



PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

AGENDA

21st Meeting, 2019 (Session 5)

Thursday 26 September 2019

The Committee will meet at 9.00 am in the Adam Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take items 4, 5 and 6 in private.

2. **Section 23 report - Scottish Public Pensions Agency: Update on management of PS project:** The Committee will take evidence from—

Penelope Cooper, Chief Executive, and Helen Mackenzie, Chair of the Audit and Risk Committee, Scottish Public Pensions Agency;

Lesley Fraser, Interim Director-General for Organisational Development and Operations, Gordon Wales, Chief Financial Officer, and Colin Cook, Director Digital, Scottish Government.

3. **Section 22 report - The 2018/19 audit of the Scottish Prison Service:** The Committee will take evidence from—

Caroline Gardner, Auditor General for Scotland;

Gary Devlin, Partner, Scott-Moncrieff;

Mark Roberts, Audit Director, Performance Audit and Best Value, Audit Scotland.

4. **Section 22 report - The 2018/19 audit of the Scottish Prison Service:** The Committee will consider the evidence heard at agenda item 3 and take further evidence from—

Caroline Gardner, Auditor General for Scotland;

Gary Devlin, Partner, Scott-Moncrieff;

Mark Roberts, Audit Director, Performance Audit and Best Value, Audit Scotland.

5. **Section 23 report - Scottish Public Pensions Agency: Update on management of PS project:** The Committee will consider the evidence heard at agenda item 2 and take further evidence from—

Caroline Gardner, Auditor General for Scotland;

Stephen Boyle, Audit Director, Audit Services, Audit Scotland.

6. **Work programme:** The Committee will consider its work programme.

Lucy Scharbert
Clerk to the Public Audit and Post-legislative Scrutiny Committee
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The papers for this meeting are as follows—

Agenda Item 2

Note by the Clerk

PAPLS/S5/19/21/1

PRIVATE PAPER

PAPLS/S5/19/21/2
(P)

Agenda Item 3

Note by the Clerk

PAPLS/S5/19/21/3

PRIVATE PAPER

PAPLS/S5/19/21/4
(P)

Agenda Item 6

PRIVATE PAPER

PAPLS/S5/19/21/5
(P)

Public Audit and Post-legislative Scrutiny Committee

21st Meeting, 2019 (Session 5), Thursday 26 September 2019

Scottish Public Pensions Agency: Update on management of PS Pensions project

Introduction

1. At its meeting on [25 October 2018](#), the Public Audit and Post-legislative Scrutiny Committee took evidence from the Auditor General for Scotland (AGS) on her section 22 report entitled the [2017/18 audit of the Scottish Public Pensions Agency](#). At that time, the AGS was unable to comment in any detail as the Scottish Public Pensions Agency (SPPA) and the contractor (Capita Employee Solutions) were in discussion to establish if either party bore any responsibility or potential financial penalty as a result of the unsuccessful project implementation. The AGS confirmed that she would bring back a further report once this process had completed.
2. At its meeting on [5 September 2019](#), the Committee took evidence from the AGS on her further report entitled [Scottish Public Pensions Agency: Update on management of PS Pensions project](#), which was published on 25 June 2019.
3. At its meeting today, the Committee will take evidence from the Scottish Public Pensions Agency and the Scottish Government.

**Clerks to the Committee
23 September 2019**

Public Audit and Post-legislative Scrutiny Committee

21st Meeting, 2019 (Session 5), Thursday 26 September 2019

Section 22 report – The 2018/19 audit of the Scottish Prison Service

Introduction

1. At its meeting today, the Public Audit and Post-legislative Scrutiny Committee will take evidence from the Auditor General for Scotland on her report entitled [The 2018/19 audit of the Scottish Prison Service](#).
2. The Auditor General has prepared a briefing on the key messages and this is attached at **Annexe A**. A copy of the report is attached at **Annexe B**.

