
Howard League Briefing
House of Lords debate: Prison and probation service in England and Wales
Thursday 17 September 2026

The Howard League welcomes the House of Lords debate on the prison and probation service in England and Wales, which provides a timely opportunity to explore the bigger picture of the prisons crisis that has received much attention in the media over this summer. The prison system faces a dual crisis of capacity pressure (where the government faces running out of cells) and overcrowding (where prisons are holding more people than they are designed to, with dangerous and harmful implications). With a population of 86,868 as of Monday 7 September, the prison system is currently holding over 5,000 people more than the Certified Normal Accommodation (CNA), the Ministry of Justice (MoJ)'s own measure of 'good, decent standard of accommodation that the service aspires to provide all prisoners'.¹

The current situation

The problem of overcrowding remains endemic in prisons and hampers their ability to deliver a safe, secure and rehabilitative environment. Indeed, in 2024 the National Audit Office (NAO) concluded that HM Prison and Probation Service (HMPPS) was failing to meet these aims.²

Overcrowding and an ageing infrastructure are contributing to severely deteriorating living conditions which are indecent, unsafe and unhealthy.³ Levels of self-harm and assaults in prisons remain high.⁴ In fact, the MoJ's own research suggests that prisoners in overcrowded cells are 19% more likely to be involved in an assault.⁵

¹ MoJ, *Prison population: monthly prison figures 2026* (2026) <https://www.gov.uk/government/publications/prison-population-monthly-prison-figures-2026> accessed 11 September 2026; MoJ, *Prison population: weekly estate figures 2026* (2026) <https://www.gov.uk/government/publications/prison-population-weekly-estate-figures-2026> accessed 11 September

² NAO, *Increasing the capacity of the prison estate to meet demand* (2024) <https://www.nao.org.uk/reports/increasing-the-capacity-of-the-prison-estate-to-meet-demand/> accessed 11 September 2026

³ HMIP, *Annual Report 2025-26* (2026) https://hmiprisoninspectorates.justiceinspectorates.gov.uk/hmipris_reports/annual-report-2025-26/ accessed 11 September 2026

⁴ MoJ, *Safety in custody: quarterly update to March 2026* (2026) <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-march-2026> accessed 11 September 2026

⁵ MoJ, *The impact of overcrowding on assaults in closed adult public prisons* (2025) <https://www.gov.uk/government/publications/the-impact-of-overcrowding-on-assaults-in-adult-public-prisons/the-impact-of-overcrowding-on-assaults-in-closed-adult-public-prisons> accessed 11 September 2026

These trends are driven by capacity pressures which contribute to mental ill health, violence and frustration, linked to limited purposeful activity and regime.

The condition of the estate also poses an immediate risk to life as 19,000 prison places do not have automatic fire detection (AFD), and over 60 prisons do not meet legal fire safety standards.⁶ Lack of adequate fire safety has resulted in the deaths of a number of people in prison, and the Crown Premises Fire Safety Inspectorate (CPFSI) has issued eight 'Step Away' notices to the MoJ, flagging fire safety issues so serious that they would be prosecuted criminally if Crown immunity did not apply to fire safety matters in public prisons.⁷ The Howard League has provided extensive evidence to the Justice and Home Affairs Committee's inquiry into fire safety in prisons.⁸ Beyond fire risk, lives have also been endangered by the presence of RAAC and radon gas at some prisons.⁹ Maintenance and remediation work is hampered by overcrowding.

Prisons are failing to deliver adequate levels of purposeful activity, which is integral to rehabilitation. More than three-quarters of the prisons surveyed by HMIP in 2025-26 were rated poor/not sufficiently good for purposeful activity.¹⁰ Capacity pressures, and a lack of staff, severely limit people's access to a daily regime that gives opportunity for rehabilitation. The latest figures show that more than 40% of people released from custody go on to reoffend.¹¹ Capacity pressures mean that people are transferred or held further from home, disrupting the family and community ties highlighted in Lord Farmer's 2017 review as being 'indispensable' to people's progression and rehabilitation.¹² This problem will continue to increase as the prison population grows. Professor Fergus McNeill argues that the possibility of developing rehabilitative prison environments 'diminishes as prison systems swell in size and scale; overcrowded, under-funded and under-staffed institutions cannot provide rehabilitative environments.'¹³

⁶ Howard League, *Submission to the Justice and Home Affairs Committee Inquiry into Fire Safety in Prisons* (2026) <https://committees.parliament.uk/writtenevidence/167569/pdf/> accessed 11 September 2026

