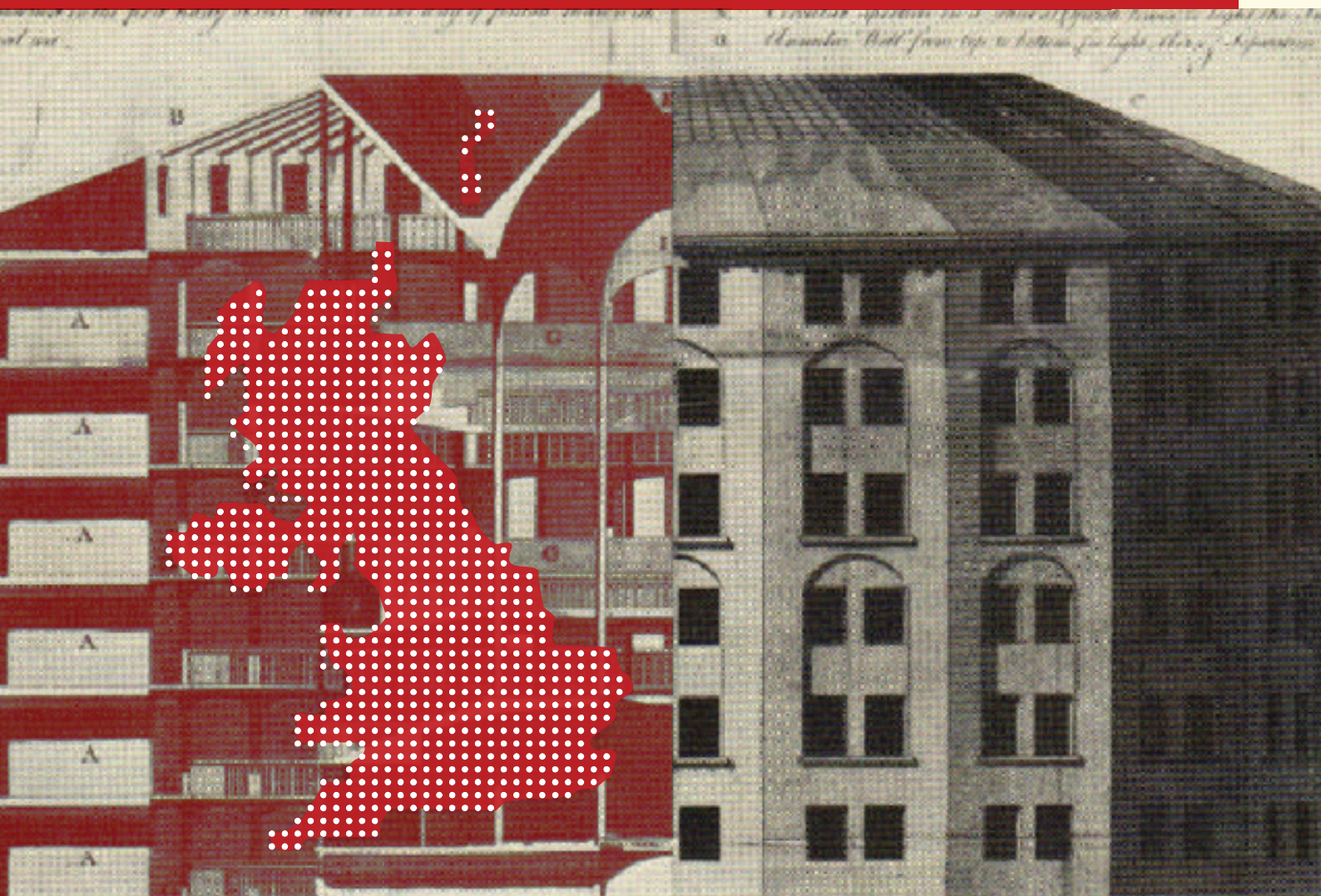


# WORKING PRISONERS IN THE UK: LAWS, POLICIES, AND PRACTICAL REALITIES

BRIEFING PAPER

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## Executive summary

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This briefing describes the governance of prison work and prison labour in the United Kingdom. Recent years have seen a considerable focus on policies aiming to promote prisoner employment and employability and yet, as the briefing shows, this focus has been confined to small parts of the UK prison system. Reliable data describing prison work is difficult to obtain, and many of the long-standing contradictions and difficulties which have plagued efforts to turn prisons into productive, rehabilitative workplaces remain unresolved. Despite some impressive progress in some parts of the system, the nature and usefulness of prison work in the UK remain largely obscure. This briefing reviews the legal and policy landscape and what little published data exists to describe work done by people serving prison sentences, and summarises what can be said about the nature and extent of different kinds of work in practice.

Section 1 of the briefing sets out key features of the UK prison system, providing context for the discussion of work in subsequent sections. It describes key metrics on prison populations, describes how the balance between sentenced prisoners (who are required to work) and unsentenced prisoners (who are not) has shifted lately, and discusses the impact of prison overcrowding. It also sets out basic differences between different prison regimes and sentence types, which affect the kinds of work opportunities available to people held in different parts of the system.

Sections 2 and 3 describe, respectively, the legal underpinnings and current policy basis of prison work. Legally, compulsory work has been a central plank of prison regimes for many years, and the core provisions of international law have long permitted governments (though not private entities) to impose compulsory, unpaid work on sentenced prisoners. Compulsory work in prison is therefore a major exception to human rights and employment law provisions which protect workers against slavery and involuntary servitude. The exception, in effect, classifies prison work as being separate and different to 'ordinary' work, with penological, and not economic, aims.

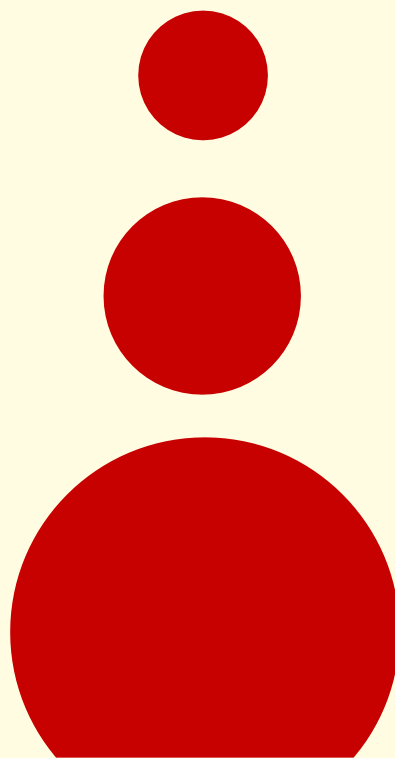
Other national and international provisions require prison work to prepare prisoners for release, including via vocational training and relevant experience which purports to prepare them for post-release employment. Such provisions emphasise norms of voluntariness, incentivisation, and work under terms and conditions approximating those available to free workers, rather than norms of compulsion and separation. UK law also permits work which is explicitly part of the wider economy, both via production contracts in prison workshops, and via tasks performed for ordinary employers by people released temporarily from open prisons. Although international law requires any such activities to be done voluntarily by prisoners, on terms and conditions (including pay) approximating those offered to free workers, in practice only work on day release in England & Wales has this status. Work in prison workshops in England & Wales, and all prison work for private entities in Scotland and Northern Ireland, is still paid at rates far below the minimum wage.

Sections 2 and 3, then, point to some contradictions between the different legal and policy provisions. These contradictions raise questions about the realities of prison work. Section 4 describes these realities, reviewing published information on what forms of prison work exist in practice, and what numbers of sentenced prisoners engage in them. It suggests that the amount of data available to the public is extremely limited: no data permitting a quantitative description of prison work in Scotland or Northern Ireland is published by the respective Prison Services in those countries, and only some

forms of prison work in England & Wales are covered by the official statistics. The available data suggests that work assignments for prisoners in the UK fall, broadly, into three loose types: prison services work (involving tasks such as catering and cleaning which support the functioning of prisons); prison industries work (which realises economic value from prisoners' labour by employing them in workshops making products and services for consumption beyond the prison); and preparation for release (which seeks to upskill prisoners or provide experience to boost their chances of obtaining employment after they leave prison).

Unfortunately, however, the limitations of the available data—which are incomplete, and often dated—mean that only rough estimates can be made of the extent, in practice, of work of each kind. What data are available suggest that around 15% of prisoners work in prison industries or in preparation for release, but there are almost no figures which permit a national estimate of how many prisoners work in prison services roles, although survey data suggest that the figure may be as high as 70%. This means that an enormous amount of prison work is potentially unaccounted for. In the vast majority of cases, the wages paid for prison work are low and the tasks involved are unclear; the compulsoriness of work is uncertain; and how prisoners evaluate the range of opportunities offered to them is also unknown. This unclear picture is the starting point for the next phase of our current research, which will develop case studies of work in three contrasting prisons.

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# 1 Prison population

The governance of UK criminal justice, including imprisonment, is complex. Although Parliament and the UK government in London legislate on matters concerning the entire UK, criminal justice is a devolved responsibility in those parts of the UK where powers are devolved to national assemblies and governments. Consequently, there is no national UK-wide prison system, but instead a complex and varied set of arrangements at the national level:

- The UK Ministry of Justice, which governs prisons and probation in England & Wales through its agency, HM Prison and Probation Service
- The Justice Directorate of the Scottish Government, which governs prisons in Scotland through the Scottish Prison Service. Post-release supervision and other probation functions in Scotland are the responsibility of local government social work departments
- The Northern Ireland Department of Justice, which governs prisons and probation in Northern Ireland through the Northern Ireland Prison Service and the Probation Board for Northern Ireland

This section describes the prison population of the UK, in overview and in terms of trends over time. It picks out several developments of significance for the provision of work opportunities to prisoners, including population growth and overcrowding, the increasing prominence of unsentenced prisoners in the overall figures, and the complexity of sentences and release conditions for many prisoners, itself a consequence of the numbers who are serving sentences without fixed release dates.

## 1.1 Number of prisoners

At the time of writing (in March 2024), the UK prison population stands at around 97,600. Around 90% of all prisoners are in England & Wales, around 8% in Scotland, and around 2% in Northern Ireland. Table 1 breaks down these figures by country and gender.

*Table 1: The UK prison population, by country and gender*

Country	Male	Female	Total
England & Wales <sup>1</sup>	84,344	3,629	87,973
Northern Ireland <sup>2</sup>	1,607	78	1,685
Scotland <sup>3</sup>	7,636	323	7,959
<b>UK total</b>	<b>93,587</b>	<b>4,030</b>	<b>97,617</b>

### 1.1.1 England & Wales

The prison population in England & Wales has fluctuated since 2010, when it stood at 84,725. It dropped in 2020 due to Covid-19 related temporary release schemes, lower levels of crime and the suspension of court processes, but has since risen to 87,973 at February 2024, the highest level since 2011. The drivers of prison population growth include a significant rise in immediate custodial sentences, longer sentences (56% of determinate sentences are now over 4 years compared to 40% in 2013)<sup>4</sup> an increase in time served by those serving sentences without a fixed release date, and increases in the recall to prison of people in the community on release licence.<sup>5</sup> The older age

categories of prisoners have seen the largest growth since 2011, with the proportion of those aged over 50 more than doubling, from 10% of the prison population to 21% in 2023.<sup>6</sup>

### 1.1.2 Northern Ireland

The number of prisoners in Northern Ireland rose from 1,465 in 2010 to 1,830 before falling to 1,470 in 2020. It has since risen to its current total of 1,881. The remand population rose 11.2% in 2022/23 to reach its highest level in eight years. Remand prisoners make up 36% of the total prison population. The average daily immediate custody population also rose by 13.5% in the same period, the highest level since 2016/17, and the average daily population within all sentence length categories increased in 2022/23 compared with the previous year, exacerbating the pressures on the prison system.<sup>7</sup>

### 1.1.3 Scotland

The prison population in Scotland reached a high of 8,212 in 2012 before falling steadily to just over 7,000 in 2020 because fewer people entered custody during Covid-19 related lockdowns. It has since risen to its current point of just under 8,000 prisoners, mainly due to increases in average sentence length and in the use of remand.<sup>8</sup> In addition, there has been an increase in the number of recalls to custody from supervision or licence, and a decrease in the number of long-term prisoners granted parole.<sup>9</sup> The Scottish Prison Service states that the number of people imprisoned with a history of serious offending has necessitated an increased focus on security, reducing prisons' capacity to meet expectations around rehabilitation and reintegration.<sup>10</sup> As with England & Wales, Scotland has also seen a significant increase in older prisoners, from 5% of the prison population in 2010/11 to 10% in 2020/21.<sup>11</sup>

### 1.1.4 Change over time

The following charts plot UK prison population trends since 2010, with Figure 1 subdividing the overall figure by country, and Figure 2 showing the imprisonment rate per 100,000 of population. The UK prison population, 97,813 in February 2024, has now surpassed its earlier peak of 96,620 in 2012. However, as its fluctuations during the 2010s show, there were reductions for some of this period.

The trends should also be understood in the wider context of population growth: the UK's estimated population grew from 62.8 million in 2010 to 67.1 million in 2020.<sup>12</sup> As a result, the 2024 UK imprisonment rate (144 per 100,000), while increasing fast, has not surpassed its 2012 peak of 152 prisoners per 100,000. Figure 1 underlines the extent to which England & Wales dominates the UK population figures, and Figure 2 shows how far Northern Ireland is an outlier within the UK, with a consistently lower, albeit still a growing, imprisonment rate.

Figure 1: UK prison population trends, 2010 to present day<sup>13</sup>.

