

## Introduction

Fairness and decency are the watchwords of a civilized prison system. Good professional relationships between staff and prisoners and clear communication, including giving reasons for rules, help to maintain a safe, disciplined environment. Now the legitimacy of prison regimes risk being undermined by low staffing levels, new mean and petty restrictions and a developing culture of punishment without purpose.

The changes to the Incentives and Earned Privileges (IEP) scheme introduced six months ago by the Justice Secretary Chris Grayling could compromise its effectiveness as a policy based on the fair and just allocation of sanctions and rewards. In the past year since the changes were announced, the Prison Reform Trust's advice and information service has received increasing numbers of letters and phone calls from prisoners confused about the new rules and concerned about the impact of the scheme on them and their families. It is clear that the changes are eliciting a strong sense of grievance and injustice.

While the new scheme has rightly been criticised for the ban on prisoners receiving books and other basic items, the changes go further and strike at the heart of the idea of prison as a place of fairness, decency and rehabilitation. Drawing on the experiences of people in prison and their families, this briefing highlights the impact of the changes and calls for an urgent review of the new IEP scheme, with a renewed focus on ensuring effective rehabilitation and safe and decent conditions.

## What is the Incentives and Earned Privileges (IEP) scheme?

The Incentives and Earned Privileges (IEP) scheme was first introduced in 1995 and has become an important tool of prison management. It enables people to move through defined levels in order to:

- encourage responsible behaviour by prisoners
- encourage effort and achievement in work and other constructive activity by prisoners
- encourage sentenced prisoners to engage in sentence planning and benefit from activities designed to reduce re-offending
- create a more disciplined, better-controlled and safer environment for prisoners and staff.

These aims are achieved by ensuring that privileges above the minimum are earned by prisoners through good behaviour and performance and are removed if they fail to maintain acceptable standards. When it was originally introduced the IEP scheme had three levels - basic, standard and enhanced. Prisoners were assigned onto these levels according to staff reports on their behaviour. Each level deals with various privileges being awarded, such as:

- improved and extra visits
- ability to earn more money in prison jobs
- access to in-cell television
- opportunity to wear own clothes
- ability to access and use private cash resources
- greater time out of cell for association.

## Promoting good behaviour: the importance of fairness

The IEP scheme is designed to promote conforming behaviour through rational choice. Its legitimacy is under-pinned by careful monitoring of its application to ensure that benefits and deprivations are distributed fairly. People are more likely to accept that the prison is run fairly if it ensures decent conditions and respectful treatment of prisoners, and provides reasons for all decisions including those that disadvantage them.

There had been a system of privileges prior to the national policy introduced in 1995. However, its arbitrary and inconsistent application led to a deep sense of unfairness among prisoners. In his report into the 1990 prison disturbances, Lord Woolf concluded that the effective management of prisoners required the proper balance between security, control and justice. Lord Woolf maintained that a contributor to the disturbances was a neglect of justice and that a fairer and more consistent approach to sanctions and rewards was required:

*A sense of progress should apply equally to any prisoner serving a sentence, and to remand prisoners. It should be possible for each prisoner to have the incentive of knowing that he or she will build on a record of activity and behaviour during his time in prison which increasingly allows him greater freedom and greater opportunities until such time as discharged. Any regression during a prisoner's time in prison should be a result of his own behaviour. Such a set-back should be temporary. In time, he should have the opportunity to get back on the ladder of progress.*<sup>1</sup>

<sup>1</sup> Woolf, H & Tumin, S (1990) Prison disturbances 1990: report of the inquiry, London: The Stationery Office

Following the introduction of the IEP, the Home Office commissioned Professor Alison Liebling to conduct an evaluation of the scheme. The evaluation, published in 1999, highlighted the importance of prison staff's use of discretion, relationships with prisoners and fairness to the effectiveness of the IEP.<sup>2</sup> Revisiting the evaluation in 2008, Professor Liebling said:

*IEP is an important component of contemporary prison regimes but needs to be administered fairly, individually and constructively ... Certain types of political policy action pose huge risks to prison quality and stability, in ways that Ministers may not realise. Responsible policymaking is critical in relation to the use of prison and the tone of prison life.*<sup>3</sup>

## What are the changes to the IEP scheme?

The changes introduced to the IEP scheme by the Justice Secretary under Prison Service Instruction (PSI) 30/2013 are some of the most significant since the policy was implemented nearly two decades ago. When taking up the role of Justice Secretary, Chris Grayling announced his intention to conduct "a thorough and detailed review to ensure that it properly addresses reoffending as well as being something the public can have confidence in."<sup>4</sup> The Prison Reform Trust<sup>5</sup> and the Prisons and Probation Ombudsman<sup>6</sup> were among the bodies invited to submit evidence to the review. Trustees and staff raised concerns about the proposals to the Prisons Minister Jeremy Wright at a Prison Reform Trust board meeting which he attended on 14 March 2013.