Clerks to the Committee
23 September 2019

Annexe A

REPORT BY THE AUDITOR GENERAL FOR SCOTLAND
THE 2018/19 AUDIT OF THE SCOTTISH PRISON SERVICE

1. The Auditor General's report on the 2018/19 audit of the Scottish Prison Service (SPS) was laid in the Parliament on 12 September 2019. The report is made under section 22 of the Public Finance and Accountability (Scotland) Act 2000 and draws on [SPS's 2018/19 annual audit report](#).
2. The Auditor General's report highlights a range of pressures which, collectively, threaten SPS's financial sustainability and its safe and effective operation.
3. Key messages from the report are:
 - SPS's accounts for 2018/19 are unqualified.
 - Following a number of years of decline, prisoner numbers rose during 2018/19 and currently exceed SPS's operating capacity. There are a range of factors that have driven this increase and these stem from changes and developments from across the whole justice system.
 - SPS's revenue budget fell by 12.5 per cent in real terms between 2014/15 and 2018/19.
 - Delays in redeveloping SPS's estate present significant risks to its operations. To make financial savings in 2019/20, SPS has reduced planned maintenance across its estate. This exacerbates the risks to its operations. HMP Barlinnie presents the biggest risk of failure in the prison system as it has the capacity to buffer fluctuations in the national prison population. HMP Barlinnie's population is currently 50 per cent over capacity.
 - SPS's performance has deteriorated over the last two years. In addition, levels of sickness absence are high and rising with stress being a significant factor in this.

The 2018/19 audit of the Scottish Prison Service



AUDITOR GENERAL 

Prepared for the Public Audit and Post-Legislative Scrutiny Committee by the Auditor General for Scotland
Made under section 22 of the Public Finance and Accountability (Scotland) Act
September 2019



Auditor General for Scotland


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Introduction

1. I have received the audited accounts and the auditor's report for the Scottish Prison Service (SPS) for 2018/19. I submit these accounts and the auditor's report under section 22(4) of the Public Finance and Accountability (Scotland) Act 2000, together with this report, which I have prepared under section 22(3) of the Act.
2. The auditor has given an unqualified opinion on SPS's annual report and accounts for 2018/19. The annual audit report identifies multiple pressures facing SPS, which together, threaten its financial sustainability and the safe and effective operation of the service. SPS's budget is decreasing in real terms and its 2019/20 budget is under pressure by rising prisoner numbers and increased costs. Prisoner numbers exceed the operating capacity of Scotland's prisons and delays in upgrading the prison estate is increasing the risk of failure.¹ SPS's performance is showing concerning trends, including growing prisoner violence and high and rising staff sickness absence.
3. This report draws the Parliament's attention to these pressures under the following themes:
 - Finances (paragraphs 6–12)
 - Staffing (paragraphs 13–24)
 - Prisoner population (paragraphs 25–26)
 - Performance (paragraph 27)
 - The prison estate (paragraphs 28–31).
4. During 2018/19, SPS spent over a third of a billion pounds (£358.2 million). It currently looks after over 8,000 people across 15 prisons. Private sector organisations operate two of these prisons (HMP Addiewell and HMP Kilmarnock).
5. Scotland's incarceration rate is one of the highest in Europe. It has a prison population rate of 150 per 100,000 of population compared to a European average of 117 per 100,000 of population.² The Scottish Government's justice strategy aims to reduce this high rate of imprisonment.³ Following a number of years of decline, prisoner numbers rose during 2018/19 and currently exceed SPS's operating capacity. Reducing prisoner numbers requires a response from across the justice system.

¹ Operating prison capacity is available design capacity, minus any accommodation that is out of use or unable to be used because of operational decisions to manage the prisoner population.

² Council of Europe Annual Penal Statistics (SPACE) for 2016 (March 2018) and World Prison Brief data.

³ Justice in Scotland: Vision and Priorities, Scottish Government, July 2017.