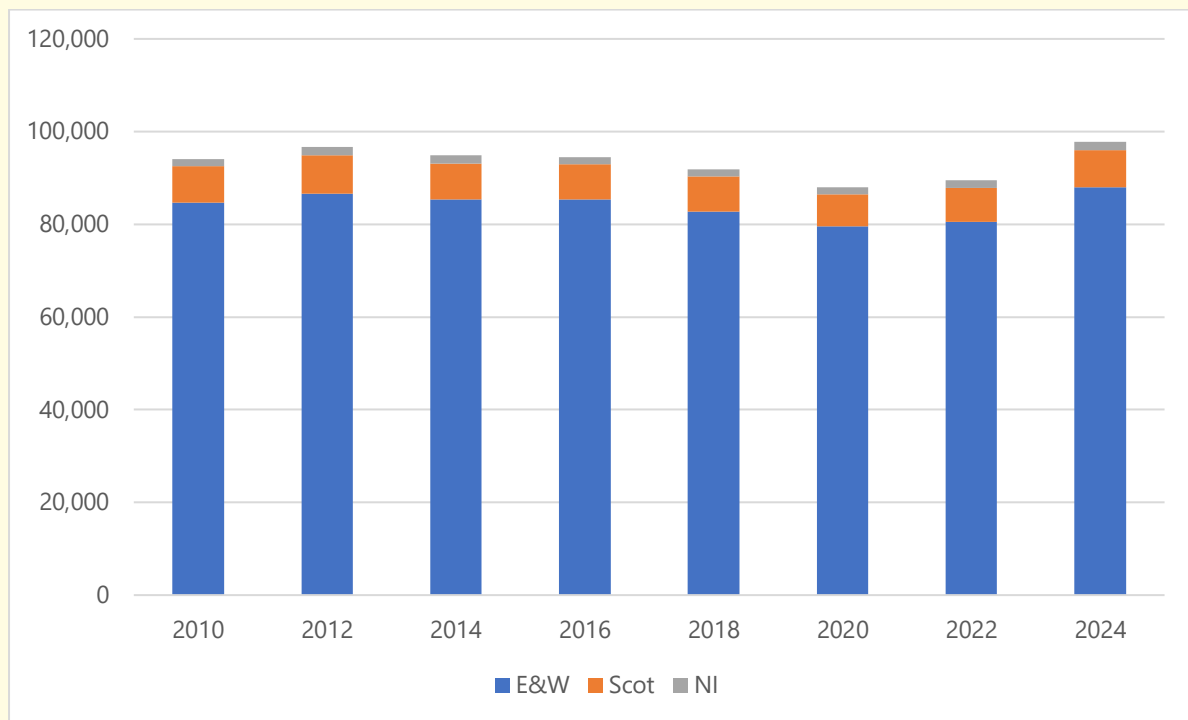
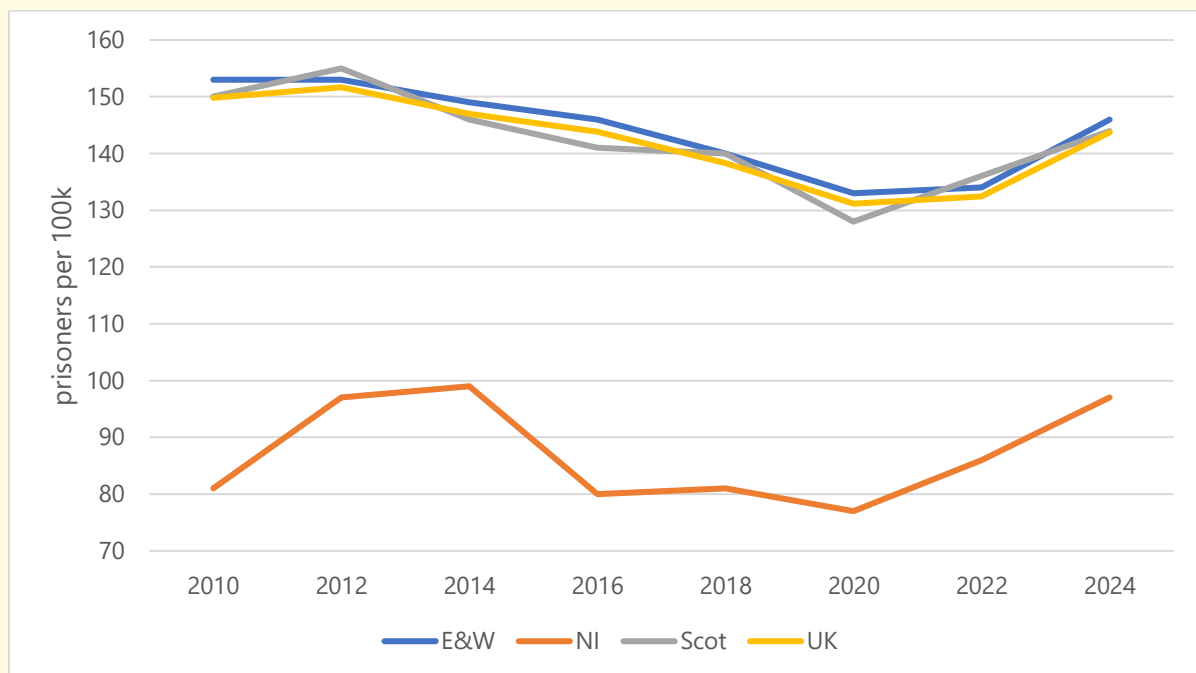


Figure 2: UK imprisonment rates over time



## 1.2 Sentenced vs. unsentenced prisoners

An increasing share of the UK prison population consists of unsentenced prisoners. This has been a UK-wide trend since the Covid-19 pandemic, principally due to court backlogs.<sup>14</sup> The share of the prison population held on remand varies—over a third in Northern Ireland, slightly under a third in



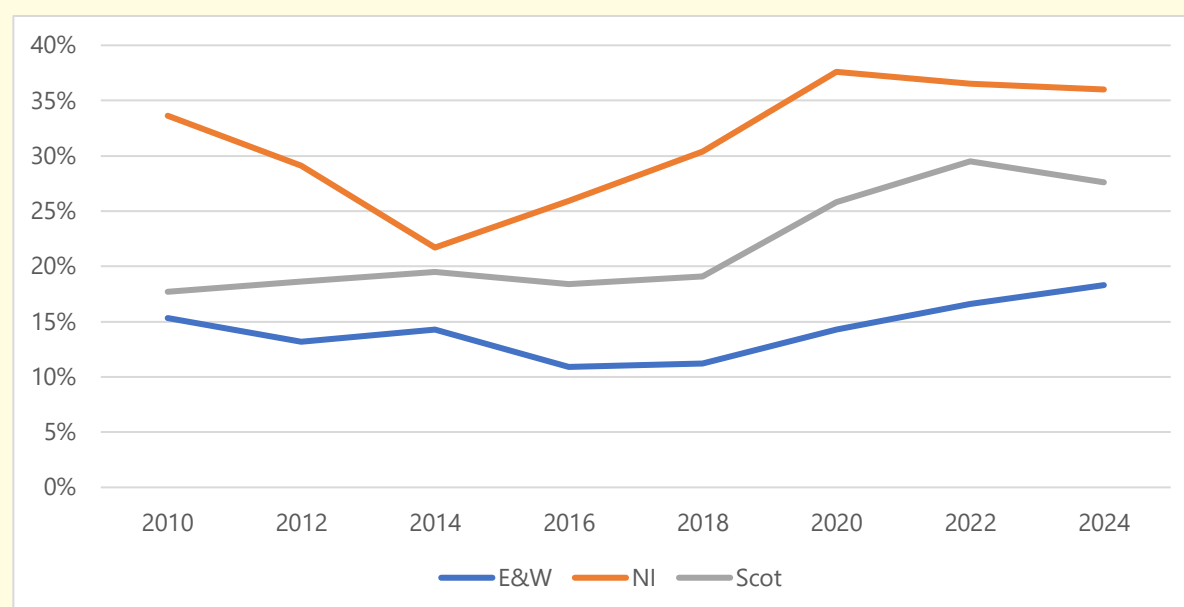
Scotland, and under a fifth in England & Wales—but with an upwards trend throughout the UK. This is significant for prison work because remand prisoners cannot legally be required to work.

*Table 2: Sentenced v. unsentenced populations in UK prisons*

Country <sup>15</sup>	Sentenced	Unsentenced	% unsentenced	Total
England & Wales <sup>16</sup>	71,484	16,005	18.3	87,489
Northern Ireland <sup>17</sup>	1,078	607	36.0	1,685
Scotland <sup>18</sup>	5,761	2,198	27.6	7,959

Over time, the proportion of prisoners held before trial has fluctuated, and has consistently been higher in Northern Ireland. However, an upwards trend is evident over recent years, and is particularly striking in relation to England & Wales. Although remand prisoners comprise less of the prison population in England & Wales than in Northern Ireland or Scotland, the size of the England & Wales prison system (see Figure 3) means that remand is a major driver of recent prison overcrowding.

*Figure 3: Unsentenced prisoners in the prison populations of the UK, 2010-24<sup>19</sup>*



## 1.3 Prison occupancy levels

Prison occupancy levels for the UK are shown in Table 3. The capacity crisis identified in the previous section is most acute in England & Wales, where occupancy rates have exceeded 110%.

*Table 3: Prison occupancy levels across the UK*

Country	Prison population	Capacity	% occupancy
England & Wales <sup>20</sup>	87,973	79,597	110.5
Northern Ireland <sup>21</sup>	1,666	2,070	80.5
Scotland <sup>22</sup>	7,303	7,765	94.1

## 1.4 Prison regimes and sentence types

There are 120 prisons in England & Wales, 105 of which are publicly managed and 15 are contracted out to private operators.<sup>23</sup> Adult male prisoners are classified into four security categorisations, from A (maximum security) to D (open prisons).

As well as a security classification, male prisons are also assigned a function, which affects the regimes and work activities that they are typically organised to offer. All prisons of any kind employ prisoners in a range of 'prison services' or 'prison housework' tasks, meaning that the most common form of prison work involves supporting the functioning of the institution. These jobs are present to some degree in all prisons, of any classification.

Beyond this common factor, however, work opportunities are organised differently according to prison function. There are far more men's prisons, which also have more functional specialisms. Long-term and high-security prisons hold men serving sentences of four years or more. Some are maximum-security category-A establishments, and the rest are category-B 'training' prisons. Some category-C men's prisons are also designated as 'training' prisons. They are intended to hold a longer-sentenced population, not requiring the most restrictive security conditions. The amount of workshop space in training prisons varies, but most have some.

Finally, some prisons, including all category-D prisons and some category-C establishments, are 'resettlement' prisons, and their designated function is to prepare their residents for release. Recent policies on prison work have concentrated most on resettlement prisons, which often have contracts workshops—spaces in which production equipment can be set up, and in which production work on external contracts can be undertaken. They tend to see the highest concentrations of vocational training schemes. Prisoners in resettlement prisons who are suitably risk-assessed may also leave the prison daily (known as 'release on temporary licence' or ROTL), to attend work or training opportunities beyond the prison walls. Such schemes are most common in category-D prisons, though some prisoners in category-C resettlement prisoners are also, in theory, eligible.

Finally, 'local' or 'reception' prisons are prisons holding a mostly remanded or short-sentenced population. Work opportunities in these establishments tend to be least plentiful, since many lack facilities (such as workshop spaces) which would enable these activities to develop. Consequently, relatively few work assignments tend to be available in reception prisons, and those that exist are more likely to involve tasks which service the functioning of the prison itself.

In addition, there are 12 prisons in England & Wales for adult female prisoners. Two are open prisons, while the rest are closed.<sup>24</sup> Because the women's prison estate is smaller overall, more geographically dispersed, and the individual establishments are also generally smaller, there is less scope for functional specialisation, and as a result, the facilities and resources available must be able to meet the needs of a more diverse population. In addition, many women's prisons lack substantial workshop spaces, meaning that contracts workshops and vocational training operate on a smaller scale relative to the male estate.

There are four prisons in Northern Ireland: Maghaberry is a high security prison housing adult male long term sentenced and remand prisoners; Magilligan is a medium to low security prison which holds

male prisoners with six years or less to serve and who meet the relevant security classification; Hydebanks Wood College which has a focus on education, learning, and employment accommodates young people between the ages of 18 and 21. Female remand and sentenced prisoners are held in Ash House, which is located within the College complex.<sup>25</sup>

There are 17 prisons in Scotland, 16 of which are publicly managed and one by a private sector operator. Two of the prisons are Community Custody Units for women, which aim to provide closer links with community and local services in gender-specific and trauma-informed environments. There is one open prison and one Young Offender Institution.<sup>26</sup> Prisoners are classified as requiring high, medium, or low levels of supervision.<sup>27</sup> Similarly to the women's estate in England, the smaller scale of the Scottish prison estate permits less functional specialisation. Most Scottish prisons serve multiple functions, but two specialise in provision for prisoners serving long-term and indefinite sentences. Some are also designated as "community facing" and are intended to closely align prison rehabilitation and reintegration services with those in the community,<sup>28</sup> with work provision also likely to attempt to mirror these aims.

## 1.5 Recent operating context

Prisons face significant operational complexities. Among them, two factors are particularly significant: first, that they do not control the size or composition of the prisoner 'workforce', and second, that they are required to balance a range of priorities (e.g. safety, security) not all of which are compatible with the demands of operating an efficient workplace. These operational complexities mean that delivering effective prison work programmes has been difficult throughout the history of imprisonment in the UK.<sup>29</sup>

Lately, the operational context has been shaped by three significant and interrelated pressures:

1. The COVID-19 pandemic
2. Staffing difficulties
3. Prison capacity and overcrowding

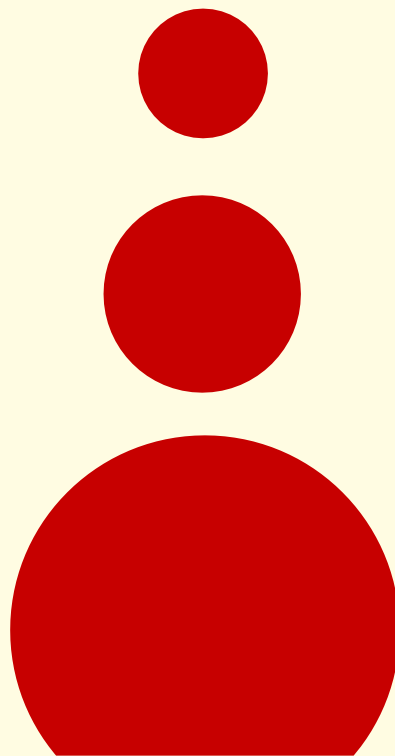
During the pandemic, prisons were forced for safety reasons to implement highly restrictive lockdown conditions. The return to full, active regimes after the pandemic was slow, and meanwhile some regime activities, including some work programmes in industries workshops, ceased.

Staffing difficulties have fluctuated since major budget cuts made during the early 2010s, but it has often been difficult for prisons to recruit and retain experienced staff. Staff shortages are more acute in some areas than others, but can have a knock-on effect where staff serve temporarily in prisons away from their 'home' region to relieve staffing pressure in shortage areas. Staff shortages and inexperience make it more difficult for prisons to safely operate full regimes. Activities requiring prisoners to move from residential areas to workplace areas under supervision require adequate staffing to supervise, especially when it is necessary to ensure that some groups do not mix.

Prison overcrowding has been an acute problem. Some prison population growth is the result of long-term trends: as Section 0 showed, average sentence lengths have been growing, meaning that prisoners stay in prison for longer. But in England & Wales, one consequence of the pandemic was to

exacerbate an existing backlog in the criminal courts. As a result, the remand population has grown faster than new prison places could be made available to accommodate them.