⁷ *Ibid.*; and Hannah Al-Othman and Priya Bharadia, 'Tens of thousands of prisoners in England and Wales at risk of cell fires', *The Guardian* (19 March 2026) <https://www.theguardian.com/society/2026/mar/19/prisoners-england-wales-cell-fires-risk-moj> accessed 11 September 2026

⁸ Howard League, *Submission to the Justice and Home Affairs Committee Inquiry into Fire Safety* (n6)

⁹ Inside Time, *Radon gas alert at HMP Lindholme* (24 March 2025) <https://insidetime.org/newsround/radon-gas-alert-at-hmp-lindholme/> accessed 11 September 2026; and Angela Ferguson, 'Prison staff and inmates sue over radon gas levels', *BBC* (23 September 2025) <https://www.bbc.co.uk/news/articles/cvgvkl5g45zo> accessed 11 September 2026; Jonny Manning, 'Raac found in prison housing blocks', *BBC* (23 April 2024) <https://www.bbc.co.uk/news/articles/cw8q6qy6pgzo> accessed 11 September 2026

¹⁰ HMIP, *Annual Report 2025-26* (n3)

¹¹ MoJ, *Proven Reoffending Statistics Quarterly Bulletin, July to September 2024* (2026) https://assets.publishing.service.gov.uk/media/6a6354cc91d54bc7d5127f6e/PRSQ_Reduced_Bulletin.pdf accessed 11 September 2026

¹² MoJ, *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime* (2017) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642244/farmer-review-report.pdf accessed 11 September 2026

¹³ Fergus McNeill, 'Reducing Reoffending and Enabling Reintegration', *Plenary address to the UN Congress on Crime Prevention and Criminal Justice, Kyoto, 8-9 March 2021* (United Nations Asia and Far East Institute, 2021)

Certain cohorts are disproportionately negatively impacted by prison, and this is compounded by overcrowding. People from ethnic minority backgrounds are overrepresented in the prison system and experience worse outcomes.¹⁴ The persistence of and failure to grapple with inequality and disproportionality must be tackled at a systemic level. While women comprise just four percent of the prison population, many of the problems faced by people in prison are exacerbated for women. Prison is particularly inappropriate for women because women in custody often have multiple and complex needs and vulnerabilities which may be exacerbated in a custodial environment. YOIs holding children experience some of the worst levels of violence, unsafe conditions, and lack of purposeful activity.¹⁵ These institutions continue to fail in the duties of care to children.

The remand and recall cohorts are a significant contributory factor to capacity pressures. One in five people in prison are on remand and the cohort has grown by 30% in a decade. A large remand population causes churn and instability in the prison estate. The recall population almost doubled over the same period and presents similar problems to remand.¹⁶

Efforts to ease capacity pressures and overcrowding

To date, efforts to ease these pressures have taken one of two tracks: short-term, reactive, emergency measures to reduce the prison population e.g., early release schemes; or an expansionary approach constructing more cells. These have ultimately proved unsuccessful, and neither approach addresses the longer-term causal trends which have led to the current situation. For an overview of these trends see our report *Sentence inflation: a judicial critique*, authored by the four surviving former Lords Chief Justice and Lord Leveson.¹⁷ Longer term trends are also

https://www.unafei.or.jp/publications/pdf/14th_Congress/10_Dr.Fergus_McNeill.pdf accessed 11 September 2026

¹⁴ UK Government, *Lammy review: final report* (2017)

<https://www.gov.uk/government/publications/lammy-review-final-report> accessed 11 September 2026;

HMIP, *The experiences of adult black male prisoners and black prison staff* (2022)

https://hmiprison.justiceinspectorates.gov.uk/hmipris_reports/the-experiences-of-adult-black-male-prisoners-and-black-prison-staff/ accessed 11 September 2026; MoJ, *Use of Force review: An Exploratory Analysis of Use of Force in prisons 2018 to 23* (2025)

<https://www.gov.uk/government/publications/use-of-force-review-an-exploratory-analysis-of-use-of-force-in-prisons-2018-to-23> accessed 11 September 2026

¹⁵ HMIP, *Children in custody 2024–25* (2025)

https://hmiprison.justiceinspectorates.gov.uk/hmipris_reports/children-in-custody-2024-25/ accessed 11 September 2026;

HMIP, *Children being failed in establishments dominated by violence, disorder and lack of education* (2024) <https://hmiprison.justiceinspectorates.gov.uk/news/children-being-failed-in-establishments-dominated-by-violence-disorder-and-lack-of-education/> accessed 11 September 2026;

