



Report by HM Inspectorate of Prisons

Prison communications inquiry

July 2015



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Prison communications

inquiry

by HM Chief Inspector of Prisons

July 2015

Glossary of terms

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Letter to the Lord Chancellor and Secretary of State for Justice

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The Rt Hon Michael Gove MP
The Lord Chancellor and Secretary of State for Justice
102 Petty France
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Dear Secretary of State

Prison Communications Inquiry

On 11 November 2014, your predecessor asked me ‘to investigate the circumstances surrounding the interception of telephone calls from prisoners in England and Wales to the offices of Members of Parliament, and to make recommendations to ensure that there are sufficient safeguards in place to minimise the risk of such calls being recorded inappropriately in the future’. I was also asked ‘to ensure that sufficient safeguards are in place for all confidential calls from prisoners’. He asked me to conduct my inquiry in two stages.

On 28 November 2014, I reported two broad conclusions:

- i. The urgent interim measures taken by NOMS had been largely, but not wholly, effective in ensuring that MPs’ calls were not recorded or listened to.
- ii. Prisoners were often unaware of their responsibilities, set out in compacts, to identify confidential numbers and staff had not done enough to inform them of this responsibility.

I also made five recommendations, two of which have still not been achieved.

My final report accompanies this letter.

Most prisons use a British Telecom (BT) system to monitor prisoners telephone calls. A small number of prisons managed by Serco use a system provided by Unify Business Solutions. For the period in question, the Unify system did not keep data for more than three months and most of my findings, therefore, relate to the majority of prisons using the BT system.

Since 2006, in prisons using the BT system, prisoners have made around 5,600 calls to MPs, and around 3,150 (56%) of them were recorded. Of the recordings 280 (8.8%) were downloaded to a playback system and probably listened to on 358 occasions. Sixty-eight calls were listened to live or exported to disc. Most calls were short. Thirty-five prisoners, 37 MPs and 38 prisons were involved.

I have not found evidence of a widespread, deliberate attempt to monitor communications with MPs and I believe that the majority of calls were downloaded for listening in error. There was widespread ignorance about how the system was supposed to operate among both prisoners and staff. In many cases prisoners did not identify the number as one they were entitled to call in confidence because it belonged to an MP, and staff did not recognise the name or number as that of an MP. In a small

number of calls, however, I have found evidence that suggests the rules were deliberately broken. I have asked NOMS to conduct a formal investigation into these cases to establish whether any disciplinary offences have been committed. In a further 10 cases, calls were again downloaded for listening in breach of the rules and there is at least one strand of evidence to suggest that this was not accidental. The evidence we have in relation to these cases does not, however, amount to a compelling case of deliberate interception of privileged communication and the most likely explanation is that this was accidental. Further investigation may nevertheless be possible, and this should be done if the current or former MPs concerned can or wish to produce any additional information that would assist such an inquiry.

Arrangements put in place to prevent the recording of calls to MPs after these concerns came to light are now much more effective. There is, however, no uniform system in all prisons and the new arrangements will require regular administrative attention to ensure improvements are maintained. Calls to MPs are no longer being recorded, but differences between the BT and Unify systems have different consequences for prisoners, and we are not yet confident that the new arrangements are sufficiently well managed to remain effective over time.

Existing phone systems, policies and practices do not provide sufficient safeguards against staff error or corrupt practice. NOMS should do more to ensure that prisoners understand the system and that monitoring processes are robustly managed.

Data about calls is retained indefinitely. This is particularly inappropriate for confidential access calls.

A significant proportion of prisoners report problems with the handling and opening of legally privileged and confidential access mail. Despite heightened awareness, mistakes continue to be made.

I have made a number of recommendations to address the shortcomings I have identified. They include improving levels of understanding of confidential access privileges among prisoners and staff, and conducting formal investigations for the cases where we have identified significant concern. There is a need to ensure consistency in policy and practice across the prison estate both in terms of ensuring calls to MPs and other confidential access organisations are not recorded and for data retention. NOMS also needs to implement governance systems to ensure that any future problems with confidential access communications are identified much more quickly. Finally, NOMS must implement more robust systems for ensuring that prisoners' privileged mail is not opened.

I hope that these recommendations will assist NOMS to ensure these problems do not occur again. This was a complex and technical inquiry and I am grateful to my staff, who carried out the work in addition to their normal duties.