The result has been an acute capacity crisis. In late 2023, it was reported that the UK government was considering renting prison spaces from other countries to ease pressure in England & Wales.<sup>30</sup> They have also piloted early release schemes and floated possible sentencing reforms to relieve the pressure on space.<sup>31</sup>



## 2 Working prisoners and the law

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### 2.1 International law

The UK ratified the International Labour Organisation's Forced Labour Convention in 1931, and the Abolition of Forced Labour Convention in 1957.<sup>32</sup> 'Forced labour' is defined in the first Convention as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". It is expressly outlawed. But compulsory work done by prisoners is stated as falling outside the definition of 'forced labour', provided two further conditions are met:

1. the prisoner was convicted of a crime by a court; and
2. the work is "supervised and controlled" by a public authority and the prisoner is not "hired to or placed at the disposal of private individuals, companies, or associations".

The UK is among several countries which have been in dispute with the ILO over the meaning and application of the second condition. The ILO's position is that some forms of prison work in UK prisons are illegal forced prison labour, while the UK government's position is that they are not. The UK also observes the non-binding 'soft law' on prison work, which is contained both in the UN's Nelson Mandela Rules, and the Council of Europe's European Prison Rules. These two standards, between them, add to the ILO framework, requiring that prison work directed by states should not add to the suffering of imprisonment. They also stipulate that health and safety protections and working hours should be no worse than those available to free workers, and they expand on the ILO's distinction between work done for a private or a public entity. They also require that work should, where possible, be of a kind which will help prisoners to reintegrate and earn a living following completion of their sentences.<sup>33</sup>

The dispute is described in more depth in another briefing paper in this series, on the international legal norms around prison work.<sup>34</sup>

### 2.2 Primary legislation

Responsibility for prisons, including implementation of international law, rests at the national level within the UK: the UK Parliament and Government legislates and creates policies for prisons in England & Wales, while responsibility for those in Scotland and Northern Ireland falls to the respective devolved governments there.

The underlying primary legislation throughout the UK is similar: three Prison Acts, originally passed in 1952 and 1953.<sup>35</sup> Those for England & Wales and Northern Ireland have been amended since but not replaced; amendments for Scotland were consolidated into a single Act in 1989, but the underlying structure and main powers created by the Act in all three cases are similar. The three Prison Acts say nothing about work by prisoners, and indeed very little about the day-to-day operation of prisons or about prison regimes. Instead, they empower the respective governments to operate prisons and to create secondary legislation and policies relating to "the regulation and management of prisons [...]"



and for the classification, treatment, employment, discipline, and control of persons required to be detained therein".<sup>36</sup>

## 2.3 Secondary legislation

### 2.3.1 The Prison Rules

The main statute law relating to prisons and the treatment of prisoners is from three sets of secondary legislation, the Prison Rules. The Rules for England & Wales and Northern Ireland were laid before Parliament in the 1990s. Their provisions on work have remained largely unchanged since the 1960s. The Rules for Scotland were overhauled more comprehensively in 2011. Their key features are similar to the other two, but with some variation, and more detailed provisions in some areas.

#### 2.3.1.1 The requirement to work

All three sets of Prison Rules permit convicted prisoners to be "required to work". They make refusing to work and not working "to a proper standard" disciplinary offences. As a result, work is not a right but a legal duty, although subsequent changes in policy (discussed further below) have meant that prisoners who do not wish to work generally do not have to do so.

The requirement to work is waived if a medical practitioner certifies that a prisoner is unfit. In England & Wales and Scotland, remand prisoners are exempt from the requirement to work, but can work if they choose; the Rules for Northern Ireland say nothing on the matter. Together, these features mean that if a sentenced prisoner is required to work by prison authorities, he or she can be punished for not doing so.

#### 2.3.1.2 Remuneration and incentives

The Rules for England & Wales and Northern Ireland leave it to ministerial discretion whether, and how much, working prisoners are paid; only in Scotland does the law state clearly that prison work is to be paid.

Rates of pay are set as a matter of policy, not of law; they vary, but are always very much lower than the minimum wage for work outside prison. There is one exception: work done by prisoners on day release in England & Wales.<sup>37</sup> This kind of work is paid at rates equivalent to those paid in the outside world, meaning that prisoners who work on day release earn the National Minimum Wage or above. The relevant legislation requires employers to pay wages to the prison,<sup>38</sup> with prison governors empowered to make various deductions, including for donations to crime victims' charities. Tax and National Insurance are also payable.

Thus, although all prison work is remunerated, only that done by prisoners on day release in England & Wales—which means those in low-security conditions, who are mostly close to release—work under terms and conditions similar to those which would apply to work in the community.

There is no entitlement to sentence remission for prisoners who work in UK prisons, meaning that pay is the primary incentive offered.

### 2.3.1.3 Working hours and working conditions

In comparison to free-world employment, working conditions in prison are subject to few statutory regulations. The Rules provide for maximum working hours (10 hours a day in England & Wales, 8 in Northern Ireland, and 40 hours a week in Scotland), and create a right for prisoners not to work on "days of religious observance". In Scotland, there is to be a minimum of one rest day per week. All three sets of Rules define work as a social activity, something which should wherever possible take place elsewhere than the prisoner's cell, and in association with other prisoners. (In Scotland, prisoners are "entitled" to work in association with others.)

## 2.3.2 What work is for

Since there are no specific aims defined in law for prison work, the most relevant legal provisions are laws setting overall purposes for criminal sentencing. Table 4 summarises these:

*Table 4: Purposes of criminal sentencing in the UK*

Since 2003, the purposes of sentencing have been statutory. Courts are required to "have regard" to the following purposes when deciding a criminal sentence: <sup>39</sup>	
<b>England &amp; Wales</b>	<ul style="list-style-type: none"><li>• the punishment of offenders</li><li>• the reduction of crime (including by deterrence)</li><li>• the reform and rehabilitation of offenders</li><li>• the protection of the public, and</li><li>• the making of reparation by offenders to persons affected by their offences</li></ul>
<b>Northern Ireland</b>	There is no comprehensive statement of the principles and purposes of sentencing. They are extrapolated from case law, and are required to follow principles of proportionality. The Northern Ireland Department of Justice believes that a more comprehensive statement of the purposes of sentencing is required. It has consulted on what these should include, but plans are on hold. <sup>40</sup>
The purposes of sentencing are stated in non-statutory guidance by the Scottish Sentencing Council, in place since November 2018. <sup>41</sup> It states:	
<b>Scotland</b>	<p>The sentence selected should [...] always reflect the core principle of fairness and proportionality. In no particular order, the purposes may include:</p> <ul style="list-style-type: none"><li>• Protection of the public [...]</li><li>• Punishment [...]</li><li>• Rehabilitation of offenders [...]</li><li>• Giving the offender the opportunity to make amends [...]</li><li>• Expressing disapproval of offending behaviour</li></ul> <p>In achieving the appropriate purpose(s) of a particular sentence, the efficient use of public resources may be considered.</p>

The law defines no one *purpose* that prison work should fulfil. In England & Wales and Northern Ireland, the Rules provide only that work should be “useful” and keep prisoners active. The Scottish Rules have more to say, requiring prison governors to investigate the “needs and interests of prisoners” and generate programmes of work to “improve [their] morale and prospects for successful resettlement”. They also require prison governors to provide work as part of a range of “purposeful activities”.

According to these laws, sentences can be for any of a range of purposes, some of which may appear to be in tension. In practice, prison work as currently provided in the UK, could be seen to fall under any of the aims listed above: the fact that it is paid much less than work in the free world can be considered punitive; the fact that it sometimes results in prisoners acquiring qualifications or skills or training can appear rehabilitative; when it involves work for public purposes, or when part of prisoners’ earnings can be paid to victims’ charities, it may amount to ‘making amends’.

Taken together, the law provides limited specific guidance, instead offering a broad range of principles capable of legitimising existing practice.

#### 2.3.2.1 Purposeful activity

The term ‘purposeful activity’ is in widespread use throughout the prisons of the UK; work is treated as one subcategory, along with education and other activities. This matters because it influences the way that prison performance is evaluated, and the way in which prisons are held to account for how they treat prisoners.

Despite its widespread use, the term ‘purposeful activity’ is only defined explicitly by the Scottish Prison Rules, which state that it can include work, education of any kind, counselling, and other rehabilitative programmes, vocational training, and work placements outside prisons.<sup>42</sup> The Rules also state that prisoners’ needs and interests, alongside the requirements of operating and maintaining the prison, should be considered when assigning them to activities. The Scottish Prison Service adopted a policy in 2014 which made the following definition of ‘purposeful activity’:

A purposeful activity is conceived as any activity or constructive interaction which promotes citizenship; develops learning and employability skills; builds life skills and resilience; addresses well-being; and motivates personal engagement with both prison and community-based services.<sup>43</sup>

England & Wales and Northern Ireland lack a single authoritative definition, although some published documents in England & Wales attempt to define ‘purposeful activity’. For example, Prison Service Instruction 38/2010 states that “acceptable activities should be constructive and contribute to one or more of the following”:

positive social interaction between prisoners or between prisoners and others; offering prisoners the opportunity to make constructive use of their time; development of interpersonal skills e.g. communication skills; the prisoner’s physical, mental, or emotional well-being; prosocial behaviour; maintenance or rebuilding of family ties.<sup>44</sup>

Meanwhile, in Northern Ireland, a review of the Prison Service in 2011 stated that purposeful activity:

...will include formal and professionally delivered training in essential skills, but it will also include opportunities to take part in and develop softer skills – arts, sports and other teamwork, parenting, peer support and life skills – which can change prisoners' views about themselves and their capabilities.<sup>45</sup>

Prison inspectorates (the independent bodies which monitor and report on prison conditions) use their own definitions: HM Inspectorate of Prisons (England & Wales), for example, defines the term to mean any "activity which is likely to benefit [prisoners]".<sup>46</sup> This can include time out of cell, suggesting that 'purposeful' activities are simply those which do not involve prisoners being locked in a cell. Meanwhile, education inspectorates (which are responsible for inspecting work as well as education provision within prisons) tend to suggest that 'work' activities will be evaluated according to whether they are built around a curriculum, and planned in a way that promotes prisoners' personal development.

The absence of an authoritative definition means that in practice, prison governors have latitude to organise purposeful activities according to local priorities. 'Purposeful' activity may be economically productive or prepare prisoners to participate in the economy after release. It may also have other goals, for example improving education levels or helping prisoners address the causes of offending behaviour. Or it may simply function to keep prisoners busy so that they are not confined in cells. The precise mix of activities to be found in any given prison will depend partly on the prison's function, but also to some extent on how its leaders set and understand their priorities.

All three sets of Prison Rules provide that prisoners must not work for the "private benefit" of prisoners or prison staff, and in Scotland, it is explicitly forbidden for prisoners to carry on any "trade, profession, or vocation" within prison or to retain any monies from doing so. This creates an implicit expectation that prison work should result in some public benefit.

## 2.4 Case law

A case heard in 1957<sup>47</sup> established the key precedent that prisoners who worked were not employees because there was no contractual relationship of employment. As a result of this precedent, prisoners who work are exempt from the employment provisions of the Employment Rights Act, the Working Time Regulations,<sup>48</sup> the Health and Safety at Work Act, and other employment law.<sup>49</sup> Since they are not workers or employees, they lack associated protections and entitlements, for instance protection against discriminatory hiring practices or unfair dismissal, or entitlements to a probationary period, paid holidays, or to associate with others and bargain collectively for wages.

They are not entirely unprotected: prisons have a common law duty of care to protect prisoners from foreseeable injury and harm, and prisoners can claim compensation if this duty is neglected. The duty of care is also backed by the statutory right to life protection in the Human Rights Act.<sup>50</sup> However, because prisoners are not employees, prisoners injured while working must prove that the prison was negligent rather than *vice versa*.<sup>51</sup> Furthermore, cases must be brought to the administrative and civil courts, not to employment tribunals, adding procedural barriers.

Cases on prisoners' working status are therefore rare, and the case law develops slowly. The most significant recent case arose not from prisoner litigation but from a personal injury claim by a civilian

employee, who had been injured because of the negligence of a prisoner working in a prison kitchen. If the prisoner had been an employee, his employer would have been vicariously liable for the negligent prisoner's action, under health and safety law; since he was not, the question of liability was unclear. The UK Supreme Court, in considering the case, characterised the relationship between working prisoners and the Prison Service as one which "resembled employment" but also contained a "crucial difference": employment was voluntary, with both sides acting for their own advantage, whereas prison work took place "not [as] a matter of voluntary enterprise but of penal policy".<sup>52</sup>

When prisoners work in the prison kitchen, or in other workplaces such as the gardens or the laundry, they are integrated into the operation of the prison. The activities assigned to them are not merely of benefit to themselves: a benefit which is, moreover, merely potential and indirect. Their activities form part of the operation of the prison, and are of direct and immediate benefit to the prison service itself.<sup>53</sup>

The court ruled that because the Prison Service derived "direct and immediate" benefit by requiring prisoners to work, it was liable for their actions (and therefore the negligence of any working prisoner), even though they were not employees:

The fact that a prisoner is required to serve part of his sentence in prison, and to undertake useful work there for nominal wages, binds him into a closer relationship with the prison service than would be the case for an employee [and] strengthens, rather than weakens, the case for imposing [liability].<sup>54</sup>

The judgment also suggested that the Prison Service might not be held liable had the injury resulted from prisoner negligence in another setting where prisoners' activities did not benefit the Prison Service as such, for example in education classes or offending behaviour programmes. This appears to suggest that the Court recognises that different obligations apply where an organisation benefits directly from prisoners' labour.

In summary, courts have shown some willingness to reinterpret the original precedent that since prisoners are not in a contractual relationship with the prison, none of the obligations associated with the employment relationship apply to their work. Hence, the courts have imposed some additional responsibilities on prison authorities. However, they have left in place the core of that precedent—establishing that prisoners are not employees, and hence do not have employment rights.

## 2.5 Health and safety, working conditions, and 'employment-like' rights

Prisoners who work are not entirely unprotected when they are at work. However, work in prison is mostly subject to regulation through Prison Service policies, not the law.<sup>55</sup> Policies exist covering a wide range of topics. They do not create legal rights. The protections they create are 'employment-like': they are similar to statutory rights, but are not enforceable, are backed by complaint resolution mechanisms, and merely mimic more substantive legal protections. For example, in England & Wales prisoners' entitlement to pay for purposeful activity was created by Prison Service Order 4460, which creates mandatory minimum rates (£4.00 per week). The PSO also requires that prisoners who are willing but unable to work should be paid a lesser rate. Other decisions about pay are left to be made



by prison governors in line with local 'regime priorities'. The PSO requires pay arrangements to be transparent, and "not [to be] applied in an arbitrary or discriminatory way", but there are no reporting or publication requirements which could allow this question to be investigated, as there are (for example) in employment law relating to gender pay gap reporting.

Similarly, several Prison Service Instructions<sup>56</sup> set out in detail the expectation that prisons must protect prisoners' health and safety in their workplaces, and require risk assessments to be carried out for workshops. As noted above, however, the protections afforded to prisoners in those workplaces are less comprehensive. In the same way, Prison Service Order 4480<sup>57</sup> states that the right of free association under the European Convention on Human Rights (Article 11, which includes the right to form unions and bargain collectively for wages) applies in prisons, while also stating that prisoner associations will only be permitted to exercise these rights at the local prison governor's discretion, and only if they do not "compromise good order and discipline considerations".