Finances

SPS has asked the Scottish Government for additional funding as it is not able to operate with its 2019/20 revenue budget

6. SPS's revenue budget for 2019/20 represents a flat cash settlement for the third year since 2017/18. Its 2019/20 budget is being put under pressure by rising prisoner numbers and increasing costs. This has increased the average annual cost per prisoner place by 0.9 per cent in 2018/19 to £35,601.
7. In real terms, SPS's revenue budget reduced by 12.5 per cent between 2014/15 and 2018/19 from £394.7 million to £345.2 million. Its revenue budget for 2019/20 is a further reduction of 1.7 per cent in real terms ([Exhibit 1](#)).

Exhibit 1

SPS's revenue budget at 2018/19 prices (2014/15 to 2019/20)

SPS's revenue budget reduced by 12.5 per cent in real terms in the five years to 2018/19.



Source: Audit Scotland

8. At the end of March 2019, the chief executive of SPS wrote to the Director General of Learning, Communities and Justice at the Scottish Government explaining that financial and operational pressures meant that SPS would not be able to deliver a balanced budget in 2019/20. He stated that:
 - SPS required cumulative savings of £19.9 million in 2019/20 but had been able to identify savings of only £6.4 million, resulting in a forecast deficit of £13.5 million
 - buying extra capacity from the private sector to accommodate greater numbers of prisoners has significant cost implications. SPS predicts it will need to buy additional provision from HMP Addiewell at a cost of £1.82 million per annum that is not currently budgeted for.

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9. SPS reported an underspend of £6.37 million in 2018/19 against its overall budget of £364.56 million. This continues a pattern of SPS underspending against its overall budget over the past decade. The underspend in 2018/19 was, as in previous years, mainly due to a capital underspend (£4.70 million) and an underspend in depreciation charges (£1.82 million), due to slippage in the capital programme, including women's community custodial units and delays in acquiring the site for HMP Glasgow. Recurring slippage and underspending in SPS's capital programme is exacerbating existing problems with the prison estate and increasing the risk of operational failure.
 10. SPS proposed that it should transfer its capital budget for 2019/20 into revenue funding. This would ease pressure on the revenue budget but would compound the current pressures on its estate (paragraph 9 and paragraphs 28–31).
 11. In June 2019, the Scottish Government confirmed that it would provide additional funding to SPS during 2019/20. The Scottish Government also agreed to provide additional funding to purchase additional capacity within private sector prisons. The Scottish Government also proposed that the position on SPS's capital funding should be kept under review during 2019/20.
 12. SPS does not currently have a medium-term financial strategy. It is preparing a strategy covering 2019–22 to align with its revised corporate plan, but there is no financial planning in place beyond this three-year period. It is critical that SPS has a strategy to respond to the challenges it faces and achieve financial sustainability over a longer period. The need for this is highlighted by the financial pressures of operating two PFI/PPP prisons. Inflation-linked increases built into the contracts for these two prisons will require additional recurring savings of around £12 million a year by 2022/23.

Staffing

High sickness levels coupled with high prisoner numbers pose a significant risk to SPS