Yours sincerely

Nick Hardwick
HM Chief Inspector of Prisons

Section 1: Background and terms of reference

- 1.1** Prisoners' communications with their lawyers, Members of Parliament (MPs) and a number of other organisations are 'privileged' or confidential and should not be read or listened to other than in the most exceptional circumstances. All other communications may be monitored.
- 1.2** The arrangements to monitor prisoners' telephone calls are delivered by the National Offender Management Service (NOMS) and other prison providers, working in partnership with telecommunications companies. Most prisons use a British Telecom (BT) system to do this; five prisons managed by Serco¹ use a different system provided by Unify Business Solutions. Prisoners submit an 'Annex B' form with a list of numbers they wish to be able to call and indicate on the form which numbers are confidential or privileged. Once approved, they can access the numbers using a Personal Identification Number (PIN) system. Some numbers may be marked as confidential on a national global list. Recorded calls are liable to be listened to, but this is not automatic. A prisoner communications compact sets out the rules that apply to this process. 'Rule 39' sets out the rules under which written correspondence may be regarded as privileged and not subject to monitoring. The Interception of Communications Commissioner's Office (IOCCO) oversees the interception of prisoners' communications on a non-statutory basis at the request of the Home Secretary.
- 1.3** In August 2014, a prisoner (Prisoner X) wrote a letter of complaint to NOMS because he believed that privileged telephone calls to his lawyer were being listened to by prison staff. At the end of September 2014, Prisoner X repeated his complaint, giving more detail. Following this and the intervention of his MP, Gordon Marsden, in October 2014, NOMS Security Group commissioned a local investigation with the cooperation of BT. The investigation found that the lawyer's telephone number had not been marked as confidential for about a week in 2011 and therefore calls were recorded. It also emerged that 24 calls to Gordon Marsden MP himself, which should also have been regarded as privileged, had been recorded over a period of 20 months, from March 2011 to January 2013. None of these calls had been listened to. In January 2013, the recording of these calls stopped as a result of a member of prison staff marking the telephone number as confidential.
- 1.4** NOMS conducted further enquiries to establish how widespread the problem was. By early November 2014, NOMS, with the help of BT, concluded that a total of 358 calls to 32 separate MPs had been recorded and listened to between March 2006 (the earliest data for which data was available) and October 2014. On 5 November 2014, the matter was brought to the attention of the then Secretary of State for Justice and on 10 November 2014 telephone numbers for all MPs' parliamentary and constituency numbers were forcibly marked as confidential on the PIN phone system. In addition, the Parliamentary Under Secretary of State for Justice, Andrew Selous MP, wrote to all MPs asking if there were additional telephone numbers that should be added to the national list of confidential numbers.
- 1.5** On 11 November 2014 the Secretary of State asked me 'to investigate the circumstances surrounding the interception of telephone calls from prisoners in England and Wales to the offices of Members of Parliament, and to make recommendations to ensure that there are

¹ HMP Dovegate, HMP & YOI Doncaster, HMP Lowdham Grange, HMP Ashfield, HMP Thameside

sufficient safeguards in place to minimise the risk of such calls being recorded inappropriately in the future'. I was also asked 'to ensure that sufficient safeguards are in place for all confidential calls from prisoners'. The full terms of reference are attached at Appendix I. The Secretary of State asked me to conduct my inquiry in two stages: by 30 November 2014 to review the urgent, practical steps taken by NOMS to minimise the risk of recording or listening to calls inappropriately in the future; and to submit a final report early in 2015.

I.6 On 28 November 2014, I reported two broad conclusions:

- i. The urgent interim measures taken by NOMS had been largely, but not wholly, effective in ensuring that MPs' calls were not recorded or listened to.
- ii. Prisoners were often unaware of their responsibilities, set out in compacts, to identify confidential numbers and staff had not done enough to inform them of this responsibility.

I.7 I made five recommendations:

- i. NOMS and BT should check that all published MPs' telephone numbers are on the global list of numbers that are set to 'not record', and NOMS and Unify should ensure that similar steps are taken in relation to Serco prisons. This measure should immediately be extended to all Members of the National Assembly for Wales (AMs) and Members of the European Parliament (MEPs).
- ii. Plans should be made immediately to update the telephone numbers of MPs immediately after the General Election in 2015 and these numbers should be regularly reviewed thereafter.
- iii. NOMS and BT should establish that globally allowed numbers cannot be overridden locally and explain the variation in the local systems.
- iv. Communications compacts should be legible, fully explained to arriving prisoners, signed by staff as well as prisoners, and copies should be given to prisoners.
- v. Immediate action should be taken to rewrite the compact in clear language and test it with prisoners. It should make it absolutely clear which calls must be notified to staff for them to be regarded as confidential. Notices should reflect the same.

I.8 This report sets out the findings of the second stage of my inquiry. It has been written in such a way that it need not be read in conjunction with my first report. The first report is available on the HM Inspectorate of Prison website².

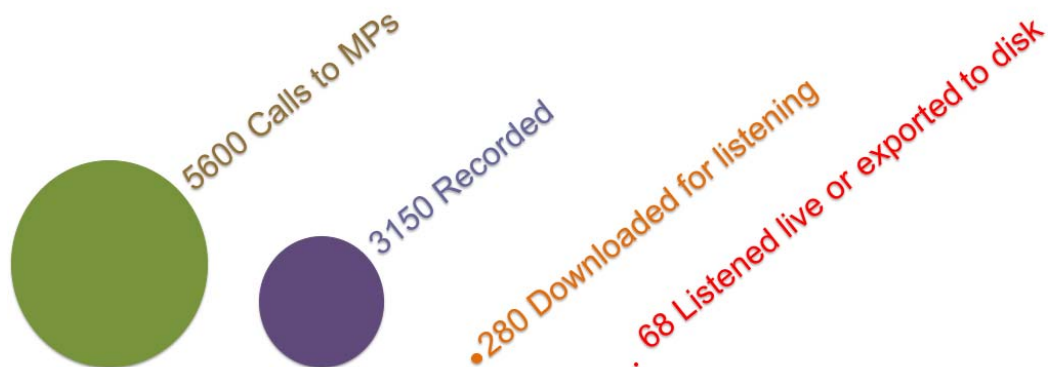
I.9 The report is set out in ten sections. Section 2 sets out the scale of the problem. Section 3 presents the conclusions and recommendations. Section 4 describes the methodology used by my staff. Section 5 explains the power to record and listen to calls, and Section 6 explains how the PIN system operates. Sections 7 and 8 contain the findings. Information on progress against the recommendations made in the previous report is provided in section 9, and section 10 contains the appendices, including a glossary.