Finally, another Prison Service Instruction<sup>58</sup> covering the allocation of work activities mandates that work opportunities within a prison should be publicised to prisoners and staff, along with information about places available and how to apply. Prisons are also required under the Equalities Act to make 'reasonable adjustments' to roles to accommodate the needs of prisoners with disabilities. However, this does not mean that work roles are allocated purely based on merit: allocation is subject to other considerations including risk, assessed need, and the prisoner's sentence plan. Protections against dismissal are limited: prisoners must be warned before dismissal from a role unless the basis is security (in which case they can be dismissed immediately), but prisons need only provide written reasons, and there is no entitlement to compensation if the dismissal is unfair.

## 2.6 Summary

Overall, prisoners who work in the UK are subject to a wide range of policies providing them with a degree of protection as workers. Some policies are backed by complaint mechanisms, which aim to provide independent resolutions.<sup>59</sup> But they do not reach the standard of legally enforceable rights and there are legal and practical barriers making it difficult to seek remedies through the courts. Only where there are stronger legal protections are there more enforceable rights, for example with the right to compensation arising from the common law duty of care. For the most part, working prisoners lack employment rights, instead only possessing 'employment-like' protections which mimic but do not replace them.

## 3 Recent policy developments

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### 3.1 Policy context

High inflation and low economic growth affected Britain following Brexit and the Covid-19 pandemic. Many EU nationals have left the UK, resulting in labour shortages in many sectors. Companies have found it difficult to recruit and retain staff, with demand particularly acute in sectors (such as logistics and food production) which use more migrant labour. Demand is also particularly acute in more economically productive parts of the UK, where workers can move between jobs. This wider context means that the labour market, in many parts of the UK, has become more open to ex-prisoners.

There are other reasons to promote employment among prison leavers. Since the early 2000s, it has been understood by policymakers that reoffending by ex-prisoners represents a major cost to the public purse.<sup>60</sup> Employment after release is one of the factors most strongly correlated with reductions in reoffending, and although the direction of causality is unclear,<sup>61</sup> the strength of the correlation makes it important to remove unnecessary barriers to employment.

At the same time, the barriers are considerable. Prisoners experience poor mental and physical health at higher rates than the general population; they are more likely to be homeless, including after release; many have poor records of educational attainment and low rates of literacy and numeracy; some have had limited previous experience of employment; and many may face questions about their offending history because of disclosure requirements after they are released. Although for some, imprisonment may lead to these problems being addressed and resolved, this will depend on individuals' experiences and on how well prison regimes are functioning; if the prisons where the sentence is served are unsafe, dysfunctional environments in which drugs are easy to obtain or in which prisoners are confined in their cells for lengthy periods, prisoners may leave the prison less employable at the end of their sentence than at the start.

### 3.2 Policies

The three nations of the UK have not all published policies relating to prison employment during the past five years. The most recent and relevant strategy documents date from 2018 and 2021 for England & Wales, from 2017 for Scotland, and from 2013 for Northern Ireland.<sup>62</sup> They do not promote identical aims for work in prison, but share the claim that providing work opportunities for prisoners can secure benefits for different parties. Key points are summarised in Table 5 overleaf.

Despite the similarities, there are differences of emphasis. Strategy documents for England & Wales more clearly subdivide prison work by its functions, setting out a kind of typology:

At the most basic level, work provides prisoners with purposeful activity. Whether it is work in 'prison industries' (delivering contracts for commercial companies or government departments) or 'prison services' (helping prisons themselves function), it gives structure and meaning to prisoners' days [...] Work done by prisoners helps prisons function efficiently.<sup>63</sup>

Table 5: Strategic policy statements about work for prisoners

Beneficiaries of prison work	Quotes
Prisoners held in custody	<ul style="list-style-type: none"> <li>• “Getting prisoners out of their cells to work in prison is [...] an important element of our drive to improve [their] mental and physical health, reduce drug use and cut violence in prisons”<sup>64</sup></li> <li>• “[We will] seek to provide activities which engage those in custody [...] in meaningful ways that prove to be rewarding and challenging”<sup>65</sup></li> <li>• “[Working in prison will] improve levels of self-confidence, self-efficacy and self-esteem within the prison population”<sup>66</sup></li> </ul>
Prisoners after release	<ul style="list-style-type: none"> <li>• “The most important role of prison work is to prepare prisoners for employment on release. Around two thirds of prisoners were unemployed before entering custody”<sup>67</sup></li> <li>• “We will contribute to reducing reoffending by supporting and encouraging people to become more employable”<sup>68</sup></li> <li>• “[A]n innovative strategy is required to ensure that the services and opportunities available to prisoners provide them with the best possible prospects for gaining employment on release”<sup>69</sup></li> </ul>
The general public	<ul style="list-style-type: none"> <li>• “[W]ork in prison services limits the cost of prison to the taxpayer. It also allows funding to be spent on other priorities in individual prisons, such as security measures or offender behaviour programmes, which tackle the root causes of offending”<sup>70</sup></li> <li>• “We [prepare prisoners for release] because we believe people can change and have the capacity to reintegrate back into their communities better equipped to contribute positively as responsible citizens”<sup>71</sup></li> <li>• “Providing education, training, and employment services for offenders is one of the key ways to [...] reduce their risk of re-offending [...] Research [has] shown that when prisoners find employment on release they reduce their risk of re-offending by between 30% and 50%”<sup>72</sup></li> </ul>

Significantly, the England & Wales strategy links work done in ‘prison industries’ and ‘prison services’ to a direct benefit for taxpayers: it states explicitly that prisoners’ labour is used to reduce prison operating expenses, and to free up resources for other priorities. However, there is a clear aspiration in the strategy that other kinds of work opportunities should be offered, so that to the twin categories of ‘prison industries’ and ‘prison services’ is added a third, ‘real work’ or work for resettlement purposes:

Work placements with employers outside the prison walls, through ROTL, take [prison work] a stage further. Workplace ROTL—subject to proper risk assessment—gives prisoners the chance to apply their skills and prove they are hard-working and trustworthy.<sup>73</sup>

In the strategies for Scotland and Northern Ireland, no explicit references are made to prison costs nor to prisoners’ role in reducing them. The Scottish strategy sounds notes of caution regarding the extent to which rehabilitation can feasibly be achieved through prison work:

[T]here are a number of barriers to overcome to improve the prospects of those with criminal convictions securing employment upon their release from prison. These include the stigma associated with declaring a criminal record; the willingness of employers to provide those with criminal convictions with job opportunities, and the extent to which they are perceived to have the necessary skills for the modern labour market [...] we accept that not all individuals will be liberated from prison 'employment ready' and many may require additional support from partner agencies in the community [...] Addressing the needs and barriers to employability is already challenging. However, when considered in a custodial setting the challenge is amplified. This includes inhibitors such as the limited ability for SPS to offer the range of work-based and upskilling opportunities that would be available in the community, as well as the length of the sentence.<sup>74</sup>

To summarise: strategy documents published by the three prison services of the UK tend to agree in suggesting that, at best, working in prison can play a role in preparing prisoners for release and in improving their employability. This is certainly the favoured outcome. However, they all acknowledge that this outcome is difficult to achieve, and the strategies therefore also appear to have been worded so that forms of work without positive long-term outcomes still feature. In England & Wales, the strategy suggests that other unspecified benefits may accrue from such work, such as generic 'soft' skills and a 'work ethic':

Employers expect people to be reliable, cooperative and disciplined in a workplace setting, as well as equipped with the vocational skills required in their industry. Work in prison, either through prison industries or prison services, can help prisoners build these capabilities.<sup>75</sup>

In Scotland, later post-custodial support and interventions are described as necessary, and reasons are offered to anticipate why prisons may struggle to deliver post-release outcomes. The Northern Irish strategy also acknowledges the operational complexities facing prisons, and commits the prison service there to forming new partnerships with outside employers.

Partnerships—with industry and outside organisations—are identified in all three strategies as central to the respective prison services' plans to improve post-release outcomes. The remainder of this section, addressing recent policy initiatives, considers how the prison services of each country have tried to engage with outside organisations.

### 3.2.1 England & Wales

Efforts to promote partnerships have been most concerted in England & Wales. The Ministry of Justice's Education and Employment Strategy<sup>76</sup> promised "a step change in our engagement with employers and a renewed focus on effective, coherent supervision of prisoners on release," and committed the Ministry of Justice to five specific actions:

1. Recruiting ex-prisoners directly into the civil service
2. Identifying tax breaks for employers who employ ex-prisoners
3. Launching the New Futures Network (NFN), a brokerage body to interface between prisons and employers
4. Making it easier for ex-prisoners to claim benefits on release, to bridge the financial difficulties many face before finding work

5. Incentivising more effective collaboration between prisons and probation services on post-release employment

The third of these, the NFN, was particularly significant. This built on earlier similar brokerage bodies which focused on increasing the amount of work done by prisoners *in prison workshops*. NFN was set up to secure better long-term outcomes through partnerships, both by bringing contracts work into prison workshops, and by focusing specifically on work opportunities for prisoners on day release, and on post-release employment. This was to be achieved by focusing brokerage and engagement efforts on industries experiencing labour shortages, where barriers to employing ex-prisoners were expected to be lower. In the NFN's first year of operation these were retail, catering and hospitality, construction, manufacturing, and agriculture and horticulture. In subsequent years, recycling, IT, and logistics have also featured in the list, which is reviewed annually.

A further innovation was that the NFN was mandated to work with outside partners to find opportunities for prisoners who already worked in relevant roles *within* prisons to gain qualifications and certifications alongside their work. The intention here, again, was to link work in prison to work after release:

For example, where prisoners are already spending a working week cooking or cleaning to keep the prison functioning [...] NFN will engage employers in the catering and cleaning industries. It will explore how the thousands of prisoners doing daily work in prison services could be supplemented with training, or work placements on ROTL in relevant industries [...] Work within the prison walls can and should be complimented by placements in real workplaces<sup>77</sup>

This approach was to be trialled through partnerships with outside organisations, including Halfords, The Clink, Balfour Beatty, Greggs, and others.<sup>78</sup>

A focus on post-release employment became more prominent still three years later, with the MoJ's Prisons Strategy White Paper.<sup>79</sup> This document added specific measures and around £500m of funding to recruit Employment Advisers and create Employment Hubs in all resettlement prisons. These aimed to serve as an employment brokerage for prisoners approaching the time of their release, and would be matched by Employment Boards, comprising local people able to offer connections with employment opportunities, to link these prisons with local business networks in their areas. Transitions into work after release have also been promoted via a change in the law allowing prisoners to undertake apprenticeships.<sup>80</sup>

In summary, work has been a significant focus of prison policy in England & Wales since 2018. There has been a concerted effort to create relationships and partnerships which will support prisoners into work after release, and to think about how work at different stages of the sentence might be organised to support this end.

### 3.2.2 Northern Ireland and Scotland

Fewer detailed policies are published relating to prison work in Scotland and Northern Ireland, though what there is indicates that the overall policy aspirations are like those in England & Wales.



In Northern Ireland, the absence of recent policy publications probably has two main causes: first, the far smaller prison population and imprisonment rates there (see section 1.1.2). Secondly and more importantly, however, the devolved government of Northern Ireland did not function for most of the period from early 2017 to early 2024. Consequently, the NI justice system has been unable to formulate new policies, and a renewed prison employability strategy for 2013-17 has not, at the time of writing, been published.

The objectives of that strategy were broadly like those set in 2018 for England & Wales: to increase the number of prisoners entering employment or training post release; to increase the number of prisoners working a 'normal' day whilst in custody; and establish partnerships with external providers for prisoners to produce goods and services in prison.<sup>81</sup> Sustainable funding for these schemes was difficult to secure during the lengthy period of government inaction. Previously, a partnership with the social enterprise Extern enabled prisoners at Maghaberry prison to gain qualifications while working in waste management and recycling,<sup>82</sup> but it has since been discontinued after funding ended. Other partnerships appear still to be in operation, such as the Mugshots social enterprise, which operates a print business at Hydebank College and Women's Prison near Belfast.<sup>83</sup>

Policymaking on prison work in Scotland has been somewhat more active, but is not as extensive as in England & Wales. As mentioned above, strategy documents appear both to manage expectations about the kinds of outcome that are achievable in prison, while also setting similar expectations for work in prisons as apply in the rest of the UK. The establishment of partnerships between the Scottish Prison Service (SPS) and outside organisations is emphasised in its most recent employability strategy:

...We need to continually develop and establish working relationships with partners; both centrally and at a local level [...] The SPS is committed to continuously improving how we work with partners to increase the employability prospects of people in our care [...] [and is] continually looking to develop partnerships with organisations that are actively seeking to work with people with convictions and offer employment opportunities to people in our care.<sup>84</sup>

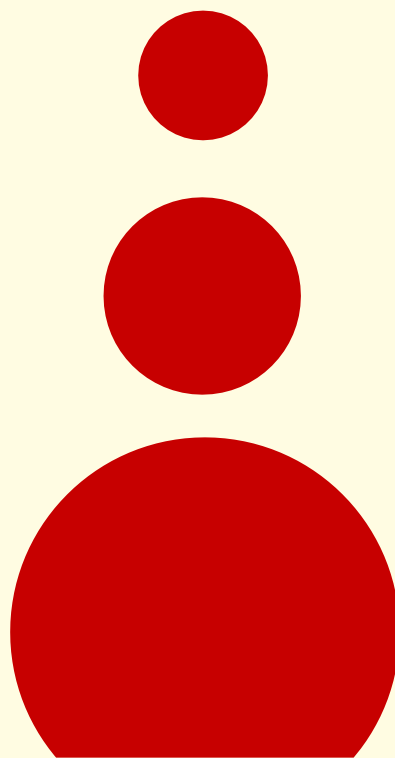
There is no direct equivalent to England & Wales's New Futures Network with dedicated funding to broker work opportunities for prisoners, but the SPS's procurement team serves as a central point of contact for companies which wish to provide "work-based purposeful activity",<sup>85</sup> and some partnerships are set up as the result of local initiatives. As a consequence, there is some involvement by outside organisations in providing prison labour: for example, the charity The Bike Station has worked with the SPS since 2006 to provide bicycle maintenance training in four prisons.<sup>86</sup> More recently, the construction company Robertson formed a vocational training partnership in 2023 with HMP Perth, for prisoners to learn construction skills.<sup>87</sup>

### 3.2.3 Summary

Policy documents across the three jurisdictions of the UK tend to present prison work as having a range of benefits, first and foremost for prisoners but also for others. They share aspirations that work should result in more qualifications and more positive outcomes post-release. There are also some differences of emphasis between the three different governments: the Ministry of Justice in England & Wales, for instance, places a more explicit emphasis on the expectation that prisoners *should* work, including to reduce the costs of their imprisonment, while they are in custody, whereas the Scottish

government is more explicit in emphasising the multiple forms of structural exclusion and disadvantage faced by prisoners before imprisonment, which may explain its management of expectations about post-release outcomes.