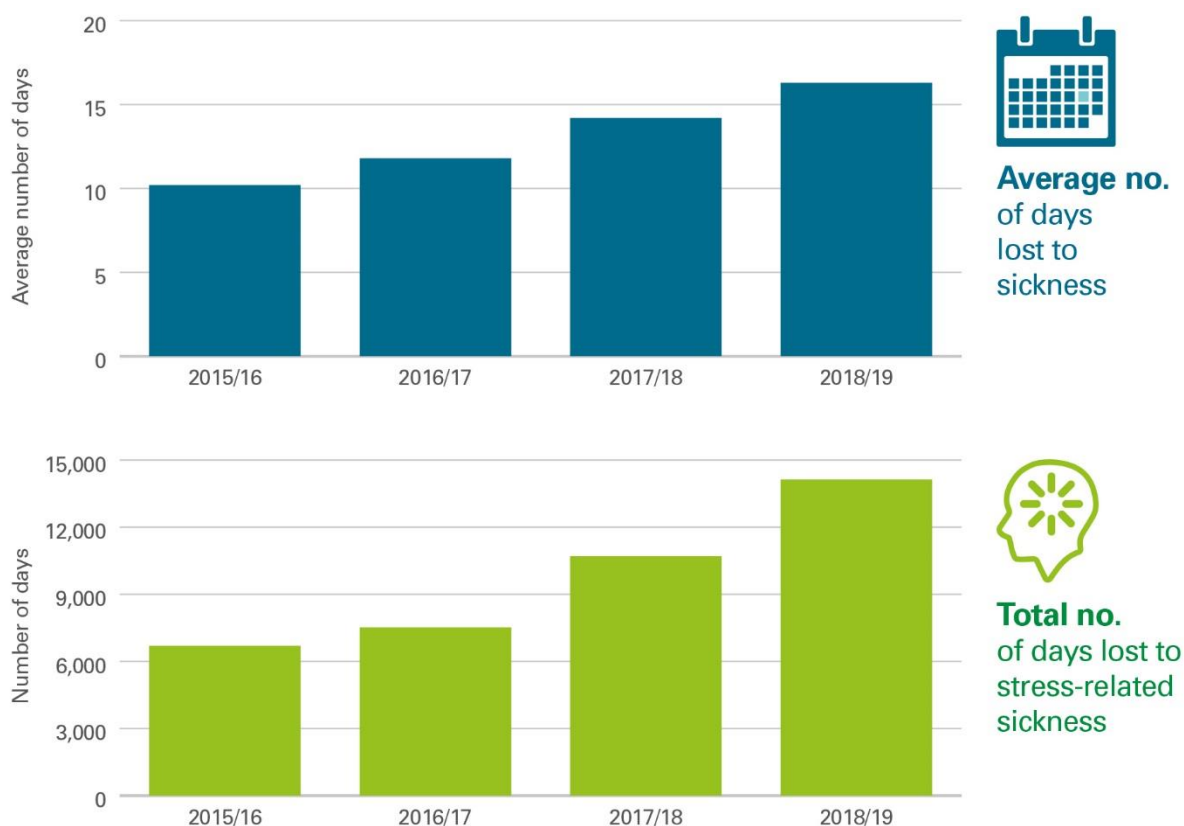
13. In 2018/19, staff costs represented 50.5 per cent of SPS's total operating expenditure. Staff costs are forecast to continue to rise in future years following settlement of current pay negotiations and increased employer pension contribution rates. In July 2019, the Scottish Government confirmed it will provide over £6 million of additional funding towards increased employer pension contributions, following a UK review of public sector pension scheme valuations.
14. In 2013, SPS's Organisational Review sought to improve justice outcome by reducing reoffending by supporting and developing prisoners. Central to delivering this ambition was a prison officer professionalisation programme (POPP) to transform the role, skills and professionalism of prison officers. POPP also set out a new operating structure to deliver efficiency that would free up the necessary resources to support a new professional qualification, continuing professional development, and pay enhancements appropriate to the expanded role.

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15. In October 2018, prison officers rejected SPS's proposals for POPP. In response to the rejection of POPP, SPS published a refreshed corporate plan 2019-22 in May 2019. The plan sets out high-level themes for how it will respond to the new and emerging challenges across the organisation. However, there is currently no alternative to POPP and it remains unclear how SPS will deliver its strategic objectives and address its financial sustainability and staffing challenges.
 16. SPS made one-off payments to operational staff on three occasions for their engagement and continued support of its plans for organisational development. The Scottish Government approved these payments, which totalled £13.91 million:
 - £6.55 million in 2014/15 (£2,000 to each relevant employee)
 - £3.70 million in 2016/17 (£1,000 to each relevant employee)
 - £3.66 million in 2017/18 (£1,000 to each relevant employee).
 17. The auditor noted that the absence of success criteria for these payments means that it is not possible to determine whether they represent value for money.
 18. During 2017/18, non-operational staff who did not receive these payments raised an equal pay claim against SPS. SPS spent £2.45 million settling these equal pay claims.
 19. Sickness absence among prison officers is high and increasing. Over the past three years, average annual sickness absence has increased by 60 per cent to 16.3 days in 2018/19 ([Exhibit 2, page 8](#)). Data to July 2019 shows sickness absence among staff has further increased to 17 days. In comparison, HM Prisons and Probation Service in England and Wales lost an average of 9.3 working days to sickness absence in 2018/19.
 20. The largest cause of sickness absence is stress. SPS lost 14,135 days due to stress-related absence in 2018/19, an increase of 32 per cent in the past year (an additional 3,428 days). Reducing sickness absence is a corporate priority, but the auditor has highlighted that SPS's current policies on managing prison officer sickness absence restrict management's ability to address this problem.