<sup>2</sup> Liebling, A. et al (1999) Incentives and earned privileges for prisoners – an evaluation, London: The Home Office

<sup>3</sup> Liebling, A (2008) Incentives and earned privileges revisited: fairness, discretion and the quality of prison life, Journal of Scandinavian Studies in Criminology and Crime Prevention, 9:S1, 25-41

<sup>4</sup> Ministry of Justice (2013) 'Major shake-up of prisoner incentives', press release, 1 November 2013

<sup>5</sup> Prison Reform Trust (2013) Incentives and earned privileges, London: Prison Reform Trust, available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/IEP%20Briefing%20Prison%20Reform%20Trust.pdf>

<sup>6</sup> Prison and Probation Ombudsman (2013) Learning lessons bulletin: fatal incidents investigation issue 4, London: PPO

The main changes to the IEP scheme, which were announced in April 2013 and came into force on 1 November 2013, are:

- A ban on all sentenced prisoners receiving parcels including books and other basic items, except for a one-off parcel at the start of their sentence and in exceptional circumstances
- To progress IEP status, prisoners must “demonstrate a commitment towards their rehabilitation” by engaging in purposeful activity, behaving well and helping other prisoners
- An automatic IEP review for bad behaviour, with a presumption of downgrading
- Changes to allow IEP reviews to be conducted by one member of prison staff
- The introduction of a new entry level between standard and basic. Restrictions at this level include lower rates of pay, limited visits and a requirement to wear a prison uniform
- A national standardised list of items available for each level
- Restrictions on the use of television.<sup>7</sup>

Announcing the changes in November 2013, the Justice Secretary said:

*The changes we have made to the incentive scheme are not just about taking TVs away from prisoners, they are about making them work towards their rehabilitation. Poor behaviour and refusal to engage in the prison regime will result in a loss of privileges. It is as simple as that.*

*The expectation now is that prisoners engage in work or education as well as addressing alcohol or drug issues. Only by doing this can we hope to bring down our stubbornly high reoffending rates. Since April, major work has been going on across the prison estate to make staff and prisoners fully aware of the changes and ensure that the scheme is implemented safely across the prison estate.<sup>8</sup>*

## What has been the impact of the changes?

Since the changes were first proposed in April 2013, the Prison Reform Trust has received increasing numbers of letters and phone calls from prisoners confused about the new rules and concerned about the impact of the scheme on them and their families. Over the past 12 months, the number of enquiries from prisoners about the IEP to our advice and information service has more than trebled. It is clear that the scheme is having far reaching consequences on all aspects of prison life. Drawing on examples from the many letters and phone calls the Prison Reform Trust has received, we highlight below the impact of the scheme on rehabilitation (family contact, education and resettlement); the fairness and legitimacy of the prison regime; standards of decency and the safety and wellbeing of prisoners.

### Rehabilitation (family contact, education and resettlement)

A fundamental purpose of prison is to ensure that people are less likely to offend when they return to their community. This principle is compromised if aspects of the prison regime that reduce the risk of reoffending, such as family contact, education, work and training, are restricted for punitive reasons or provided selectively to individuals who are the most compliant.

Despite the Justice Secretary’s claim that the changes to the IEP scheme were aimed at reducing reoffending by “making [people in prison] work towards their rehabilitation”, the new policy puts at risk the purpose of prison as a place of effective rehabilitation and resettlement.

One aspect of the new scheme which is undermining the rehabilitative purpose of prisons is the ban on prisoners receiving parcels. Evidence shows that increased family contact and visits can reduce reoffending<sup>9</sup>

<sup>7</sup> PSI 30/2013

<sup>8</sup> Ministry of Justice (2013) ‘Major shake-up of prisoner incentives’, press release, 1 November 2013

<sup>9</sup> May, C. et al (2008) Factors linked to reoffending: a one-year follow-up of prisoners who took part in the resettlement surveys 2001, 2003 and 2004, London: Ministry of Justice

significantly and improve resettlement outcomes.<sup>10</sup> Yet, under the changes to the IEP scheme, families are prevented from sending in books and other basic items such as stamps, paper or pens. They are also prevented from sending additional warm clothes and underwear to the prison. Instead prisoners have to pay for these items out of their own, often meagre, prison wages. According to prisoners this is having a serious negative impact on the level and quality of family contact.