These differences, however, are largely ones of emphasis rather than of policy substance. All three countries recognise that prisoners require upskilling (something which takes investment) to participate fully in the economy; all are reluctant to shoulder the entire load of ensuring high levels of quality regime activity in prisons; and all therefore aspire to create partnerships with private and not-for-profit companies to generate more and better work opportunities for prisoners. This aim appears to have been subject to more intensive strategising and more substantial investment in England & Wales than in the rest of the UK, something which is likely to reflect the very different scales and budgets of the respective prison systems as much as it does the political composition of the respective governments.



## 4 Prison work in reality

It is difficult to obtain reliable, comparable, quantitative data describing the full range of different work done by prisoners in the UK. In the following section, we set out in overview what data sources are available, before in another section summarising what these sources tell us about the number of prisoners who work in prison.

Before doing that, however, we briefly outline important distinctions between different kinds of work, some of which show up (and some of which do not) in the available data.

### 4.1 Types of work done by prisoners

We use the typology in Table 6 to characterise different kinds of prison work in the UK.

*Table 6: Types of prison work*

Type of prison work	Definition	Examples
Prison services	Work enabling prisons to perform their basic functions	<ul style="list-style-type: none"><li>• cooking meals in the prison kitchen</li><li>• operating the prison laundry</li><li>• offering information, advice, and guidance to peers, where this is formally organised and recognised by the prison</li><li>• peer mentoring schemes</li><li>• work as a prison council member</li><li>• work to support education staff</li></ul>
Prison industries	Work which realises the economic value of prisoners' labour	<ul style="list-style-type: none"><li>• work in a prison contracts workshop packaging items for a private sector contractor</li><li>• work in a prison contracts workshop manufacturing items (e.g. signs, furniture) for use by other prisons</li><li>• work in a prison printing workshop producing items on contract to other government departments</li><li>• work in a prison laundry for commercial customers</li></ul>
Preparation for release	Work which develops prisoners' skills or experience in preparation for their release from prison.	<ul style="list-style-type: none"><li>• work on day release in the community, for an outside business</li><li>• vocational training programmes</li><li>• prisoner apprenticeships</li><li>• prison services or prison labour, featuring links with potential future employers</li></ul>

The three kinds of work described in Table 6 draw on distinctions made by the 2018 Education and Employment Strategy in England & Wales. The three types are not mutually exclusive, but remain meaningful because of the international and national laws governing prison work, which a) recognise that some work is done directly to sustain prison functions; b) expect that prisoners who work in prison industries for private customers will do so voluntarily, and c) require that work generally should prepare prisoners for release wherever possible. Differentiating conceptually between these different types of work is therefore important.<sup>88</sup>

## 4.2 Prison industries

### 4.2.1 How many people work in prison industries?

Published data for UK prisons do not cover the full range of activities defined above as three ‘ideal types’ of prison work.<sup>89</sup> In England & Wales only, there are some relevant data publications. They cover inconsistent periods, and only report on some forms of work. In Scotland and Northern Ireland, no data are published to enable an equivalent overview.

In England & Wales, HM Prison & Probation Service published system-wide overviews of prison industries work between 2012 and 2020.<sup>90</sup> They are summarised in Table 7:

*Table 7: Prison industries work in England & Wales. Figures for each year cover the 12 months to March, except 2019/20, which covers the 11 months to February. Figures before 2014/15 did not report numbers of workers, only hours worked.<sup>91</sup>*

Period	Industries workers (yearly, avg.)	Reported hours worked in industries (yearly, millions)	Hours per worker per week (avg.)	Prison population (end of March)	Industries workers as % of prison population
2012/13	—	12.7	—	84,249	—
2013/14	—	13.9	—	85,307	—
2014/15	10,500	15.1	28	85,626	12.2%
2015/16	11,000	16.0	28	85,348	12.8%
2016/17	11,300	16.0	27	85,632	13.1%
2017/18	12,300	17.2	27	83,296	14.7%
2018/19	12,100	17.1	27	82,935	14.5%
2019/20	12,500	17.4	27	80,366	15.5%
<b>Averages 2012-2020</b>	<b>11,616</b>	<b>15.7</b>	<b>27</b>	<b>84,095</b>	<b>13.8%</b>

Publication of these figures ceased in 2020/21. According to the Ministry of Justice, this was because changes to prison regimes during the Covid-19 pandemic made “the quality of data available [...] too poor and incomplete to publish”.<sup>92</sup> The numbers are likely to have fallen substantially during the pandemic, though it is clear from other sources that workshop activities continued on a smaller scale (see further below). Prison workshops have not ceased operating entirely, but the cessation of reporting means that the best estimate we can provide is that prison industries work occupied an

average of around 13.8% of prisoners between 2014/15 and 2019/20, albeit with this proportion growing gradually from 12.2% to 15.5% over this period.

Prison inspectors and the Prison Services in Northern Ireland and Scotland have confirmed to us that there are some contracts workshops in Scottish and Northern Irish prisons, though we are unable to estimate the numbers doing this kind of work in those countries.

Again, the only available overview data relate to England & Wales, consisting of sales data published by the New Futures Network, covering commercial contracts carried out in prisons in England & Wales.<sup>93</sup> The figures cover four years, starting in 2018/19, with the most recent publication covering 2021/22. They include only industries contracts in public sector prisons, done for private and public sector customers, but not for the Ministry of Defence.<sup>94</sup> Contracts are listed by prison, activity, and value. We tabulated and aggregated the data, summing the total value of sales over the four-year period, and calculating per-prison, per-customer, and per-activity figures, permitting a descriptive overview of industries work during this four-year period.

An overview of total sales is shown in Table 8. The most obvious point to note is the damage done to prison industries work by the Covid-19 pandemic when most workshop activities ceased. Both the number and value of contracts fell year-on-year, with a decline in total sales of over 80% in 2020. Although data for 2022/23 have not been published, the figures for 2021/22 show nothing like a full recovery to pre-pandemic levels of activity:

*Table 8: Prison industries contracts in England & Wales 2018-2022, aggregated from data published by the NFN.<sup>95</sup>*

Year	Total sales by value	Number of contracts
2018/19	£4,804,839	313
2019/20	£4,695,465	278
2020/21	£853,026	146
2021/22	£1,314,190	122
<b>Total</b>	<b>£11,667,520</b>	<b>859</b>

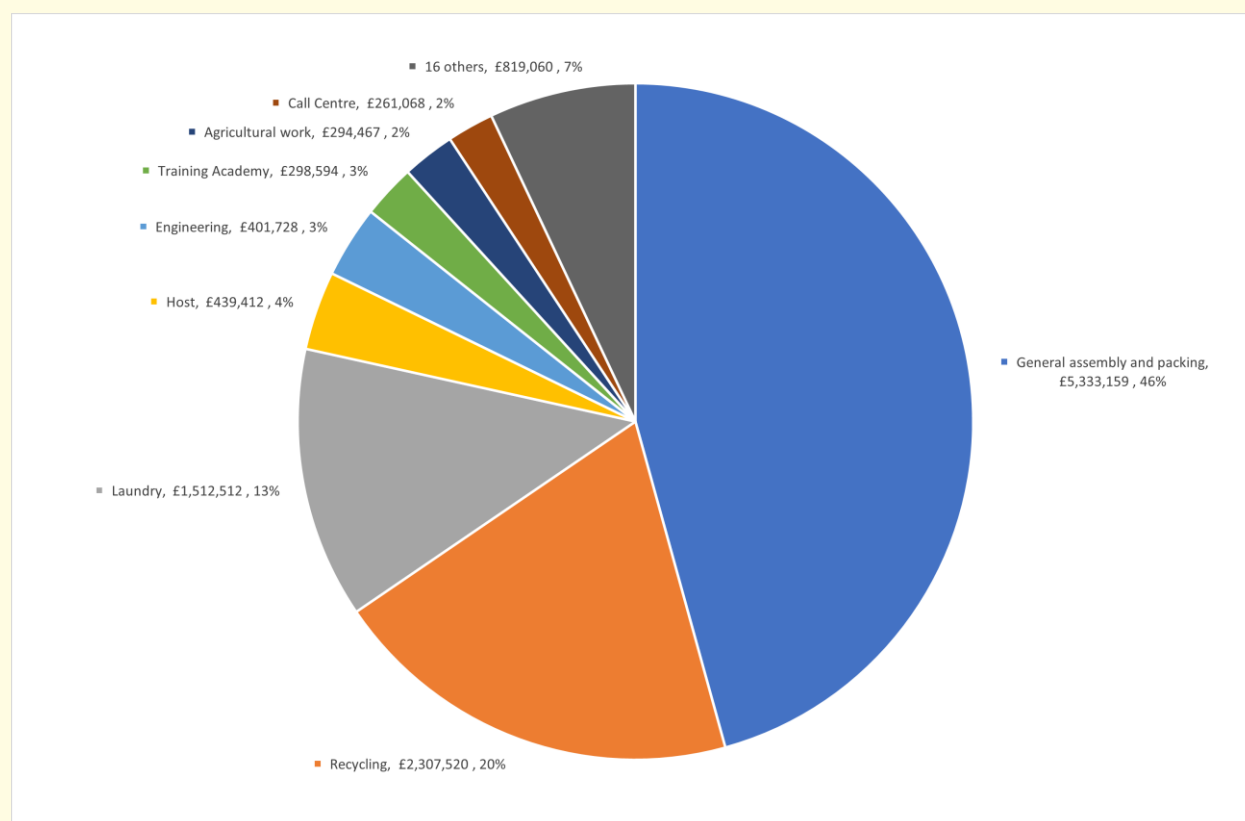
## 4.2.2 What kinds of work are done in prison industries?

By aggregating and subdividing the original figures, we can also summarise both the *kinds of work* done under industries contracts, and the *kinds of prison* where it is done.

Starting with the *kinds of work*, Figure 4 summarises the ‘activity’ listed for each contract. 82% of all sales by value fall under four activities: general assembly and packing, recycling, laundry, and ‘host’, with the last denoting a large food packing contract with a single company.<sup>96</sup> On this evidence, at least half of all prison industries work done for commercial customers consists of low-skilled assembly and packing work. It is unclear how far laundry and recycling contracts provide work intended to generate employment following release. Some activities visible in the data—particularly ‘training academy’<sup>97</sup> and ‘call centre’—might involve skills which carry through from prison to the post-prison job market. However, these represent a small part of the whole.



Figure 4: Value of industries contracts by type of work, 2018-22<sup>98</sup>



### 4.2.3 Where is prison industries work available?

Delivering on industries contracts is not equally feasible in every prison. What can be achieved depends on a range of factors, including the buildings and facilities available, staffing, the security measures required at the site, and the nature of the local economy. In this sense, it is not surprising that industries contracts are unevenly distributed.

There are 120 prisons in England & Wales. 81 are represented in the NFN sales figures,<sup>99</sup> but as Figure 5 shows, more than half (53%) of the contracts by value are in just ten prisons, with the remaining 47% spread across the other 71. The concentration of contracts is similarly evident if sales figures are summarised by the *number* of contracts, not by contract *value*: in Figure 6, fifteen prisons account for half the total number of contracts, with the other half spread among the remaining 66.

Overall, Figure 5 and Figure 6 show a few prisons holding most contracts (and most high-value contracts). They are mostly category-C and category-D men's resettlement prisons, but much of the underlying activity is low- or unskilled packing and assembly work, with questionable post-release employment prospects. The overall impression is that some prisons have specialised in organising their regimes around workshop production, but that the reasons for this are locally contingent.