I.10 This report was prepared before the 2015 General Election and does not take account of the changes that have occurred since then.

² <http://www.justiceinspectorates.gov.uk/hmiprison/inspections/prison-communications-inquiry-first-stage-report/>

Section 2. The scale of the problem

- 2.1** The judgements in this inquiry have been made on the basis of the best data available at the time. As the inquiry progressed some minor caveats about the accuracy of the data emerged and it became clear that some slight differences in the interpretation of the data were possible. The data only applies to prisons using the BT system because data was not held for more than three months by Unify Business Solutions in the five prisons managed by Serco. None of these differences were significant enough to affect our findings. With that caveat, the key facts from the data are set out below.
- 2.2** Since 2006, prisoners in non-Serco prisons have made around 5,600 calls to MPs; around 3,150 of these calls were recorded (56%).³
- 2.3** Two-hundred and eighty of these recordings (8.8%) were downloaded to a playback application and were probably listened to on 358 occasions.
- 2.4** The downloaded calls were made by a group of 35⁴ prisoners (less than 0.05% of the daily population)⁵.
- 2.5** Thirty-two⁶ different MPs (5% of the total number of MPs) had calls downloaded for listening.
- 2.6** Recordings were downloaded for listening in 38 different prisons (around a quarter of prisons).
- 2.7** Sixty-seven calls were listened to live (24% of the downloaded calls) and one call was exported to disc.



³ This data excludes calls made to numbers currently associated with MPs about which we have no concern (8.15). A significant number of the calls were to MPs who were not identified as such on the prison telephone system. However, in most cases we were unable to establish whether this was the prisoner's wish or staff error (8.14, 8.16 and 8.17).

⁴ Excluding the four additional prisoners identified late in our investigation (4.15)

⁵ Approximate daily population over this period circa 80,000

⁶ Excluding the five additional MPs identified late in our investigation (4.15)

Section 3. Conclusions and recommendations

Conclusion I

The rules, policy and safeguards relating to the monitoring of calls to MPs were not sufficiently clear.

- 3.1 Although policy was stated in various Prison Service documents, it was fragmented and not sufficiently clear. Furthermore, there were insufficient safeguards in place to ensure full compliance with policy (see paragraph 7.8).
- 3.2 Some of the calls to MPs were recorded and downloaded for listening to because staff had insufficient knowledge of the system and the rules. Many staff and prisoners were unaware that prisoners were permitted to contact their MPs, and other confidential access organisations, either by letter or telephone, without monitoring taking place. As a result, prisoners did not always make their requests accurately, and staff did not always implement their requests appropriately on the system. Prison staff were not aware some named individuals were MPs (see paragraphs 8.16 and 8.17).
- 3.3 On the BT system, 8.8% of the total calls to MPs were downloaded for listening. Although this was higher than the 5% usually monitored, some of the prisoners concerned were subject to monitoring of 100% of all communications. This figure did not, therefore, suggest a widespread deliberate attempt to monitor communications with MPs (see paragraph 8.2).
- 3.4 Some prisons were using an out of date communications compact, which did not explicitly require staff to ensure that prisoners understood the compact before they signed it. The compact was lengthy and hard to read (see Appendix V). The standard wording for notices which aimed to remind prisoners that telephone calls were recorded and may be listened to was misleading (see paragraphs 7.12 and 7.17).
- 3.5 The language used in prisons to describe ‘confidential access’ calls was confusing. Most staff and prisoners referred to them as ‘legals’, which was not accurate and did nothing to promote a good understanding of the range of organisations prisoners could contact without their communications being recorded or listened to (see paragraph 7.29).
- 3.6 Over the last four years IOCCO inspections have identified a number of weaknesses in systems and processes (see paragraphs 7.8–7.10).
- 3.7 The PIN phone system was very complex and was insufficiently well understood. We found high levels of misunderstanding throughout the organisation. For example, senior staff at NOMS did not know that the BT data did not indicate whether a call was actually listened to (see paragraph 8.3) and some managers struggled to answer prisoner complaints accurately (see paragraph 7.40).
- 3.8 Similarities in the findings of a Prisons and Probation Ombudsman (PPO) investigation in 2013 and a NOMS investigation into a complaint by the Howard League in 2011 supported our findings that human errors and administrative weaknesses had significantly undermined confidentiality (see paragraphs 7.2 and 7.4) and that there were insufficient safeguards in place to minimise the risk of privileged calls being listened to.