One prisoner contacted the Prison Reform Trust to highlight the effect the ban had had on him and his young family:

*The prison service/government keep saying how important it is to maintain family ties. So they put phone prices up, send us miles away from our families and stop us from having stamps and writing materials posted in. My partner used to send them all in for me so we can all stay in touch as much as possible and that has now come to a sudden stop and now my daughter wants to know why her daddy can't write to her anymore.*

*...I know that if I lose my family because of this lack of contact, it will be straight back to square one and I know I will go straight back to crime as I'll have nothing left to lose.*

The friend of a woman prisoner wrote to the Prison Reform Trust to highlight the impact of the new IEP scheme.

*A printed slip came with her last letter informing me that I could not send in envelopes, s.a.es, paper of any sort for writing or drawing on as prisoners had to buy these from the shop. In November she was told that the only parcels which she could receive were those which contained clothes which were necessary for a visit out of the prison e.g. attending a funeral. This was very hard as it meant that at Christmas presents*

*such as little gifts from their children could not be sent in. Knitting wool, embroidery silks as well as books are banned and indeed the parcel is returned to the sender who has to pay. Also she tells me that all hoods, hats, caps, and quilted and padded coats have been taken off prisoners.*

The ban is having a disproportionate impact on many elderly and disabled prisoners who are unable to work and cannot earn enough money to pay for items such as stationery or things to keep them occupied during the long periods of time they are locked in their cells. This is potentially in breach of the government's obligations under the Equality Act. Previously the families of these prisoners could have sent them a pack of cards, board games, books or magazines to give them something to do. Prisoners are now forced to pay for these items or obtain them from under-resourced prison libraries. Due to reduced staffing levels, in most prisons access to the library is very limited.

The IEP scheme is having a particularly negative impact on the level and quality of family contact for prisoners on the basic regime. These are the prisoners who are most likely to benefit from improved levels of contact to reduce their risk of reoffending. Not only are the number of visits available to prisoners on the basic regime severely restricted, their pay is cut to a level where they are unable to afford ordinary items such as pens and paper to stay in touch with their families.

One prisoner who was demoted to basic following the introduction of the changes said:

*I am on basic now and...this is hurting me and my family and friends as I am allowed a visit for one hour my parents travel 360 mile trip to see me and come once a month at the expense of £100 a time but for one hour. I am registered disabled and have other disabilities, and am medically retired.*

<sup>10</sup> Losel, F. et al (2012) Risk and protective factors in the resettlement of imprisoned fathers with their families, Cambridge: University of Cambridge and Ormiston

Another prisoner said:

*There is now a blanket ban on prisoners receiving stamps and envelopes across the prison estate. Consequently those prisoners on 'basic', who are only allowed £4 a week, are unable to contact their family and legal representatives.*

The Howard League for Penal Reform has highlighted the impact of the IEP scheme on opportunities for education and learning through its 'books for prisoners' campaign.<sup>11</sup> The government's own research has shown that education can reduce reoffending by a quarter.<sup>12</sup> However, to complete courses successfully, people need access to essential books and learning materials.

One prisoner said:

*I am about to start a distance learning course. A friend of mine has done all these courses and is fully qualified and was going to send me all his books but we can't have books sent in any more.*

Rod Clarke, Director of the Prisoners Education Trust, highlighted the impact of the ban in a recent article for politics.co.uk:

*The majority of the people we support complete their courses, but of the small proportion that don't, the main reason they give is not having access to these vital resources. Earlier this week, my colleagues were on the phone for hours trying to track down a parcel of books and materials after it had been returned to the course provider by prison security officers.<sup>13</sup>*

The mother of a prisoner spoke about the impact of the ban at a recent meeting of the All Party Parliamentary Penal Affairs Group:

<sup>11</sup> Crook, F. (2014) Why has Grayling banned prisoners being sent books?, *Politics.co.uk*, available at <http://www.politics.co.uk/comment-analysis/2014/03/23/comment-why-has-grayling-banned-prisoners-being-sent-books>