Figure 5: Value of industries contracts by prison, 2018-22<sup>100</sup>

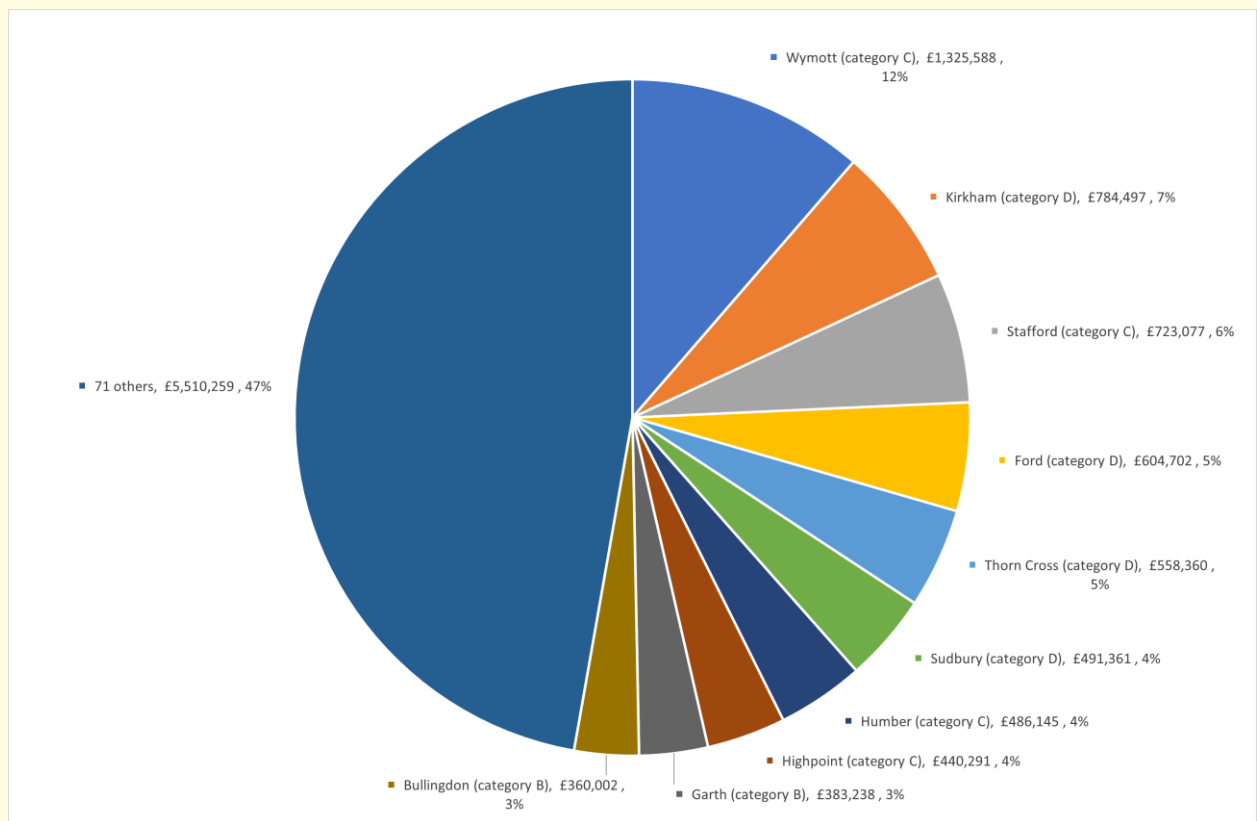
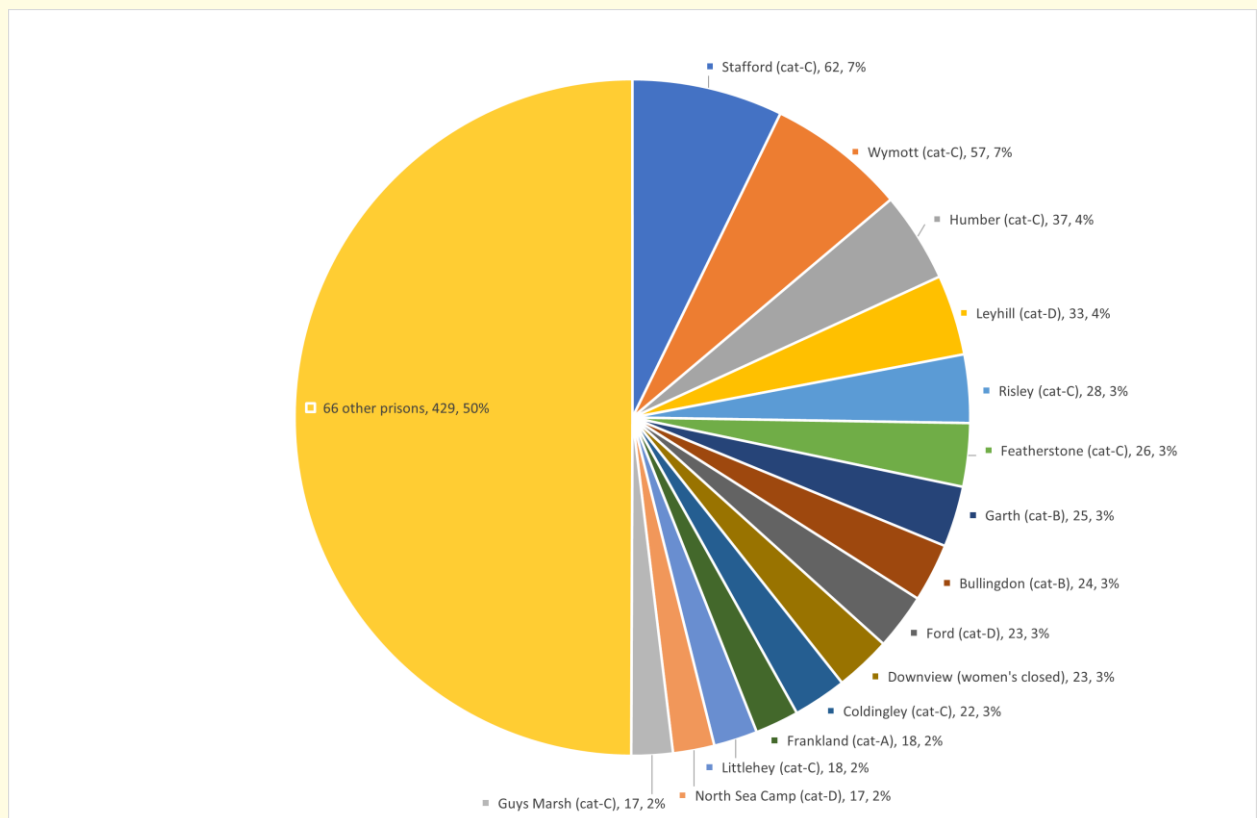


Figure 6: Number of industries contracts by prison, 2018-22<sup>101</sup>



We have also summarised the NFN sales data to show how contracts are allocated to different *kinds of prisons*. Table 9 shows these figures, organising groups of prisons in descending order by average contract value. Men's category-D prisons top the list: probably because less restrictive security measures make it simpler to operate a full working day, a 'normal' productive workplace, and hence to deliver productive, high-value contracts. Men's category-C and category-B training prisons are next, followed by category-A prisons, with the declining average value of contract probably reflecting the increasing complication of security measures. Contracts with a lower average value are found in men's resettlement prisons, women's prisons, and reception/local prisons. This will reflect a range of factors, but a lack of facilities will be among them,<sup>102</sup> as will the relatively transient populations and competing priorities in these establishments.

*Table 9: Industries contracts in England & Wales 2018-2022, by prison security level and type. Calculated from NFN data and shown in descending order of average per-prison contract value.<sup>103</sup>*

<b>Prison type</b>	<b>Total prisons listed</b>	<b>Total contracts listed</b>	<b>Total contract value, £</b>	<b>Avg. contract value, £</b>
Men's cat-D open	11	131	3,244,966	24,771
Men's cat-C training	17	267	4,001,180	14,986
Men's cat-A	7	62	803,015	12,952
Men's cat-B training	3	36	420,166	11,671
Men's cat-C resettlement	16	173	1,630,362	9,424
Women's closed <sup>104</sup>	6	53	451,686	8,522
Men's cat-B reception/local	19	128	927,196	7,244

#### 4.2.4 Summary

England & Wales is the only UK jurisdiction which publishes data enabling a quantitative description of industries work across the prison estate. The data show that such work is unevenly distributed. Higher-value contracts are more likely to be found in prisons with substantial workshop space and a relatively stable population; lower-value contracts, representing a smaller investment in the prison and in prisoners, are more typical in parts of the prison estate where prison populations are more transient.

Around four-fifths of the work done under contracts in prison workshops comprises general assembly and packaging tasks, laundry, or recycling. Such tasks are not typically highly skilled, and they may only be economical because of the low wages paid. Their likely post-release benefits are therefore limited: prisoners may acquire work habits, but only to the extent that work conditions resemble those in 'real' workplaces in the outside world. They are unlikely to set aside significant savings for release, or to contribute financially to their families, by performing such work.

Industries work is also highly concentrated, both geographically and by prison type. Between ten and 15 prisons account for over half the industries work, whether contracts are considered by value or by number. Even where prisons have the same function, prisoners are more likely to find contracts work in some establishments than others.

It is striking that *all* the prison industries work described here will be done for prison wages, and not on terms and conditions approximating those offered to workers in the free world. The UK has ratified the 1930 ILO Forced Labour Convention, which requires that prison labour undertaken for private entities *must* be voluntary, and must be done by prisoners working on terms and conditions (including pay) which approximate those available to workers performing equivalent work in the outside world.<sup>105</sup> Prisons can make deductions from these wages, but the ILO's position is that prison industries work must be paid, to protect prisoners from exploitation. The UK government disputes the ILO's interpretation of this requirement in the Convention.<sup>106</sup>

Some of the contracts listed in the NFN sales data are with public sector customers. As a result, not all industries work listed above would fall under the ILO's interpretation, even if the UK government accepted it. However, in practice, only work done in the community by prisoners released on temporary licence (see below) is paid at the National Minimum Wage or above.

Finally, it should be noted that the publication of industries contracts data by HMPPS ceased in 2021/22, and currently appears unlikely to resume. This change has coincided with something of a shift in policy emphasis, away from industries work, and towards prison education and post-release employment.<sup>107</sup> It means that the figures summarised above are dated and may not reflect current practice: this reflects the wider lack of data on prison work, and its relative obscurity as a topic.

## 4.3 Preparation for release

A contrast can be found in data covering paid work by prisoners on day release (ROTL, or Release on Temporary Licence). Since 2011, the law has allowed prisoners in England & Wales to work for employers outside prison, and to receive prevailing wages (with deductions) for doing so.<sup>108</sup> ROTL work is therefore legally distinct from other forms of prison work.

Data summarising work in this category covers every year since 2011, and figures are updated annually. The number of prisoners doing this kind of work has grown steadily (and at an increasing rate) since 2011, albeit with a drop-off during the pandemic. Because the figures derive from the payroll records, they omit prisoners who work on day release in unpaid or voluntary roles, meaning that the estimates they offer are probably somewhat on the low side: some prisoners may do unpaid work outside prison, though neither we nor the Ministry of Justice can say how many.<sup>109</sup>

Table 10 shows the average monthly numbers of prisoners active in paid ROTL work. As above in Table 7, we have added data on the prison population overall to set the numbers in context. Based on the numbers in Table 10, an average 0.6% of the prison population worked on day release for outside employers during the years between 2011 to 2023. However, the proportion has more than doubled since 2018 and there is a clear upwards trend, albeit with a temporary decline during the Covid-19 pandemic. The proportion of prisoners now working in ordinary jobs on day release in the community now stands at around 1.2% of the prison population.

Prison inspectors and the Prison Services in Northern Ireland and Scotland have confirmed to us that prisoners there also work in the community on day release, although in those countries the Prisoners Earnings Act has not been implemented, meaning that those who do this do not earn the minimum wage. We are unable to estimate the numbers doing this kind of work in those countries.

*Table 10: Prisoners working in 'enhanced wages work' on day release, 2011/12 to 2022/23<sup>110</sup>*

<b>Period</b>	<b>Average number of active prisoners (monthly)</b>	<b>Prison population (end of March)</b>	<b>Average active prisoners (as % of prison population)</b>
2011/12	305	86,634	0.4
2012/13	324	84,249	0.4
2013/14	392	85,307	0.5
2014/15	368	85,626	0.4
2015/16	328	85,348	0.4
2016/17	368	85,632	0.4
2017/18	456	83,296	0.5
2018/19	572	82,935	0.7
2019/20	811	80,366	1.0
2020/21	445	78,536	0.6
2021/22	793	79,744	1.0
2022/23	1,088	84,372	1.2
Annual average, 2011-2023	521	83,504	0.6

Summarising the picture so far, section 4.2 suggested that around 12,500 prisoners were working in prison industries workshops at the time of the most recent data published (2020). A further 1,088 worked in 'enhanced wages work', on day release outside prisons in 2023. Because they do not cover the same period, these figures cannot meaningfully be combined, but a very rough estimate based on them would be that at most 13,500 prisoners worked in what the 2018 and 2021 strategies both referred to as 'real' work environments.<sup>111</sup>

## 4.4 Prison services

"Prison services" work, as defined in section 4.1, is not covered by any data published routinely by the governments of any part of the UK. Estimating of how many prisoners do this kind of work is difficult owing to a lack of data with which to make the estimate, though it probably constitutes a majority of the work assignments in UK prisons.

What little data is available is suggestive. Prisoner survey data covering 2021/22 and 2022/23, published by the HM Inspectorate of Prisons for England & Wales, suggest that around 70% of men and around 75% of women surveyed during those years reported that they had worked in a "prison job" at their current location. These numbers are not directly comparable to those reported in Table 7 and Table 10, and hence offer no basis for an estimate of the number doing "prison services" work. They do, however, offer broad support for the idea that a substantial number of prisoners in England

& Wales do work that is not captured by published figures. For Scotland, the SPS's biennial prisoner survey reports that a similar proportion of respondents say they have done 'work' in prison. The most recent instalment published, from 2019, shows that 73% of prisoners reported having worked in a prison job in their current prison.<sup>112</sup> We are not aware of an equivalent figure for Northern Ireland.

Again, the best data by which to approach the work not captured in published figures comes from England & Wales, though what is available is indicative only. The Ministry of Justice estimated that in 2018 the number in "prison services" work stood at "over 13,000" at any one time, without clarifying the basis for the estimate.<sup>113</sup> We are not aware of figures published since then to update this estimate. However, the scale of prison services work is likely to be significant, compared to the industries and 'real' work the MoJ does report on: the 2018 estimate of 13,000 exceeds prison industries and ROTL work combined for the same year in Table 7 and Table 8. On this evidence, "prison services" work might comprise a larger proportion of the whole than any other kind.

However, an up-to-date estimate for England & Wales is not possible, and no figures are available for Scotland or Northern Ireland. The Ministry of Justice, in answering parliamentary questions on the number of prisoners in work in England & Wales in early 2023, said that it did not hold data on how many prisoners worked in prison services roles,<sup>114</sup> nor on how many prisoners were paid by prisons for working, versus being paid unemployment pay or 'retirement' pay, or being paid to go to education.<sup>115</sup>

It is likely that some of the work prisoners self-report when they fill out surveys falls into the 'prison services' category. This work will include domestic activities such as catering, laundry, hairdressing, cleaning and the maintenance of prison wings, along with activities such as groundskeeping, painting and decorating, and a range of other activities relating to the physical environment of the prison.

In summary, work done by prisoners to sustain and maintain prisons is generally not reported by UK governments, though on the available evidence it appears that it may constitute the majority of assignments in which prisoners work.

## 4.5 Conclusion

The first and most important point to note about prison work in the UK is that the available data paint an incomplete picture. From what is available via self-report questionnaires,<sup>116</sup> it appears that:

- around 70% of prisoners say they have worked in their current prison
- around a third say it is easy to get into work in their current prison
- around 15.5% in England & Wales worked in prison industries in 2021 (the date of the most recent figures)
- and around 1% in England & Wales worked on day release in 2022 (the date of the most recent figures).

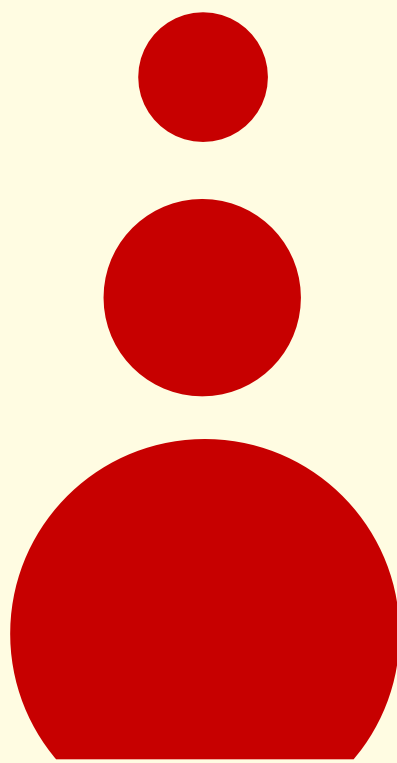
If these figures are assumed to be loosely comparable and loosely representative of the UK as a whole, then at most, it is likely that somewhere between 15% and 20% of UK prisoners work in 'industries' or in work preparing them for release at any one time. The remainder of those who perform work paid by prisons will be doing prison services roles of different kinds.

Not all work involves high levels of skill or produces high degrees of motivation, and much appears difficult to obtain: only around 30% of men and around 40% of women reported finding it “easy to get into” prison jobs.<sup>117</sup> The Inspectorates have also consistently reported that many prisoners in some prisons they inspected were either not working at all, or were unsupervised and underemployed.<sup>118</sup> It appears particularly likely that good-quality work is scarce and hard to obtain in women’s prisons and local prisons.