Recommendations

- 3.9** Consolidated guidance should be issued to all staff involved in processing PIN applications and monitoring communications, and relevant prison staff should have a full understanding of the rules about confidential access communications.
- 3.10** Prisoners should understand the communications compact, and the associated Annex B application form. These should be rewritten in plain language (and translated for speakers of other languages), and the term 'legals' should no longer be used. Staff should routinely provide prisoners with a copy of the compact and check that prisoners have understood it.
- 3.11** All prisons should display a standard notice by every PIN telephone which accurately tells prisoners that all calls, except those which have been registered as 'confidential access' or are on the 'global list' will be recorded and may be listened to (see also recommendation 3.31).
- 3.12** The PIN system should play a brief recorded announcement to prisoners before any call is connected to inform them whether the number dialled is subject to recording and potential listening.

Conclusion 2

In a small number of cases there was significant concern that confidential telephone calls between prisoners and their MPs may have been deliberately intercepted without proper cause or authorisation.

- 3.13** We did not find evidence to suggest a widespread deliberate attempt to monitor communications with MPs (see paragraph 8.2).
- 3.14** In four cases, however, we had significant concerns: calls were downloaded for listening and listened to in breach of the rules and there were multiple strands of evidence to suggest that this was deliberate (see paragraph 8.10i).
- 3.15** Calls made by Prisoner 23 to three MPs – Paul Burstow, Conor Murphy and Edward Davey – were of significant concern. There was evidence to suggest that staff monitoring these calls knew that they should not have done so. In the case of Edward Davey, a call was exported to disc, which should not have happened without the authority of the Chief Executive Officer of NOMS, Director of National Operational Services or Duty Director (see paragraphs 8.27–8.30).
- 3.16** Calls made by Prisoner 29 to the MPs, Adam Holloway and Gordon Henderson, were also of significant concern because the pattern of listening suggested it was deliberate and systematic (see paragraph 8.31).
- 3.17** In a further 10 cases we had some concern: calls were downloaded for listening in breach of the rules and there was at least one strand of evidence to suggest that this was not accidental. The evidence we had did not amount to a compelling case of deliberate interception of privileged communication, but further investigation may be possible (see paragraph 8.10ii).

Recommendations

- 3.18** NOMS should formally investigate the recording and listening to of calls from Prisoner 23 to Paul Burstow, Conor Murphy and Edward Davey, and the calls from Prisoner 29 to Adam Holloway MP and Gordon Henderson MP to determine whether any disciplinary

offence has been committed and inform the Chief Inspector of Prisons and the Secretary of State of the outcome.

- 3.19** In the 10 cases where we have identified some concerns, NOMS should conduct further investigations if the current or former MPs involved, or others, are able and wish to provide additional information that would assist such an investigation.

Conclusion 3

Arrangements put in place to prevent the recording of calls to MPs were now much more effective, but there was no uniform system in all prisons and the new arrangements would require regular administrative attention to ensure improvements were maintained.

- 3.20** The arrangements in place prior to October 2014 for safeguarding the confidentiality of telephone calls to MPs were largely ineffective – 56% of calls to MPs were recorded (see paragraph 8.1).
- 3.21** In our tests, calls to MPs were no longer being recorded, and few calls to confidential access organisations were recorded (see paragraph 7.27). The new arrangements had not, however, been extended to include AMs and MEPs, as we recommended in our interim report (see paragraph 9.2i).
- 3.22** In prisons with the BT system, any prisoner could now call any MP in confidence without having made an application. In contrast, in prisons with the Unify system, prisoners had to make an application first. This was confusing and inequitable (see paragraph 6.3).
- 3.23** The differences in the global lists of confidential numbers used in BT and Unify sites meant that prisoners had varied rights to confidentiality in different prisons, which was unacceptable. (See paragraph 6.3).
- 3.24** The new arrangements for assuring the confidentiality of calls to MPs relied on the accuracy of the telephone numbers held and could still be subject to error (see paragraphs 7.23 and 7.26).
- 3.25** Calls to privileged numbers from unrestricted PIN phones (such as those in reception areas) were not always effectively prevented from being recorded (see paragraph 7.22).
- 3.26** In some cases the BT system provided confusing information about whether calls were being recorded (see paragraph 7.24).
- 3.27** The new, fully electronic BT PIN system provided more reassurance that calls were deleted after 90 days than the older DVD-based system (see paragraph 6.13).

Recommendations

- 3.28** The systems for ensuring the confidentiality of calls to MPs should deliver the same outcomes for prisoners in all prisons, and should be extended to include AMs and MEPs.
- 3.29** There should be one ‘global’ list of legally privileged and confidential access numbers which applies in all prisons, and is made available to prisoners, prison staff and the organisations/people on the list. It should be reviewed regularly.
- 3.30** The lists of MPs’ telephone numbers which are used to ensure the confidentiality of calls to MPs should be reviewed regularly and particularly after every relevant election.

- 3.31** All unrestricted PIN phones (such as those in reception areas) should have clear notices telling prisoners that all calls will be recorded and may be listened to.
- 3.32** The user interface of the BT PIN system should be redesigned to reinforce correct practice.