<sup>12</sup> Ministry of Justice (2014) Justice data lab statistics January 2014, London: Ministry of Justice

<sup>13</sup> Clark, R (2014) 'Grayling should help prisoners educate themselves - not hinder them', *politics.co.uk*, 3 April 2014

*We have heard a lot about the ban on books in recent weeks. But this is the one tangible link you can have with your family: 'I thought you might enjoy this - I did' or 'a few crosswords to keep you busy'. This prohibition isn't only about reducing opportunities for learning. It also removes the last possibility of a gift, a tangible piece of human warmth.<sup>14</sup>*

The IEP is intended to incentivise good behaviour by rewarding people for engaging constructively with the regime. But because the ban on receiving parcels applies to all sentenced prisoners, it penalises people who are doing everything right and working towards their rehabilitation.

The Prison Reform Trust has heard from prisoners who have been judged to be making sufficient progress in their sentence to be allowed to work outside in the community on release on temporary licence (ROTL). People being considered for ROTL are subject to a thorough risk assessment and are only granted temporary release if they demonstrate exemplary behaviour. However, as a result of the parcel ban and a restrictive clothing allowance, these prisoners are not able to get hold of enough clothes to keep them warm working outside during the cold weather.

One woman prisoner said:

*I have a thick padded jacket ... and I am being told this will no longer be allowed. I cannot afford to buy a new coat as I only earn £12 a week as it is. This is not just me but other women who go out to work. Some work in London and will have the same clothes day in and out. Surely if we are working towards and maintaining all our goals we are entitled to a bit of leeway?*

<sup>14</sup> Prisoner's families, meeting of the All Party Parliamentary Penal Affairs Group, 1 April 2014

## Fairness and legitimacy

Managing people in prison effectively under the IEP scheme depends on the fair deployment of incentives and disincentives. The legitimacy of the system is undermined if the process is hard to understand, perceived as unfair or sanctions are imposed arbitrarily without reason or justification.

The new IEP scheme makes it harder for prisoners to move up levels while increasing the likelihood of demotion down the scale. Under the new scheme, the requirement for prisoners to demonstrate “good behaviour” in order to progress IEP status has been made more difficult. Prisoners now have to “demonstrate a commitment to rehabilitation” by engaging in purposeful activity or helping others.

It is important that prison staff are able to provide opportunities to enable prisoners to use their time in constructive and meaningful ways. Time out of cell, personally fulfilling roles, opportunities to help other prisoners and constructive activities encourage people in prison to engage with the regime to reduce their risk of reoffending. Prisoners are motivated to engage in positive behaviour by evidence that their efforts have been recognised through the benefits of enhanced status.

The ability to demonstrate good behaviour under the new IEP scheme is largely dependent on prisons being able to supply sufficient places on offending behaviour programmes and in work, education and training. However, as the Chief Inspector of Prisons has highlighted, rates of purposeful activity in prisons have “plummeted” over the last year.<sup>15</sup> The Inspectorate reported the worst outcomes for six years with purposeful activity judged to be inadequate in over half of prisons inspected.

Substantive cuts to prison staff and budgets have left many prison wings understaffed, activities cancelled and prisoners locked up

for longer. Although the new policy is meant to take account of mitigating factors including a lack of operational resources, it leaves many prisoners in the position of being unable to demonstrate “good behaviour” because there are simply not enough places on offending behaviour programmes, or purposeful activity, to go around.

Furthermore, the ability to demonstrate good behaviour is beyond many elderly and disabled prisoners who are unable to engage in purposeful activity. Under the new scheme, judgments about an individual’s progress under IEP are meant to be made on the basis of consistent effort and not on attainments. Otherwise, the system would unfairly disadvantage people who have limited achievements due to their physical or learning disabilities.

One disabled prisoner contacted the Prison Reform Trust to highlight the impact the changes to the IEP scheme had had on him:

*I am wheelchair bound and dependent on my carer. My enhanced was taken away. Reason given, I am not helping others.*

Another prisoner said:

*The inmates who are now on basic are not trouble causers they are people who cannot read, write, speak English very well and are well behaved people.*

The changes made to the arrangements for reviewing a prisoner’s IEP status, allowing the process to be conducted by one member of staff and introducing an automatic IEP review for bad behaviour, with a presumption of downgrading, are likely to add to the procedural unfairness of the IEP system and increase the number of people being allocated to the basic regime.