Generally, work in prison—even on commercial contracts—is paid at prison wages, which vary according to local discretion but with a minimum rate that is unchanged since 2002. The “minimum employed rate” paid to prisoners who work is £4 a week, with minimum rates of £2.50 a week for “unemployment pay” and “short-term sickness pay”, and £3.25 for “long-term sickness and retirement pay” to prisoners who are unable to work. The minimum *weekly* rate of £4 is less than half the minimum *hourly* wage payable to free workers.

For many prisoners, the requirement to work, though legally still enforceable, may not often be enforced, since prisons struggle to provide enough work. Similarly, prisoners who do not wish to work are not likely to face sanctions since there is no need for prisons to enforce this requirement. However, there are incentives offered for doing so, and those who lack other funds with which to meet their basic needs may find that they have no option.

Similarly, although some prisoners may find the work on offer in prison demeaning, this is not its purpose, and in fact legal and policy documents tend to emphasise aims relating to preparation for release. Some work opportunities—particularly those on offer in some resettlement and open prisons—do appear to meaningfully fulfil these aims. They are offered on a relatively small scale and often through partnerships with outside organisations, and as such they are likely to be accessed only by relatively small numbers of prison leavers. In higher-security and longer-term prisons, where preparation for release is a distant prospect, the norm is more for prisoners to work directly for the prison, and occasionally in contracts workshops.





## Notes

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<sup>1</sup> Ministry of Justice, 'Population Bulletin: Weekly 23 February 2024' <<https://www.gov.uk/government/publications/prison-population-figures-2024>> accessed 26 March 2024.

<sup>2</sup> Department of Justice, 'The Northern Ireland Prison Population 2022/23' <sup>3</sup> <<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Northern-Ireland-Prison-Population-2022-23.pdf>> .

<sup>3</sup> Scottish Prison Service, 'Prison Population Figures - 23 February 2024' <<https://www.sps.gov.uk/about-us/transparency/data-research-and-evidence>> accessed 26 March 2024.

<sup>4</sup> Georgina Sturge, 'UK Prison Population Statistics' <sup>6</sup> <<https://researchbriefings.files.parliament.uk/documents/SN04334/SN04334.pdf>> accessed 24 November 2022.

<sup>5</sup> Ministry of Justice and National Offender Management Service, 'Story of the Prison Population 1993 to 2020' <sup>4</sup> <<https://www.gov.uk/government/statistics/story-of-the-prison-population-1993-to-2020>> accessed 31 March 2023.

<sup>6</sup> Sturge (n 4) 12.

<sup>7</sup> Department of Justice, 'The Northern Ireland Prison Population 2022/23' (n 2) 3.

<sup>8</sup> Scottish Prison Service, 'Annual Report and Accounts 2022-23' (Scottish Prison Service 2023) Annual report 18 <<https://www.sps.gov.uk/sites/default/files/2024-02/SPS%20Annual%20Report%20and%20Accounts%202022-23.pdf>> accessed 26 March 2024.

<sup>9</sup> Scottish Centre for Crime & Justice Research, 'Who's in Prison? A Snapshot of Scotland's Prison Population' <sup>4</sup> <<https://www.sccjr.ac.uk/wp-content/uploads/2023/10/Who-is-in-Scotlands-prisons-A-snapshot-of-Scotlands-prison-population-Final.pdf>> accessed 26 March 2024.

<sup>10</sup> Scottish Prison Service, 'Annual Report and Accounts 2022-23' (n 8) 18.

<sup>11</sup> Sturge (n 4) 22.

<sup>12</sup> 'Overview of the UK Population - Office for National Statistics' <<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/2020>> accessed 10 April 2024.

<sup>13</sup> 'World Prison Brief' <<https://www.prisonstudies.org/world-prison-brief-data>> . 2024 figure is for February 2024.

<sup>14</sup> Andrew Madden, 'NI Prison Population Reaches Nine-Year High' *Belfast Telegraph* (Belfast, 26 October 2023) <<https://www.belfasttelegraph.co.uk/news/northern-ireland/ni-prison-population-reaches-nine-year-high/a571225684.html>> accessed 26 March 2024.

<sup>15</sup> Figures for England & Wales at 31.12.2023, Scotland at 23.2.2024, and figures for Northern Ireland are the daily average for 2022/2023.

<sup>16</sup> HM Prison & Probation Service, 'Offender Management Statistics Quarterly: July to September 2023' <sup>3</sup> <<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-july-to-september-2023>> accessed 26 March 2024.

<sup>17</sup> Department of Justice, 'The Northern Ireland Prison Population 2022/23' (n 2) 3.

<sup>18</sup> Scottish Prison Service, 'Prison Population Figures - 23 February 2024' (n 3).

<sup>19</sup> Data sources as per Table 2

<sup>20</sup> Ministry of Justice, 'Population Bulletin: Monthly February 2024' (*GOV.UK*, 5 April 2024) <<https://www.gov.uk/government/publications/prison-population-figures-2024>> accessed 8 April 2024. The occupancy rate for England and Wales is calculated using the In-Use Certified Normal Accommodation (can) figure for prison capacity, which does not include accommodation unavailable for immediate use.

<sup>21</sup> Council of Europe, 'Prison stock on 1st January 2023 – Council of Europe Annual Penal Statistics' <<https://wp.unil.ch/space/space-i/prison-stock-on-1-january/prison-stock-on-1st-january-2023/>> accessed 26 March 2024.

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<sup>22</sup> *ibid.*

<sup>23</sup> Jacqueline Beard, 'The Prison Estate in England and Wales' 8  
<<https://researchbriefings.files.parliament.uk/documents/SN05646/SN05646.pdf>> accessed 26 March 2024.

<sup>24</sup> *ibid.* 10.

<sup>25</sup> Department of Justice, 'Prison Estate' (*Northern Ireland Department of Justice*) <<https://www.justice-ni.gov.uk/topics/prisons/prison-estate>> accessed 26 March 2024.

<sup>26</sup> Prison Reform Trust, 'Bromley Briefings Prison Factfile: February 2024' (Prison Reform Trust 2024) 60  
<<https://prisonreformtrust.org.uk/wp-content/uploads/2023/02/January-2023-Bromley-Briefings.pdf>> accessed 15 February 2023.

<sup>27</sup> HM Prison & Probation Service, 'Your A-D Guide on Prison Categories' (*Working in the Prison and Probation Service*)  
<<https://prisonjobs.blog.gov.uk/your-a-d-guide-on-prison-categories/>> accessed 26 March 2024.

<sup>28</sup> Prison Reform Trust (n 26) 60.

<sup>29</sup> Andrew Coyle, 'The Myth of Prison Work' (International Centre for Prison Studies 2001) 3; Evelyn Shea, *Why Work? A Study of Prison Labour in England, France and Germany* (Dunker & Humblot; Max-Planck-Institut für ausländisches und internationales Strafrecht 2007); Frances H Simon, 'Prison Work in the Context of Social Exclusion' (Thesis, Brunel University 1999)  
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<sup>30</sup> Haroon Siddique, 'UK Could Rent Space in Foreign Jails to Ease Shortage of Cells' *The Guardian* (3 October 2023)  
<<https://www.theguardian.com/society/2023/oct/03/uk-could-rent-space-in-foreign-jails-to-ease-shortage-of-cells>> accessed 7 April 2024.

<sup>31</sup> Alex Binley, 'Prisoners Could Be Released up to Two Months Early to Ease Overcrowding' *BBC News* (11 March 2024)  
<<https://www.bbc.com/news/uk-68536845>> accessed 7 April 2024; Prison Reform Trust, 'Prison Reform Trust Briefing: Prison-Related Measures Included in the King's Speech - November 2023' <<https://prisonreformtrust.org.uk/wp-content/uploads/2023/11/PRT-Kings-Speech-briefing-071123.pdf>> accessed 23 April 2024.

<sup>32</sup> International Labour Organisation, 'Convention C029 - Forced Labour Convention, 1930 (No. 29)'  
<[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029)> accessed 24 August 2022; International Labour Organisation, 'Convention C105 - Abolition of Forced Labour Convention, 1957 (No. 105)'  
<[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100\\_ILO\\_CODE:C105:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C105:NO)> accessed 24 August 2022.

<sup>33</sup> United Nations General Assembly, *The United Nations Standard Minimum Rules for the Treatment of Prisoners* ('*The Nelson Mandela Rules*') (United Nations 2015) <[http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)> accessed 23 August 2022; Council of Europe (ed), *European Prison Rules* (Council of Europe Publishing 2006).

<sup>34</sup> Ben Jarman and Catherine Heard, 'Labouring behind Bars: Assessing International Law on Working Prisoners' (Institute for Crime & Justice Policy Research 2023) Briefing paper  
<[https://www.prisonstudies.org/sites/default/files/resources/downloads/labouring\\_behind\\_bars\\_appendix\\_web\\_final.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/labouring_behind_bars_appendix_web_final.pdf)> accessed 9 November 2023.

<sup>35</sup> UK Parliament, *Prison Act (1952 c. 52)* (Statute Law Database 1952) <<https://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/52/contents>> accessed 16 September 2022; UK Parliament, *Prisons (Scotland) Act (1989 c.45)* (Statute Law Database 1989) <<https://www.legislation.gov.uk/ukpga/1989/45/contents>> accessed 17 November 2022; UK Parliament, *Prison Act (Northern Ireland) (1953 c.18)* (Statute Law Database 1953) <<https://www.legislation.gov.uk/apni/1953/18/contents>> accessed 17 November 2022.

<sup>36</sup> UK Parliament, *Prison Act (1952 c. 52)* (n 35) s 47(1).

<sup>37</sup> UK Parliament, *Prisoners' Earnings Act (1996 c. 33)* (Statute Law Database 1996)  
<<https://www.legislation.gov.uk/ukpga/1996/33/contents>> accessed 16 September 2022.

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<sup>38</sup> UK Parliament, *The Prisoners' Earnings Act 1996 (Commencement) (England and Wales) Order 2011* (SI 2011 No. 1658 (C.63)) (The Stationery Office 2011) <<https://www.legislation.gov.uk/ukSI/2011/1658/contents/made>> accessed 31 March 2023.

<sup>39</sup> UK Parliament, *Sentencing Act (2020 c. 17)* (The Stationery Office 2020) s 57(2) <<https://www.legislation.gov.uk/ukpga/2020/17>> accessed 27 March 2024.

<sup>40</sup> Department of Justice, 'Sentencing Review Northern Ireland: A Public Consultation' <<https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/sentencing-review-northern-ireland-consultation.pdf>> accessed 24 October 2023.

<sup>41</sup> Scottish Sentencing Council, 'Principles and Purposes of Sentencing: Sentencing Guideline' <<https://www.scottishsentencingcouncil.org.uk/media/1964/guideline-principles-and-purposes-of-sentencing.pdf>> accessed 24 October 2023.

<sup>42</sup> Scottish Parliament, *The Prisons and Young Offenders Institutions (Scotland) Rules (SSI 2011 No. 331)* (Statute Law Database 2011) r 84 <<https://www.legislation.gov.uk/ssi/2011/331/contents>> accessed 18 November 2022.

<sup>43</sup> Scottish Prison Service, 'Delivering a Strategy for Purposeful Activity in the SPS' para 4.2 <[http://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=Purposeful\\_Activity\\_Review\\_Versio](http://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=Purposeful_Activity_Review_Versio)>.

<sup>44</sup> National Offender Management Service, 'Activities in Prisons: PSI 38/2010' para 2.5 <<https://www.gov.uk/government/publications/activities-in-prison-psi-382010>> accessed 25 November 2022.

<sup>45</sup> Prison Review Team, 'Review of the Northern Ireland Prison Service: Conditions, Management and Oversight of All Prisons' (Northern Ireland Department of Justice 2011) Final report 13 <<https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>> accessed 5 October 2022.

<sup>46</sup> HM Inspectorate of Prisons, 'Expectations: Criteria for Assessing the Treatment of and Conditions for Men in Prison' 37 <<https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2023/09/Mens-Expectations-2023-FINAL.pdf>> accessed 23 October 2023.

<sup>47</sup> Pullen v Prison Commissioners [1957] 1 WLR 1186.

<sup>48</sup> In England & Wales only, an exception relates to prisoners who work while on temporary release, usually from open prisons.

<sup>49</sup> 'Work' is treated (and reported on) as one kind of 'purposeful activity', a term in common use but with an unclear definition. Activities described by prison Inspectorates, for example, do not all fit our definition of 'work': inspection reports, for example, typically cover activities including work, education, time spent in association with other prisoners, and time spent in the gym. The quality of work provision at a prison is inspected by the education inspectorate for each part of the UK.

<sup>50</sup> Human Rights Act (1998 c. 42) 1998.

<sup>51</sup> In an ordinary workplace, the employer has a duty to ensure safe working practices, meaning that if an accident has occurred, legal claims resulting from it have a reversed burden of proof: the employer must prove that it took reasonable care to prevent the accident, instead of those affected proving that it was negligent.

<sup>52</sup> *Cox v Ministry of Justice* [2016] UKSC 10 (UK Supreme Court) [13].

<sup>53</sup> *ibid* 34.

<sup>54</sup> *ibid* 35.

<sup>55</sup> Only the prison service for England & Wales publishes its policies as a matter of course. Thus, examples cited in this subsection relate to England & Wales. We could not obtain copies of similar policies from the websites of the Scottish or Northern Ireland Prison Services, but it is probable that such policies exist, since inspection reports sometimes refer to them.

<sup>56</sup> HM Prison & Probation Service and Ministry of Justice, 'Managing Health and Safety: PSI 06/2015, PI 03/2015' <<https://www.gov.uk/government/publications/managing-health-and-safety-psi-062015-pi-032015>> accessed 18 November 2022; HM Prison Service, 'Health & Safety Issues with Contractors' <<https://webarchive.nationalarchives.gov.uk/20200701104622/http://www.justice.gov.uk/downloads/offenders/psipso/psi-2010/psi-44-1997.pdf>> accessed 18 November 2022; Ministry of Justice, 'Health and Safety Arrangements: Management of Workplace Transport' <<https://www.gov.uk/government/publications/health-and-safety-arrangements-management-of>>

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<sup>57</sup> HM Prison & Probation Service and Ministry of Justice, 'Prisoner Representative Associations: PSO 4480' <<https://www.gov.uk/government/publications/prisoner-representative-associations-pso-4480>> accessed 18 November 2022.

<sup>58</sup> HM Prison & Probation Service and Ministry of Justice, 'Allocating Prisoners to Activities: PSI 03/2012' <<https://www.gov.uk/government/publications/allocating-prisoners-to-activities-psi-032012>> accessed 18 November 2022.

<sup>59</sup> Mary Seneviratne, 'Ombudsmen and Prisoner Complaints in the UK' (2012) 34 *Journal of Social Welfare & Family Law* 339.