Conclusion 4

Existing policies and practices did not provide sufficient safeguards against staff error or corrupt practice.

- 3.33** In at least one case, telephone calls were recorded and downloaded for listening because of administrative error (see paragraph 8.16).
- 3.34** Enabling PIN accounts so that prisoners may only call their approved numbers could be done at an individual or prison-wide level. Many prisons routinely enabled prisoner PIN accounts at an individual level rather than at prison level, which was inefficient and left room for error (see paragraph 7.10).
- 3.35** Prisoners did not routinely receive written confirmation of the settings on their PIN account, so they were unable to check that their requests had been implemented (see paragraph 7.20).
- 3.36** There was no audit process at local level to provide additional safeguards and allow managers to check that staff who monitored telephone conversations did not exceed their remit, and that they recorded all monitoring conducted (see paragraph 7.11).
- 3.37** In one prison, staff conducting monitoring shared login details, so it was not possible to identify which member of staff downloaded the calls for listening, which undermined accountability (see paragraph 8.22).

Recommendations

- 3.38** NOMS should mandate that all accounts are enabled at prison level.
- 3.39** To minimise the risks of inadvertent listening in the future, prisoners should routinely receive confirmation of how their Annex B applications have been processed, including a clear statement of which numbers are subject to recording and potential listening and which are not.
- 3.40** Managers should conduct sufficient random checks of PIN phone monitoring to provide assurance that the system is not being abused. Particular attention should be paid to calls which are monitored live.
- 3.41** The system should prevent live listening, except on the authority of a manager which may be given for all prisoners in particular categories, such as those who are designated as 'Exceptionally High Risk' or 'E List Heightened'.
- 3.42** Staff members conducting PIN monitoring should have their own individual log in details.

Conclusion 5

Data about calls was inappropriately retained indefinitely.

- 3.43** Data should only be retained when it is necessary and proportionate to do so, in accordance with the Data Protection Act. The NOMS data retention policy was excessive, particularly for legally privileged or confidential access calls (see paragraph 7.35).

Recommendations

- 3.44** NOMS should review the retention periods for call data for both ‘family and friends’ and ‘confidential access’ numbers, and implement a consistent policy across the estate.

Conclusion 6

A significant proportion of prisoners reported problems with the handling and opening of legally privileged and confidential access mail.

- 3.45** Prisoners continued to report problems with the confidentiality of their legal and confidential access mail (see paragraphs 7.1–7.2 and 7.42).

Recommendations

- 3.46** Post room staff should have a clear understanding of the rules about confidential access mail, and their responsibilities in the event of an error being made.
- 3.47** NOMS should make substantive changes to the systems for processing privileged mail in prisons (for example, a PO box address for legal and confidential access mail at every prison), in order to improve compliance with policy.

Section 4. Methodology

- 4.1** The first phase of this inquiry concluded that the urgent interim measures taken by NOMS had been largely, but not wholly, effective in ensuring that MPs' calls were not recorded or listened to. We also found that prisoners' were often unaware of their responsibilities, set out in compacts, to identify confidential numbers, and that staff had not done enough to inform them of this responsibility. We made five recommendations, two of which have not yet been achieved (see paragraph 9.2).
- 4.2** In the second stage of the investigation we extended our examination of the operation of the PIN telephone call recording system and its capabilities. There were two main areas of work: first, to establish current policy and practice for confidential communications in prisons and second, to collect and interpret available evidence to make judgements about why the calls at the heart of this inquiry were downloaded for listening. The latter task was complex and time consuming and we restricted our inquiries to those cases that appeared be of most concern, and to prisoners who remained in custody and serving MPs where it seemed the current public interest was most apparent.

Current policy and practice in prisons

- 4.3** Inspectors made visits to a representative group of 19 prisons⁷ (including those visited in stage one of the inquiry) and spoke to key staff involved with the prison's phone systems, including reception and first night staff, security staff, intelligence analysts and censors, finance and PIN phones clerks. We undertook a number of test calls, examined relevant documentation and interviewed a range of prisoners and staff to establish their level of understanding. We also examined postal processes. We spoke to a wide variety of other stakeholders, including staff from NOMS Security Group, BT, Unify Business Solutions and IOCCO (see Appendix IV for a full list).
- 4.4** Our inquiry heightened awareness of the rules surrounding confidential access communications, particularly among the prisoners concerned, and as the inquiry progressed, prisoners brought further concerns to our attention. We asked NOMS to investigate additional concerns relating to correspondence in two cases and we have considered their findings for this report (see paragraphs 7.41 and 7.42).
- 4.5** The results of this work are presented in sections 6, 7 and 8.

⁷ Over the course of the whole investigation, we visited adult six male category B local prisons, Pentonville, Durham, Doncaster, Thameside, Dovegate and Highdown; one male category B local prison with a category C unit, Bullingdon; one category B local male prison with a high security unit, Manchester; one category B prison, Swaleside; two male high security prisons, Belmarsh (twice) and Woodhill; two male category C training prisons, Guys Marsh and Oakwood; two women's prisons, Bronzefield and Styal; one open prison, Kirklevington Grange; and three young offender institutions, Wetherby, Deerbolt and Feltham. There are two distinct units at Feltham, one for boys aged 15–18, and one for young men aged 18–21. We visited both. Doncaster and Thameside are managed for NOMS by Serco, Bronzefield is managed by Sodexo and Oakwood is managed by G4S. The other establishments are all public sector prisons.