<sup>15</sup> HMIP (2013) HM Chief Inspector of Prisons for England and Wales, Annual Report 2012-13, London: The Stationery Office

The basic regime is not intended to punish one-off instances of disobedience, but to provide a powerful disincentive for a consistent and deliberate failure to engage with the regime. The basic regime becomes less effective when it is used widely because it is no longer clear to the prisoner what undesired behaviour results in a withdrawal of benefits. As a result the system becomes more arbitrary and less legitimate. Professor Liebling's evaluation of the IEP scheme found that in prisons with high rates on the basic regime, officers were more reluctant to engage with prisoners.<sup>16</sup>

There is consistent evidence that black prisoners are more likely to be on the basic regime<sup>17</sup> and that prisoners at risk of suicide or self harm are placed on the basic regime without sufficient safeguards.<sup>18</sup> This highlights the need for greater attention to the fairness of the scheme and safeguards to ensure that sanctions are not imposed unjustly or inappropriately.

The IEP scheme should be distinct from prison discipline. More work needs to be done to ensure that people are not punished twice for the same actions (by an adjudication and demotion). Part of the solution may be to make clear that IEP should not be used to impose punishment for actions which are already punishable under prison rules.

Since the introduction of the new scheme, the Prison Reform Trust has heard from many prisoners who have had their enhanced status revoked, often without warning or explanation. A significant proportion report having been demoted for maintaining their innocence, even though this is not meant to be a barrier to progressing IEP status. A number report having been demoted from the enhanced straight down to the basic level. This is meant to happen only in the most serious cases

<sup>16</sup> Liebling, A. et al (1999) Incentives and earned privileges for prisoners – an evaluation, London: The Home Office

<sup>17</sup> Ministry of Justice (2008) Race review 2008: implementing race equality in prisons – five years on, London: Ministry of Justice

<sup>18</sup> Prison and Probation Ombudsman (2013) Learning lessons bulletin: fatal incidents investigation issue 4, London: PPO

of misconduct which warrant a separate adjudication charge being laid.

One prisoner said:

*A typical review is you are asked to go to the office where your decision has already been made. You are asked a couple of questions and if you maintain your innocence, you are downgraded to basic.*

Another prisoner said:

*Since the new IEP scheme came into force the prison have [sic] gone power happy and taking enhanced status from prisoners for petty things.*

One prisoner described how the new scheme had affected his sense of the fairness of the prison regime and his own self-worth:

*From being a settled lifer, working years to gain trust and respect from a difficult enough system, I find myself regarded as nothing. The basic regime is inhumane; it will give me just over an hour out of my cell. For years I have contributed to our community, always worked. My behaviour has been impeccable and I have mentored many inmates in several fields. Now in one fell swoop Chris Grayling has taken everything away from me.*

## **Decency, safety and well being**

Demotion to basic level involves the loss of privileges including reduced contact with other prisoners and visits from families, the removal of television, restricted access to the gym and a limited allowance. The deprivations of the basic regime are perceived as a punishment by prisoners. Evidence suggests that the move to the basic regime can have a significant negative impact on mental wellbeing and lead to an increased risk of suicide and self-harm.<sup>19</sup>

The use of the basic regime poses a particular dilemma for prison staff, especially where

<sup>19</sup> Ibid.

vulnerable prisoners also display challenging behaviour. It is important to get the balance right, so that its use does not undermine the legitimate authority of the prison or the safety and well being of prisoners.

A disproportionate number of prisoners who take their own lives in prison are on the basic regime. Between 2007 and 2012, 8% of self-inflicted deaths investigated by the Prisons and Probation Ombudsman were of prisoners on the basic level. This is considerably higher than the national average percentage of prisoners on the basic regime (2%).<sup>20</sup> The Chief Inspector of Prisons has recently called for an urgent investigation into the sharp rise in the number of suicides in custody. In 2013-14 there were 89 deaths by suicide in prison, up from 51 in 2012-13.<sup>21</sup>

The Prison and Probation Ombudsman, Nigel Newcomen, in his evidence presented to the Prisons Minister, Jeremy Wright, as part of the government's review of the IEP scheme, said:

*The use of the basic regime ... needs to be carefully coordinated within a wider plan of care and support for prisoners who are at risk of self-harm. This is already required under current prison service safer custody policy, but does not always happen. There is also a need to examine, particularly with younger prisoners, whether the challenging behaviour masks underlying distress. Whether or not the numbers of prisoners on the basic regime is to grow, vulnerabilities need to be managed effectively to avoid the risk of self-harm.*<sup>22</sup>

The impact of the changes to the IEP scheme is being monitored by the Ministerial Board on Deaths in Custody. Since the introduction of the changes, the Prison Reform Trust has heard from a number of prisoners reporting significant mental distress as a result of being placed on the basic regime.