Helen Pidd, 'Child prisons in England and Wales 'significantly more violent' than adult jails', *The Guardian* (21 November 2023) <https://www.theguardian.com/society/2023/nov/21/child-prisons-violent-chief-inspector-young-offender-institutions> accessed 11 September 2026;

Howard League, *New figures reveal continued failure of prisons holding children* (2026) <https://howardleague.org/news/new-figures-reveal-continued-failure-of-prisons-holding-children/> accessed 11 September 2026

¹⁶ MoJ, *Offender management statistics quarterly: January to March 2026* (2026)

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2026> accessed 11 September 2026. Tables 1A1 and 1A2

¹⁷Howard League for Penal Reform, *Sentence inflation: a judicial critique* (2024)

<https://howardleague.org/publications/sentence-inflation-a-judicial-critique/> accessed 11 September 2026

explored in *The Independent Sentencing Review* and the *Independent Prison Capacity Review*.¹⁸

The changes introduced in the Sentencing Act have so far had limited impact in terms of easing pressure on the system and changes to the Act made this month have hastened the likelihood of another capacity crisis. Indeed, the Impact Assessment for the Sentencing Bill when introduced concluded that even the original measures were not expected to create any long-term place savings.¹⁹ This is because temporarily managing the prison population by concentrating on short sentences or earlier release points can only achieve so much. The primary inflationary pressures lie in sentence inflation and this must be addressed. We cannot continue to send more people to prison for longer.

The government's latest solution is to 'turbocharge' prison building across the country, earmarking £110 million for the construction of new prison places.²⁰ And yet, evidence shows that an expansionary approach to the prison estate is unsustainable, ineffective and expensive. The *Independent Prison Capacity Review* illustrates why increasing supply through prison building is not a tenable solution; the review's overview of the recurring problems faced by prison-building programmes, combined with the challenges that expanding a failing system present, supports the view that efforts to reduce the prison population would be more effective than creating new places.²¹

In last year's spending review, the MoJ was allocated £7 billion of capital expenditure to create 14,000 new prison places. While the department's day-to-day budget also received an annual average increase of 1.8%, it is worth noting that those 14,000 new prison places represent an expansion of the prison estate by about 15%.²² Maintaining and making best use of the existing prison estate represents better value than building new places.²³

Another fundamental problem with an expansionary approach is that there are not enough staff to run the prisons that we already have. The impact of staff shortages is

¹⁸ MoJ, *Independent Sentencing Review 2024 to 2025* (2024-25) <https://www.gov.uk/guidance/independent-sentencing-review-2024-to-2025> accessed 11 September 2026; MoJ, *Independent Prison Capacity Review: final report* (2025) <https://www.gov.uk/government/publications/independent-prison-capacity-review-final-report> accessed 11 September 2026

¹⁹ MoJ, *Sentencing Bill Impact Assessment* (2025) https://assets.publishing.service.gov.uk/media/68b6a680b0a373a01819fd02/SIGNED_SR_Bill_IA_1_Sept_2025_FINAL_SIGNED.pdf accessed 11 September 2026

²⁰ MoJ, *Funding accelerated to turbocharge prison building across country* (2026) <https://www.gov.uk/government/news/funding-accelerated-to-turbocharge-prison-building-across-country> accessed 11 September 2026

²¹ MoJ, *Independent Prison Capacity Review* (n18)

²² UK Government, *Spending Review 2025* (2025) <https://www.gov.uk/government/publications/spending-review-2025-document/spending-review-2025-html#departmental-settlements> accessed 11 September 2026

²³ Public Accounts Committee, *Prison estate capacity* (HC 2024-25, 366) <https://committees.parliament.uk/publications/46985/documents/242927/default/> accessed 11 September 2026

laid bare in a recent report of HMP Erlestoke.²⁴ And the IMB's recent report of the estate's newest prison HMP Millsike, opened in 2025, unearthed serious failings in the mobilisation process.²⁵ This included lack of training for new staff and delays in fundamental processes such as the issuing of keys. The board described the opening as 'chaotic', impacting the safety, security and humane treatment of prisoners, and the safety of staff. Despite some improvements following a change of leadership, there remains a shortfall of staff, whose inexperience is contributing to unsafe and indecent conditions. Lessons were not learnt from design problems with other recently constructed prisons and so Millsike experiences the same issues.