Exhibit 2

SPS sickness absence, 2015/16 – 2018/19

Sickness absence is very high and rising. Stress is a major factor of absence.



Source: Scottish Prison Service

21. SPS managed to maintain service during 2018/19 because prison officers worked increased hours. Prison officers are not eligible for overtime payments, so SPS has been making significant voluntary, non-contractual (ex gratia) payments to officers for working increased hours to cope with absences. The value of ex gratia payments has doubled over the past three years from £2.15 million to £4.25 million ([Exhibit 3, page 9](#)). Most of the increase has been in 2018/19, with the value of ex gratia payments increasing by 65 per cent (£1.67 million). The increase in these payments correlates with increases in SPS's sickness absence rates during 2018/19.
22. The auditor found that appropriate approvals processes were followed for ex gratia payments, but was unable to reconcile the amount officers claimed with the hours recorded in half of the claims examined.⁴ Although the sampling level was small (10) it suggests a risk that SPS is making substantial payments without appropriate control mechanisms.

⁴ The auditor tested ten claims.

Exhibit 3

SPS's ex gratia payments for additional hours, 2016/17 – 2018/19

Ex gratia payments to prison officers for working additional hours increased by 65 per cent in 2018/19.



Source: Annual audit report 2018/19

- 23. SPS also faces other staffing challenges. For example, it is difficult to recruit and retain staff in the North East, with Scotland's newest prison, HMP Grampian, currently running with around 34 vacancies for operational uniformed staff. A recent inspection report by Her Majesty's Inspectorate of Prisons for Scotland (HMIPS) highlights a range of staffing problems.⁵
- 24. SPS has supported the development of its most senior staff by allowing two of its three executive directors (Director of Corporate Services and Director of Strategy & Stakeholder Engagement) to take up external secondments. These two posts are currently filled on an interim basis at a critical time for the organisation.