<sup>20</sup> Prison and Probation Ombudsman (2013) Learning lessons bulletin: fatal incidents investigation issue 4, London: PPO

<sup>21</sup> Porter, T (2014) 'UK Prison Chief Urges Investigation After Spike in Jail Suicides', International Business Times, 6 April 2014

<sup>22</sup> Prison and Probation Ombudsman (2013) Learning lessons bulletin: fatal incidents investigation issue 4, London: PPO

One prisoner said:

*Prisoners who have been in the system for many years are having their IEP status reduced to basic. Some including myself have gone from enhanced to basic. My behaviour is impeccable, no adjudications, I work and help on the wing ... I was judged in court, I am now being judged again ... I have no one outside and a simple thing like a TV is a window to the open world and that's been taken away. Depression is creeping in and unless the powers that be want to see an increase in deaths [and] suicides in custody then they have to amend this scheme fast.*

Another elderly prisoner said:

*I am 65 years old and work full time or else I won't have any money. Really I am one of the lucky ones. Some of the prisoners are disabled 70, 80 years old, locked behind their doors, no TVs, some have no radio, banged up 5.30 evening until 10, 11 am next day with no hot water, not opening for hot water for a drink. Not opening for them to go for medication, resulting in one man being taken to hospital. Another has self harmed.*

The deprivations attached to the basic regime should be proportionate and meet the standard of decency. The prison service's decency agenda requires that no one is punished outside of the rules; prisoners are protected from harm; the regime provides enough variety and choice to make imprisonment bearable; people receive fair and consistent treatment by staff; and prisoners are held in clean, properly equipped and well maintained facilities.<sup>23</sup>

A number of people have written to the Prison Reform Trust highlighting conditions on the basic regime that appear to fall below acceptable standards.

<sup>23</sup> Ministry of Justice (2008) HM Prison Service Annual Report and Accounts 2007-2008, London: The Stationery Office

One prisoner said:

*The basic times are not being adhered to because of laziness, forgetfulness, [a] lack of staff to open [cells for] people ... A very old stroke victim was locked up at 5.30pm and forgotten until 11.50am [the next day]. Without access to hot water. On Friday morning I found him on the floor collapsed.*

The Prison Reform Trust spoke to one elderly prisoner whose case was being reviewed by the Criminal Cases Review Commission. He had been put on the basic regime because of maintaining his innocence. He was having to wear prison issue clothing and had had all of his own clothing and TV taken away. He was locked in his cell from 5.30pm to midday the following day. He thought his only in-cell activity – making a model of an abbey - was going to be taken away from him.

Standards of decency are also being undermined by other aspects of the new IEP scheme. In addition to the ban on prisoners receiving parcels, the Ministry of Justice has introduced a fixed limit to the number of items of underwear that men and women may have in their cells, as well as placing restrictions on other items of clothing. This is having a disproportionate impact on people with disabilities and additional support needs. The Prison Reform Trust has been contacted by elderly prisoners with bladder problems who are unable to get hold of enough clean underwear. The organisation has also been contacted by women prisoners who cannot get hold of enough undergarments to keep them hygienic during their period.

The changes to the IEP scheme create a new entry level which is closer to the basic level in denying people access to these entitlements at the beginning of their sentences. Restrictions include reduced visiting, a lower rate of pay and a requirement to wear a prison uniform. After two weeks the behaviour of the prisoner is reviewed: if they have cooperated with the

prison regime and engaged in rehabilitation they will progress to the standard level, and if not they will drop to basic.

A disproportionate amount of self-harm occurs in the early stages of custody, when prisoners are generally at their most vulnerable. In 2012, 16% of self-harm incidents occurred during an individual's first month in prison.<sup>24</sup> Isolating new prisoners off from their families and marking them from the rest of the prison population by putting them in uniforms may well increase the incidence of self-harm. Research by the Prison Reform Trust and Pact found that prisoners were particularly anxious about their families in the first few weeks in custody and needed more, not less, contact during this period.<sup>25</sup>

## Conclusion

It is difficult to escape the conclusion that the changes to the IEP scheme were in large part motivated by political considerations. The Justice Secretary has sought to present the changes as a part of his “rehabilitation revolution”. However, as we highlight in the briefing, the new scheme significantly undermines the purpose of prison as an effective place of rehabilitation and resettlement.