Evidence about the individual calls

- 4.6** Many of the calls to MPs were made several years ago, by people who are no longer in prison. Much of the data was held in a large and complex database, and we relied on BT both to extract information in a manageable format and to help us understand exactly what it meant. Other data was held in prisons or in prisoner's files, some was archived and some had been destroyed. It soon became apparent that we would not be able to gather a consistent data set for each relationship between a prisoner and MP within the timeframe of this inquiry, because the relevant information was not easily available.
- 4.7** We therefore searched multiple evidence sources and tried to establish the broad issues and themes which applied to groups of cases. We spent more time and sought more layers of evidence in those cases which caused us most concern, so in some cases the evidence we describe is more comprehensive than in others. Our aim was to find enough information in each case/group of cases to be able to make a judgement about why the calls were downloaded for listening.
- 4.8** On 28 November, we wrote to each of the 32 MPs who had received a call from a prisoner which had been recorded and downloaded for listening, providing them with details of when the calls had taken place. On 18 December we wrote again, asking them to tell us if the prisoner spoke to a member of office staff or to the MP, and whether the call was about constituency business. The timing of our request, just before Christmas and in the run up to a general election, was necessarily inconvenient, and only eight MPs responded to our inquiries. In seven additional cases, we followed up with a phone call, and received the information we requested. Most MPs told us that the prisoner spoke to a member of their office staff about a constituency matter.
- 4.9** On 18 December we wrote to Michael Spurr, Chief Executive of NOMS, to request copies of Annex B applications for the prisoners involved. These were particularly important to our inquiry because they were the only documents that could reveal whether the prisoner had clearly indicated that they wished to call an MP, and that they wished the call to be privileged. Only four could be found. There is currently no formal retention policy for these documents but they should not be kept indefinitely.
- 4.10** We wrote to the 13 prisoners whose calls had been downloaded for listening and who were currently in prison. We sent each of them a questionnaire to complete and return to us in a stamped addressed envelope. We received 11 replies. All except one told us that they knew they could speak to their MP in confidence and eight said they believed they had made their application correctly.
- 4.11** Generally, we did not write to former prisoners because we did not have up to date address information for them and we did not want to risk a breach of their privacy. We made an exception in two cases where we had particular questions: Prisoner 30 replied, but Prisoner 23 did not.
- 4.12** Prison telephone systems can be interrogated to produce lists of which telephone numbers individual prisoners are entitled to call, and which numbers are set up to record. We obtained this data for all those in custody and in a few other cases, such as those where calls were longer than average (and therefore more likely to contain substantive information), or were listened to live.
- 4.13** In a few cases we asked for logs of listening (see paragraph 6.10). These are not, however, kept indefinitely (there is currently no minimum expectation about retention from NOMS), and we had little success in obtaining them. We also studied reports of inadvertent listening (see paragraph 6.11).

- 4.14** We made repeated requests of BT. The main information we sought related to:
- i. the total number of calls prisoners had made to current MPs
 - ii. the number of calls prisoners had made to MPs who had stood down since the 2010 election
 - iii. calls which had been downloaded for listening
 - iv. the length of these calls
 - v. the number of times each call was downloaded for listening
 - vi. whether calls were listened to live
 - vii. whether calls were tagged or exported to disc
 - viii. the history of the settings applied to a particular MP's number on an individual prisoner's PIN account.
- 4.15** Towards the end of our inquiry, and in response to one of our requests for information, the BT database was searched in a slightly different way to previously, and this produced a new data set which included five additional MPs (Karen Buck, Mike Gapes, Gordon Henderson, Fiona Mactaggart and Dame Joan Ruddock) and four additional prisoners. In order not to delay this report, we have not investigated these cases in detail, but the evidence we have gathered is included at Appendix III. Most of these additional cases are several years old, and we do not think it is likely that detailed investigation of them would reveal anything of additional relevance. We cannot completely discount the possibility that if the database was to be searched in yet another way, additional cases might be found. We have notified each of the additional MPs identified.
- 4.16** An internal review of prisoner communications by Serco in January 2015 identified that five calls from a prisoner at HMP Dovegate to one MP had been recorded in the 90-day period preceding 18 November 2014, but it was not possible to tell if they had been listened to.
- 4.17** The results of this work are presented thematically in section 8 and in detail in Appendices II and III.