Prisoner population

SPS is operating well over capacity and prisoner numbers are rising

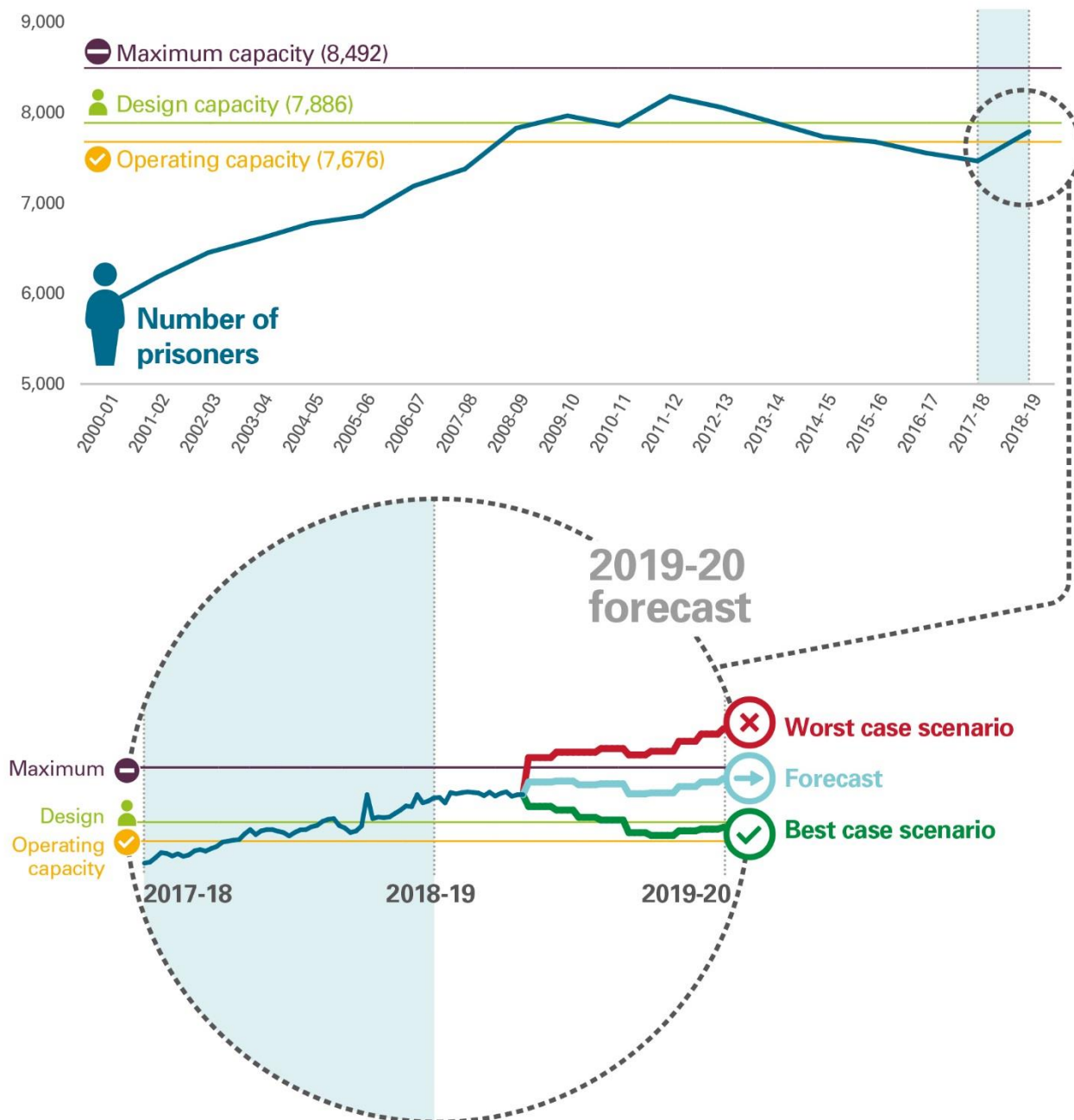
- 25. Prisoner numbers increased by 709 (almost nine per cent) from 7,413 to 8,212 during 2018/19. They have continued to rise and at 16 August 2019 there were 8,267 prisoners in Scotland. Prisoner numbers exceed SPS's operating capacity of 7,676 and design capacity of 7,886. Prisoner numbers are forecast to stay high and increase further in the short term, with the potential to exceed the SPS maximum capacity of 8,492 prisoners. The rise in prisoner numbers since the beginning of 2018/19 reverses the downward trend in recent years ([Exhibit 4, page 10](#)). Several factors are influencing this, reflecting developments across the wider justice system ([Exhibit 5, page 11](#)).
- 26. In June 2019, the Scottish Government extended the presumption against short-term sentencing from sentences of three months to twelve months. This policy change should reduce prisoner churn (the numbers of prisoners entering and leaving prison), but it is estimated to have a relatively small impact in reducing prisoner numbers. For example, a 20 per cent reduction in custodial sentences between three months and a year would reduce the prison population by 200.

⁵ Report on Full Inspection of HMP & YOI Grampian: 4–15 February 2019, HMIPS, July 2019.

Exhibit 4

Prisoner population trends and projections

The prison population rose significantly in 2018/19. It exceeds operating capacity and is forecast to increase further in future, possibly beyond maximum capacity.



Note: A further 288 places are available in the two private sector prisons (HMP Addiewell and HMP Kilmarnock), although this would carry significant financial costs.