Impact on other parts of the criminal justice system

Measures taken to try to address the capacity and overcrowding pressures place other criminal justice services under significant strain, namely probation. While the measures in the Sentencing Act attempt to reduce our reliance on prison, demand and cost is ultimately transferred to probation, a service which has itself experienced cyclical capacity crises. An investment of £700m into probation (some of which will have been committed to the expansion of tagging hardware rather than for staffing) is dwarfed by the £7bn budget for new prison places – despite probation now being asked to do more.²⁶

There is an urgent need for a strategic shift in resources from prison expansion to probation and community-based solutions. Reforms must recognise the cyclical relationship between the two services – the strain that probation and services in the community are under contributes to a bloated prison population, which further impacts prisons' ability to rehabilitate. Recent recall rates are evidence of this – in the latest quarter, more people were recalled to prison than released.²⁷ A stretched and under resourced probation services contributes to a revolving door between custody and the community. Chief Inspector of Probation Martin Jones has warned that, without improved release preparation and support in the community from probation, the places freed up by earlier release points will be subsumed by people recalled to custody.²⁸ A more sustainable and cost-effective approach would see longer term investment in downstream services, early intervention, and support and supervision in the community to stem the flow of people into prison either through diversion away from prison, or through reducing the use of recall.

²⁴ IMB, *Annual Report of the Independent Monitoring Board at HMP Erlestoke* (2026) <https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/13/2026/08/IMB-Erlestoke-2025-2026-annual-report.pdf> accessed 11 September 2026

²⁵ IMB, *Annual Report of the Independent Monitoring Board at HMP Millsike* (2026) <https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/13/2026/08/IMB-Millsike-2025-2026-annual-report.pdf> accessed 11 September 2026

²⁶ UK Parliament, 'Update on Probation Delivery. Statement made on 19 March 2026', *Written questions, answers and statements* (UIN HLWS1424, 19 March 2026) <https://questions-statements.parliament.uk/written-statements/detail/2026-03-19/hlws1424> accessed 11 September 2026

²⁷ Ministry of Justice (MoJ), *Offender management statistics quarterly* (n16)

²⁸ Charles Hymas 'Prisons risk running out of space as recalled criminals fill cells', *The Telegraph* (9 August 2026) <https://www.telegraph.co.uk/news/2026/08/09/prisons-space-probation-criminals-early-release-labour/> accessed 11 September 2026

IPP sentences

The Howard League has long campaigned to put an end to the injustices wrought by the IPP sentence. We have worked with Lord Thomas of Cwmgiedd to propose ways to end the detention of people still under this sentence.²⁹ We welcome the recent announcements about the government's commitment to end the IPP sentence, and we are working with the MoJ to help the government meet the Prime Minister's commitment. It is critical that in ending the sentence, the government invests in appropriate support for people in the community with respect to housing, mental health provision and drug and alcohol services.

Unfortunately, IPP sentences are not the only controversial indeterminate sentences that remain. 'Two-strike' sentences were introduced in 1997 and replaced by IPP sentences in 2005, but there are still an unknown number of people in prison serving them today. 'Two-strike' is the common name for an automatic life sentence that was handed down to anyone convicted of a serious offence for a second time, even if their first offence occurred long ago. Although two-strike sentences were replaced by IPP sentences, they were not scrapped retrospectively. Moreover, due to a change in recording practices, the MoJ are unable to confirm how many people are still detained under this sentence.

Conclusions

We welcome this timely debate at a time when the government is committed to spending so much money on new prisons. Endemic overcrowding contributes to sustained poor conditions and high levels of violence, and impacts what prisons are able to do (namely, rehabilitate). We challenge this commitment to spending so much money on new prisons when we are unable to properly staff, resource and run the prisons we already have.

Meanwhile, there is not enough investment in probation in the community, despite the service being asked to do more. The recent changes introduced by the Sentencing Act have limited its impact in terms of easing pressure on the system and have hastened the likelihood of another capacity crisis. Increased investment in prison building risks pushing the direction even further away from investment in probation, and from rehabilitation in prison. A new approach with a greater emphasis on solutions based in the community, where crime occurs, is required. A fundamental rebalancing between supply and demand within the system is necessary. The supply in question is not simply of prison places, but of the resources required to staff institutions properly and foster a safe, secure and rehabilitative environment.

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²⁹ Howard League, *Ending the detention of people on IPP sentences: Expert recommendations* (2025) <https://howardleague.org/publications/ending-the-detention-of-people-on-ipp-sentences/> accessed 11 September 2026