Section 5. The power to record and listen to calls

- 5.1** The ability for prisoners to make phone calls and to write letters is important to help them maintain family ties and to access various forms of help and support. Safeguards are needed, however, to prevent inappropriate use of telephones and letters, for example, to contact and harass victims or witnesses. Section 47 of the 1952 Prison Act allows for rules to be made to manage and regulate prisons, and these rules empower prisons to record and listen to prisoners' telephone calls and to examine and read correspondence. The Prison Rules 1999 (rules 34–39) set out the circumstances in which communications may be read, listened to, logged, recorded and examined by prison staff (Appendix VII). Section 4(4) of the Regulation of Investigatory Powers Act (2000) makes lawful the interception of communications in prisons conducted in accordance with the Prison Rules.
- 5.2** Communications with some professionals and organisations are, however, exempt from this monitoring. Legally privileged telephone calls and correspondence between a prisoner and his or her lawyer may not be recorded, listened to or read unless the prison governor has reasonable cause to believe that the communication is being made to further a criminal purpose. Where such monitoring is thought necessary, it must be authorised by the Chief Executive Officer of the Prison Service. Other privileged communication ('confidential access' communication), including calls to MPs, is protected in the same way. The full list of these organisations can be found at Appendix IV of this report.
- 5.3** The ability of MPs to talk in confidence to any of their constituents, including prisoners, is a long-established and important principle. Any breach of this principle is a very serious matter. Calls to MPs' offices should evoke the same considerations of confidentiality as calls to MPs themselves.
- 5.4** Most frequently, communications in prisons are monitored overtly, that is, prisoners are told that the monitoring will take place. Various stakeholders have contacted us about covert surveillance, which is conducted in such a way as to ensure that the persons under surveillance are unaware that it is or may be happening. It can take place in prisons, where it is necessary and proportionate to do so for the purposes of preventing or detecting crime, preventing disorder, or on the grounds of public safety, and must be authorised on an individual basis by specially trained senior staff. Covert surveillance is outside the scope of this inquiry.
- 5.5** This inquiry is concerned only with the overt monitoring of telephone calls and correspondence, which happens in five circumstances.
- i. First, all non-privileged calls are recorded and may be listened to. A proportion of calls (generally 5%) are listened to each day, usually by night staff, who often work from a randomly generated computer printout. It follows therefore that most calls are listened to after the event, although live listening is permitted.
 - ii. Second, where there are public protection concerns, governors may authorise telephone calls and/or correspondence to be routinely monitored. The aim is usually to enforce court orders. This type of monitoring is approved by a senior manager, and must be regularly reviewed to ensure its continuing appropriateness. Prisoners should receive written notice that it is in place.

- iii. Third, where there are security concerns, monitoring may be approved in order to gather intelligence or prevent crime. Prisoners are not usually notified that this monitoring is taking place.
- iv. Fourth, some groups of prisoners, such as high-risk category A prisoners, pose levels of risk which mean that all their communications are routinely monitored live.
- v. Finally, immediate response monitoring is permitted usually for security reasons, but should be authorised by a manager.

5.6 Rule 35D of the Prison Rules prohibits the retention of any intercepted material for a period of more than three months unless retention is necessary – for example, for the prevention of crime – and proportionate.

Section 6. Prison systems for confidential communications

Telephone calls

- 6.1** Since 2012⁸, prisoners can only make calls to numbers which have been registered on their personal telephone account, a process described as ‘enabling’. Previously, most prisoners could call any number unless it was specifically barred. The new arrangements are more restrictive for prisoners, provide more protection for the public and were designed to reduce incidences of inadvertent interception of communications. Legal and confidential access telephone numbers can be registered on the system in a way which ensures that they will not be recorded.
- 6.2** All prisons and young offender institutions use a PIN phone system to operate the process. Most are provided by BT, but Serco prisons use a system provided by Unify Business Solutions. Both systems are required to comply with Prison Service Instructions (PSIs), the most relevant of which are PSI 49/2011 and PSI 24-2012.
- 6.3** Both BT and Unify systems also use ‘global lists’ of numbers which allow prisoners to call various numbers without having them on their personal telephone account. The numbers for the major confidential access organisations are included on these lists and configured so that they are not recorded. The two systems are organised differently and prisoners in Serco prisons using the Unify system have access to fewer confidential numbers on the global lists than prisoners in other prisons.
- 6.4** In prisons with the BT system, MPs’ telephone numbers were included on the global list in November 2014. Any prisoner may now call any MP without applying for the number to be added to their PIN account, and the number will not be recorded. In Serco prisons, MPs’ telephone numbers were placed on a different list which works in a different way. This list prevents MPs’ numbers being added to a prisoner’s account as a social contact, which means that they will not be recorded. Prisoners in different prisons therefore have different levels of access to MPs, and this will be confusing for those transferring between prisons.
- 6.5** Prisoners are asked to read and sign a communications compact (see Appendix V) which explains how communications by letter and telephone will be managed. Staff must ensure that prisoners understand what they are signing, and must also sign to say they have done so. The prisoner signs to accept the terms of the compact, and is then issued with a PIN, which is used to make calls.
- 6.6** Prisoners have to complete a form known as Annex B form (because it is an annex of the communications compact – see Appendix V) to submit the numbers they wish to call. The form is split into two sections: ‘family and friends numbers’ and ‘legal telephone numbers’.
- 6.7** Prison staff consider the application, making checks as necessary, in particular to ensure that ‘legal’ numbers are genuine. Once numbers are approved, they are added to the PIN account, either to the ‘family and friends’ list (which will routinely be recorded and may be listened to) or to the legal list (which will not be recorded). PSI 24/2012 says that Annex B forms should be filed, but it is not specific about where, and does not say for how long they should be retained.