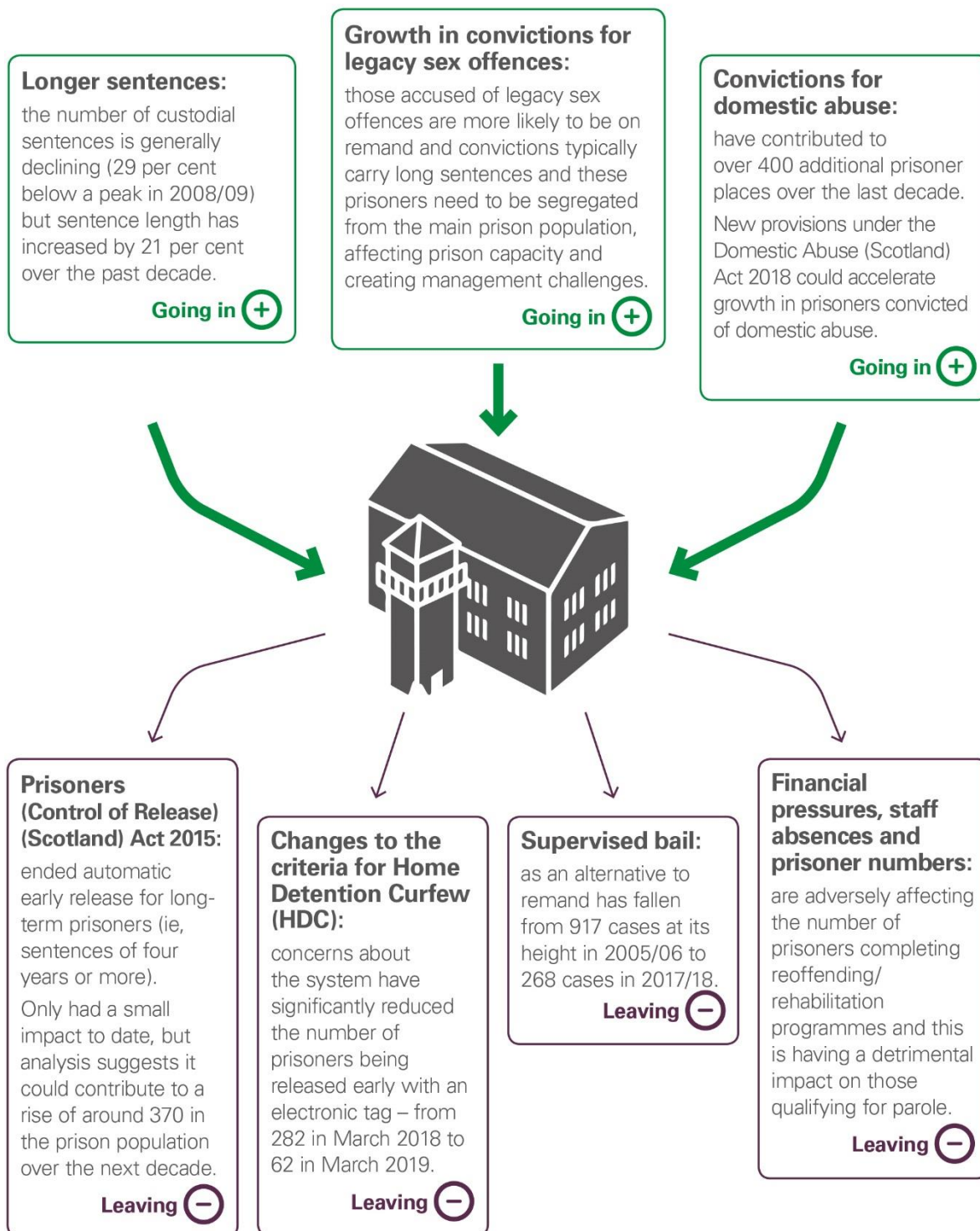
Source: Scottish Prison Service

Exhibit 5

Factors influencing growth in the prisoner population

Developments across the justice system are contributing to varying degrees to changes in prisoner population.