The perception that the changes have been driven by a desire to appear tough, rather than by evidence of what works to reduce reoffending, is reinforced by the differing reasons the government has given for introducing the policy. When the ban on prisoners receiving books was criticised in the national press, the main justification for the new scheme changed from one of promoting good behaviour and reducing reoffending to concerns about security and preventing drugs getting into prisons.<sup>26</sup>

<sup>24</sup> Table 2.5, Ministry of Justice (2013) Safety in custody statistics England and Wales, update to March 2013, London: Ministry of Justice

<sup>25</sup> Jacobson, J et al (2007) There when you need them most: Pacts first night in custody services, London: Prison Reform Trust

<sup>26</sup> Doyle, J (2014) 'The Weetabix scam to get a phone into jail', The Daily Mail, 26 March 2014

Responding, Steve Gillan, General Secretary of the Prison Officers Association, said:

*For decades prison officers have dealt with parcels. They searched them. The reality is it was never really a problem. Now and then people tried to smuggle drugs in that way. But as professional prison officers we found these items. The majority of these books and magazines that came in didn't have any drugs in them at all. People have been having their books sent in for 20, 30 years and now all of a sudden it's become a big issue for the secretary of state.<sup>27</sup>*

While concerns about security are understandable and it is essential to have consistent policies across the prison estate, it is also vital that prison policies do not undermine the importance of family contact and rehabilitation or the safe and decent treatment of people in prison. Authors, prison reformers and commentators from across the political spectrum have expressed concern about the impact the IEP scheme is having on prisoners and their families. The Shadow Secretary of State for Justice, Sadiq Khan, has called for the ban on prisoners receiving books to be repealed and for a review of the IEP scheme.<sup>28</sup> The Chief Inspector of Prisons Nick Hardwick has called the new policy “a mistake”.<sup>29</sup>

## Recommendations

The government should conduct an urgent review of the current Incentives and Earned Privileges scheme taking account of the following recommendations:

1. Rehabilitation and resettlement should be given priority so that all prisoners remain eligible for services essential to reducing reoffending, including family visits and education – access to these should not be determined by IEP status.

<sup>27</sup> Dunt, I (2014) 'Prison staff lash out at Chris Grayling over book ban', politics.co.uk, 27 March 2014

<sup>28</sup> Khan, S (2014) Prisons that work – speech to the Prison Reform Trust and the IPPR, 27 March 2014

<sup>29</sup> Robinson, M (2014) 'Government's ban on sending books to inmates is condemned by Chief Inspector of Prisons as a 'mistake'', Daily Mail, 27 March 2014

2. The requirement for prisoners to “demonstrate a commitment to rehabilitation” in order to progress IEP status should be reviewed in light of the impact of cuts to prison staff and regimes.
3. The ban on prisoners receiving parcels should be reviewed and reversed.
4. There should be a renewed commitment to ensuring the fair distribution of benefits, in particular by monitoring ethnicity and equal chances for prisoners with a physical disability, poor mental health or a learning disability.
5. New arrangements for reviewing IEP status should be monitored for their fairness and equality impact.
6. Given the evidence of increased risk of self-harm and suicide among prisoners who are maintained on the basic regime for extended periods, and on people during their first few weeks in custody, IEP schemes should be required to assess the impact of the regime on the prisoner's mental wellbeing.
7. At all times, the basic regime should fully meet the tests of decency and conform to international standards.
8. Prison staff should receive updated guidance and training in how best to administer the IEP scheme clearly and fairly and in ways that help to maintain safety and decency.
9. Access to the enhanced level and the nature of its benefits should be re-considered to give equal access and benefits for short-term sentenced prisoners.
10. Remand prisoners awaiting trial and who are innocent until proven guilty should not be subject to the requirements of the IEP scheme.

**Acknowledgements:** *This briefing was written by Mark Day with research support from Charles Spiropoulos. It was written with the help and guidance of colleagues Dr Kimmett Edgar, Francesca Cooney, Janet Crowe and Juliet Lyon. The briefing was designed and edited by Tony Callaghan and Alex Hewson. We are grateful to the Hadley Trust for its kind support to the Prison Reform Trust's advice and information service.*