<sup>60</sup> Social Exclusion Unit, 'Reducing Re-Offending by Ex-Prisoners' (Office of the Deputy Prime Minister 2002) <<https://www.bristol.ac.uk/poverty/downloads/keyofficialdocuments/Reducing%20Reoffending.pdf>>.

<sup>61</sup> i.e. whether employment causes reduced reoffending, or whether individuals less likely to reoffend are also those more likely to seek employment.

<sup>62</sup> Owing to political deadlock, devolved government in Northern Ireland was suspended between January 2017 and January 2020, and again between January 2022 and February 2024. During this period policy on prisons did not develop significantly, since justice is a devolved power and the devolved government has not been functioning.

<sup>63</sup> Ministry of Justice, *Education and Employment Strategy* (Ministry of Justice 2018) paras 73, 75.

<sup>64</sup> *ibid* 74.

<sup>65</sup> Scottish Prison Service, 'Scottish Prison Service Employability Strategy 2017 – 2022' 12 <[https://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=Employability+Strategy5582\\_2609.pdf](https://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=Employability+Strategy5582_2609.pdf)> accessed 24 October 2023.

<sup>66</sup> Northern Ireland Prison Service, 'An Employability Strategy 2013-2017' 7 <<https://www.justice-ni.gov.uk/sites/default/files/publications/doj/nips-an-employability-strategy.pdf>> accessed 13 October 2022.

<sup>67</sup> Ministry of Justice, *Education and Employment Strategy* (n 63) para 77.

<sup>68</sup> Scottish Prison Service, 'Scottish Prison Service Employability Strategy 2017 – 2022' (n 65) 4.

<sup>69</sup> Northern Ireland Prison Service (n 66) 4.

<sup>70</sup> Ministry of Justice, *Education and Employment Strategy* (n 63) para 76.

<sup>71</sup> Scottish Prison Service, 'Scottish Prison Service Employability Strategy 2017 – 2022' (n 65) 4.

<sup>72</sup> Northern Ireland Prison Service (n 66) 4.

<sup>73</sup> Ministry of Justice, *Education and Employment Strategy* (n 63) 79.

<sup>74</sup> Scottish Prison Service, 'Scottish Prison Service Employability Strategy 2017 – 2022' (n 65) 5, 7.

<sup>75</sup> Ministry of Justice, *Education and Employment Strategy* (n 63) para 78.

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<sup>76</sup> Ministry of Justice, *Education and Employment Strategy* (n 63).

<sup>77</sup> *ibid* 18.

<sup>78</sup> *Leigh's Story | From Prison to Repairing Bikes at Halfords* (Directed by Ministry of Justice, 2019) <<https://www.youtube.com/watch?v=LJd7KNKz1hA>> accessed 4 December 2023; *ibid*; Ministry of Justice, *Education and Employment Strategy* (n 63) paras 27, 95–101, 111; The Clink Charity, 'Projects' (*The Clink Charity*, 13 December 2018) <<https://thelinkcharity.org/projects>> accessed 4 December 2023; *Employing Ex-Prisoners in Construction | Balfour Beatty* (Directed by Ministry of Justice, 2018) <<https://www.youtube.com/watch?v=uz0JS23XGnM>> accessed 4 December 2023; Ministry of Justice, *Education and Employment Strategy* (n 63) 22; Brian Groom, 'Greggs the Baker Gives a Taste of Work to Ex-Prisoners' *Financial Times* (London, 25 April 2017) <<https://www.ft.com/content/141adb8e-1a28-11e7-a266-12672483791a>> accessed 4 December 2023; New Futures Network, 'Case Studies' (*New Futures Network*) <<https://newfuturesnetwork.gov.uk/case-studies/>> accessed 4 December 2023.

<sup>79</sup> Ministry of Justice, *Prisons Strategy White Paper* (The Stationery Office 2021) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1038765/prisons-strategy-white-paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038765/prisons-strategy-white-paper.pdf)> accessed 22 July 2022.

<sup>80</sup> Will Hazell, 'Prisoners Could Take Apprenticeships While behind Bars to Train for Jobs on Release' *inews.co.uk* (18 January 2022) <<https://inews.co.uk/news/education/government-prisoners-take-apprenticeships-cut-reoffending-1408784>> accessed 26 October 2022; House of Commons Education Committee, 'Government Change Legislation to Allow Prisoners to Take up Apprenticeships Following Committee Recommendation' (*UK Parliament Committees*, 27 September 2022) <<https://committees.parliament.uk/committee/203/education-committee/news/173286/government-change-legislation-to-allow-prisoners-to-take-up-apprenticeships-following-committee-recommendation/>> accessed 30 September 2022; Ministry of Justice and others, 'Press Release: Apprenticeships for Prisoners to Cut Crime' (*GOV.UK*, 11 February 2022) <<https://www.gov.uk/government/news/apprenticeships-for-prisoners-to-cut-crime>> accessed 26 October 2022.

<sup>81</sup> Northern Ireland Prison Service (n 66) 5.

<sup>82</sup> Michael McHugh, 'Maghaberry Aims to Cut Waste Costs by Half with Its New Recycling Project' *BelfastTelegraph.co.uk* (20 March 2018) <<https://www.belfasttelegraph.co.uk/news/northern-ireland/maghaberry-aims-to-cut-waste-costs-by-half-with-its-new-recycling-project/36721554.html>> accessed 4 December 2023.

<sup>83</sup> Catriona Doherty, 'Design Business at Hydebank Wood College Encouraging Employers to "Look Past the Crime and Look at the Person"' *Belfast Telegraph* (Belfast, 6 October 2022) <<https://www.belfasttelegraph.co.uk/life/features/design-business-at-hydebank-wood-college-encouraging-employers-to-look-past-the-crime-and-look-at-the-person-42043769.html>> accessed 6 October 2022; 'About Us | Mugshots Print | NI' (*mugshots*) <<https://www.mugshotsprintni.com/about-us>> accessed 4 December 2023.

<sup>84</sup> Scottish Prison Service, 'Scottish Prison Service Employability Strategy 2017 – 2022' (n 65) 6.

<sup>85</sup> Scottish Prison Service, 'Procurement Careers' (*Scottish Prison Service*) <<https://www.sps.gov.uk/Careers/OpportunitiesintheSPS/Procurement-Careers.aspx>> accessed 4 December 2023.

<sup>86</sup> The Bike Station, 'Other Community Projects' (*The Bike Station Web*) <<https://www.thebikestation.org.uk/other-projects>> accessed 4 December 2023.

<sup>87</sup> Sadé L Lindsay, 'Damned If You Do, Damned If You Don't: How Formerly Incarcerated Men Navigate the Labor Market with Prison Credentials' [2022] *Criminology: an interdisciplinary journal* 1745; Robertson Group, 'Robertson Supports HMP Perth Residents Build Skills and Open Employment Opportunities' (*Robertson Group*, 9 August 2023) <<https://www.robertson.co.uk/news/robertson-supports-hmp-perth-residents-build-skills-and-open-employment-opportunities>> accessed 4 December 2023.

<sup>88</sup> For example, prison services (e.g. cooking in a prison kitchen) might result in skills and qualifications which increase post-release employability, and some vocational training initiatives operate on this basis. See The Clink Charity (n 78). Similarly, it is possible that some forms of prison work—e.g. waste management or laundry—might both entail 'prison industries' and 'prison services', if similar tasks are undertaken for both the prison and a commercial client.

<sup>89</sup> 'Work' is treated (and reported on) as one kind of 'purposeful activity', a term in common use but with an unclear definition. Activities described by prison Inspectorates, for example, do not all fit our definition of 'work': inspection reports, for example,

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typically cover activities including work, education, time spent in association with other prisoners, and time spent in the gym. The quality of work provision at a prison is inspected by the education inspectorate for each part of the UK.

<sup>90</sup> 'Reform - Prisons Data - Justice Data' (GOV.UK | *Justice Data*) <<https://data.justice.gov.uk/prisons/prison-reform>> accessed 6 December 2023; Ministry of Justice, 'HMPPS Annual Digest: April 2019 to March 2020' (Ministry of Justice 2020) Annual digest tbl 4 <<https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2019-to-march-2020>> accessed 22 November 2022.

<sup>91</sup> 'Reform - Prisons Data - Justice Data' (n 90). Data on the number of workers were not published before 2014/15.

<sup>92</sup> Ministry of Justice, 'HMPPS Annual Digest, April 2020 to March 2021' (Ministry of Justice 2021) Annual digest 18 <<https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2020-to-march-2021>> accessed 22 November 2022.

<sup>93</sup> New Futures Network, 'Publications' <<https://newfuturesnetwork.gov.uk/publications/>> accessed 12 December 2023.

<sup>94</sup> These data do not include prison industries in contracted-out (i.e. privately operated) prisons. NFN supplied further contextual information for 2021/22, as follows: "This table provides information on businesses and other organisations (including other Government Departments and Agencies but excludes the 10 year agreement with the Ministry of Defence (MoD) to use prison workshops to supply the Armed Forces) that have contracts or agreements with the Her Majesty's Prison and Probation Service (HMPPS) that provide work in prison and training academies. It shows the Prisons (or cluster of Prisons) involved, the nature of the product or service being provided and the value of sales transactions for the Financial Year April 2021 to March 2022. Some of these contracts or agreements have become inactive during the year [covered by the data]. This data has been extracted from records held centrally by HMPPS and reflects those contracts where notification has been provided to New Futures Network by Prisons. The data has been drawn from administrative IT systems, which, as with any large scale recording system, are subject to possible errors with data entry and processing."

<sup>95</sup> New Futures Network (n 93).

<sup>96</sup> The 'host' contract—now defunct because the company in question has gone out of business—was with one food packaging company.

<sup>97</sup> 'Training Academy' contracts represent agreements between prisons and individual companies who train prisoners with a view to offering some of them employment following release.

<sup>98</sup> Aggregated from data published by New Futures Network (n 93).

<sup>99</sup> 81 prisons are listed in the NFN data, but one of these, Shepton Mallet, closed in 2013. It is not clear why it remains in the data.

<sup>100</sup> Aggregated from data published by New Futures Network (n 93). Where a prison in the list is designated in multiple security categories, we have taken its highest security category as the label.

<sup>101</sup> Aggregated from data published by *ibid.*

<sup>102</sup> Local prisons and women's prisons typically have fewer workshop spaces than training prisons.

<sup>103</sup> New Futures Network (n 93). Prison types are taken from information listed on the HMPPS website and the HM Inspectorate of Prisons website; we have given the function in 2021 where possible. Men's prisons listed with multiple security categories are classified under their highest category. Cat-C prisons listed as training and resettlement are listed in the latter category. We have omitted nine contracts marked in the original figures as 'other', where the contracts are held centrally or where the prisons involved are managed and reported as a cluster, so that we cannot link the contracts with a single security category or prison type.

<sup>104</sup> There are only two women's open prisons in England & Wales (East Sutton Park and Askham Grange). Neither features in the NFN data.

<sup>105</sup> Jarman and Heard (n 34).

<sup>106</sup> Faina Milman-Sivan and Yair Sagy, 'On the International Labour Organization and Prison Labour: An Invitation to Recalibrate' (2020) 159 *International Labour Review* 505.

<sup>107</sup> Ministry of Justice, *Prisons Strategy White Paper* (n 79).

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<sup>108</sup> HM Prison & Probation Service and Ministry of Justice, 'Prisoners' Earnings Act 1996 (PSI 76/2011)' <<https://www.gov.uk/government/publications/deducting-money-from-prisoner-wages-psi-762011>> accessed 16 September 2022; UK Parliament, *The Prisoners' Earnings Act 1996 (Commencement) (England and Wales) Order 2011 (SI 2011 No. 1658 (C.63))* (n 38).

<sup>109</sup> Ministry of Justice, 'Prisoners: Employment and Pay | Question for Ministry of Justice UIN 146990, Tabled on 17 February 2023' (*UK Parliament*, 28 February 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-02-17/146990>> accessed 23 March 2023.

<sup>110</sup> Ministry of Justice, 'HMPPS Annual Digest, April 2022 to March 2023' (Ministry of Justice 2023) Annual digest tbl 5.2 <<https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2021-to-march-2022>> accessed 22 November 2022; 'Offender Management Statistics Quarterly: January to March 2023' (*GOV.UK*) tbl A1.2 <<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2023>> accessed 6 December 2023. Figures for 2011/12 cover October to March only.

<sup>111</sup> Ministry of Justice, *Education and Employment Strategy* (n 63); Ministry of Justice, *Prisons Strategy White Paper* (n 79).

<sup>112</sup> James Carnie and Róisín Broderick, 'Prison Survey 2019' 25 <[https://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=17th+Prison+Survey+2019+-+Bulletin+Final7197\\_3445.pdf](https://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=17th+Prison+Survey+2019+-+Bulletin+Final7197_3445.pdf)> accessed 19 November 2022.

<sup>113</sup> Ministry of Justice, *Education and Employment Strategy* (n 63) para 6.

<sup>114</sup> Ministry of Justice, 'Prisoners: Employment | Question for Ministry of Justice UIN 146987, Tabled on 17 February 2023' (*UK Parliament*, 27 February 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-02-17/146987>> accessed 23 March 2023.

<sup>115</sup> Ministry of Justice, 'Prisoners: Pay | Question for Ministry of Justice UIN 146988, Tabled on 17 February 2023' (*UK Parliament*, 27 February 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-02-17/146988>> accessed 23 March 2023; Ministry of Justice, 'Prisoners: Pay | Question for Ministry of Justice UIN 146989, Tabled on 17 February 2023' (*UK Parliament*, 27 February 2023) <<https://questions-statements.parliament.uk/written-questions/detail/2023-02-17/146989>> accessed 23 March 2023.

<sup>116</sup> i.e. those published by the SPS, and by the England & Wales Inspectorate.

<sup>117</sup> See prisoner questionnaire data published with HM Chief Inspector of Prisons, 'Annual Report 2021-22' (HM Inspectorate of Prisons 2022) Annual report HC 411 <<https://www.justiceinspectorates.gov.uk/hmiprison/inspections/annual-report-2021-22/>> accessed 21 November 2022; HM Chief Inspector of Prisons, 'Annual Report 2022-23' (HM Inspectorate of Prisons 2023) Annual report HC 1451 <[https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2023/07/15.91\\_HMIP\\_HMI-Prisons\\_ARA-2022-23\\_Web-Accessible.pdf](https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2023/07/15.91_HMIP_HMI-Prisons_ARA-2022-23_Web-Accessible.pdf)> accessed 8 December 2023.

<sup>118</sup> HM Chief Inspector of Prisons, 'Annual Report 2021-22' (n 117) 51–57, 72; HM Chief Inspector of Prisons, 'Annual Report 2022-23' (n 117) 42–48, 61.