Factors affecting numbers going into prison



Factors affecting numbers leaving prison

Source: Audit Scotland

Performance























SPS's performance has deteriorated over the last two years

27. Managing high prisoner numbers, where many have increasingly complex care needs, with high staff absence, creates a high-risk environment and reduces the support that can be provided to prisoners. SPS's key performance indicators reflect this ([Exhibit 6](#)).

Exhibit 6

A selection of SPS's key performance indicators (KPIs)

Performance has generally deteriorated over the past two years.

Indicator		2016/17	2017/18	2018/19	Trend	2-year change
Prisoner assaults	 Serious – Prisoner on staff	5	14	10		↑
	 Minor and no injury – Prisoner on staff	193	283	410		↑
	 Serious – Prisoner on prisoner	74	94	135		↑
	 Minor and no injury – Prisoner on prisoner	2,136	2,120	2,994		↑
Prisoner activity	 Purposeful activity hours	6,758,800	6,500,472	6,258,125		↓
	 Average purposeful activity hours per week per convicted prisoner	22	21	20		↓
	 Vocational and employment-related qualifications	20,311	18,793	26,883		↑
	 Vocational and employment-related qualifications (SCQF level 5 or above)	2,465	1,976	1,781		↓
Other	 Reduced substance abuse	46%	47%	45%		↓
	 % of case conferences with Criminal Justice Social Work in attendance	89.8%	88.0%	86.7%		↓
	 Average annual cost per prisoner place	35,325	35,293	35,601		↑

Source: Scottish Prison Service

The prison estate

The absence of funding to renew the aging prison estate presents a risk to SPS's operations.

28. Delays in redeveloping parts of the prison estate present significant risks. HMP Barlinnie in Glasgow is currently housing 17.6 per cent of all prisoners and operating around 50 per cent above capacity. It presents the biggest risk of failure in the prison system as it has the capacity to buffer fluctuations in the national prison population. The prison's Victorian design does not support the delivery of a modern prison service. Its age also means that it is expensive to maintain and there is a high risk of failure in some parts of the building, for example the drainage and sewerage systems. If it were to fail, there is no clear contingency plan for accommodating the 1,460 prisoners it currently holds.⁶
29. SPS reported an underspend of £4.70 million in its capital budget in 2018/19, mainly due to delays with its capital programme. It has reported underspends against its capital budget in the past three years.
30. SPS's infrastructure work programme over the next three years includes:
 - The Woman's National Facility (Cornton Vale), including community custodial units in Glasgow and Dundee, due for completion by the end of 2021/22. Capital investment is being directed towards women's accommodation and community custody units. With this capital investment, the female estate will provide 230 custodial places. In August 2019, there were 415 female prisoners, highlighting the scale of work required to reduce numbers in custody.
 - The redevelopment of HMP Glasgow and HMP Highland (replacements for HMP Barlinnie and HMP Inverness) including purchase of land and buildings. There is no funding available to replace these two prisons. The previous three-year Infrastructure Investment Plan included a replacement for HMP Greenock but this has been replaced in the forward plan with the headquarters 'work smart' initiative that aims to enhance digital infrastructure, records management and human resources. It is anticipated that this will be delivered in 2020/21.
31. SPS plans to achieve most of its identified financial savings in 2019/20 by reducing planned maintenance on the prison estate. This increases the risk that the prison estate may not retain the capacity to accommodate prisoner numbers or provide a modern prison service.

Conclusion

32. SPS is facing threats to its financial sustainability and its operational safety and effectiveness. SPS has received no increase in revenue budget since 2017/18 and its 2019/20 budget is under pressure from rising prisoner numbers and increased costs. Prisoner numbers exceed the operating capacity of Scotland's prisons.

⁶ Barlinnie prisoner population at 19 August 2019.

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33. Rising prisoner numbers are increasing costs, and there is growing violence between prisoners and against prison officers. Delays in upgrading the prison estate means that existing prisons are less able to provide a modern prison service and are at higher risk of failure. The financial pressures on SPS are also compromising efforts to equip and support prisoners for life outside prison. Reducing prisoner numbers in line with the Scottish Government's justice strategy requires a response from across the justice system.