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The Howard League for Penal Reform works for a safe society where fewer people are victims of crime.

The Howard League for Penal Reform believes that offenders must make amends for what they have done and change their lives.

The Howard League for Penal Reform believes that community sentences make a person take responsibility and live a law-abiding life in the community.

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