⁸ Prison Service Instruction 24/2012

- 6.8** In prisons with the BT system, PIN accounts must be 'enabled' – a process requiring a box to be ticked to ensure that calls are restricted to telephone numbers prisoners have registered. This can be done in two ways, either for the whole prison, or for each individual account. If the account is not enabled, there will be no restrictions on the calls a prisoners can make. When prisoners transfer between prisons, the settings in place on the PIN system generally remain the same, so if there is an error, it will transfer to the new prison.
- 6.9** Staff generally listen to calls via a two-stage process. Calls are downloaded to a playback application and are then listened to. The BT data we were given shows calls which were downloaded for listening. The act of listening probably followed, but the data does not evidence this, and it is possible that staff may not have listened to all the calls they downloaded. It is also possible for staff to listen to a call 'live'; to download it to the playback application at any point while the call is in progress and listen to it while it is actually taking place. Again, the BT data evidences the act of downloading rather than the act of listening.
- 6.10** When staff listen to calls, they are required to log that they have done so, and the system can identify which member of staff downloaded each call by tracing their login code. Often, staff use a computer-generated list to determine a random selection of calls to listen to, but staff can also select themselves. In the latter case, there is no guarantee that the selection will be random.
- 6.11** If a privileged call is inadvertently listened to there is a clear requirement to report the breach to prison managers and to NOMS using a system detailed in Annex C of PSI 24/2012.
- 6.12** For all calls, including those to confidential numbers, the telephone system creates a log indicating the date, time, telephone number called, who made the call, whose number it was, and whether the system was configured to record it.
- 6.13** Both the BT and Unify systems delete recordings of calls after three months (but see paragraph 6.15 below). The Unify system does this automatically in all Serco prisons. BT is midway through implementing an automatic system, but some prisons are still using an older system which relies on manual downloads of calls to DVDs, and manual deletion. Even if a recording is not deleted, it cannot be played back by staff in prisons after 90 days.
- 6.14** When this investigation started, Unify operated a data retention policy which meant that after three months, very limited data about calls made was retained; information about whether the call was recorded and whether it was downloaded for listening was no longer retrievable. In contrast the BT system retained all the data indefinitely. In February 2015, the Unify system was altered and it is now possible to track whether calls were recorded or downloaded for listening.
- 6.15** There will be special circumstances in which it is legitimate to retain the recording of a call for longer periods, and there are two ways of achieving this within the BT system. First, staff are able to 'tag' a particular recording. The recording will be retained within the system and can be downloaded for playback as long as it is held there. This facility has been in place since 2012, but it is not used frequently: on 21 January 2015, only 25 calls had been tagged in this way. Second, staff are able to export a recording to disc within the three months period. After export, the recording 'leaves' the system, which will be unable to provide any indication of whether it has been listened to. Recordings can only be played back on an application supplied by BT, and the PIN system can be interrogated to find out whether a particular call has been exported. This system is most commonly used to create evidence for use in police investigations and is highly regulated. In Serco prisons, there is

no similar 'tagging' system but, when required, recordings are exported, encrypted and password-protected.

The Interception of Communications Commissioner's Office (IOCCO)

6.16 IOCCO's work is relevant to this inquiry because it oversees the interception of prisoner communications (see paragraph 1.2). IOCCO aims to ensure that proper systems and procedures are in place for the interception of telephone and postal communications, including those made to and from prisoners; and to ensure that this is done in accordance with the principles of the Human Rights Act 1998, Prison Rules and Function 4 of the National Security Framework.

6.17 It does this by:

- i. Examining the arrangements to inform new prisoners that their communications may be subject to interception. This is done by randomly examining signed copies of the prisoners' communications compacts and the processes used to explain this to prisoners.
- ii. Talking to prisoners to judge whether they have a clear understanding of their rights in relation to the monitoring of their communications.
- iii. Examining the system in place for the recording and monitoring of telephone calls, along with the monitoring logs, and assess whether staff are appropriately trained.
- iv. Examining the systems and procedures in place for the monitoring of prisoners' correspondence, along with the monitoring logs.
- v. Reviewing the procedures in place for the handling of legally privileged or confidential access correspondence and judging whether monitoring staff are appropriately trained and briefed for the task.
- vi. Physical inspection of the PIN phone equipment and storage areas and examining the provision for the retention, destruction and storage of intercepted material.

6.18 IOCCO has been inspecting the processes for the interception of postal communications and telephone calls since 2002 and conducts an average of 85 inspections per annum. IOCCO reports its findings to the Prime Minister who lays the reports before Parliament. Between January 2011 and November 2014, IOCCO conducted 352 prison inspections.

Correspondence

6.19 Post delivered to prisons is sorted to separate prisoner post from official post. In some prisons, prisoner post is then X-rayed or searched by dogs to ensure that there are no illicit enclosures. Unless it is 'legally privileged' or 'confidential access', all prisoner post is opened and checked for enclosures before it is delivered to the prisoner. Permitted enclosures, such as postal orders, are logged; enclosures which are not allowed (such as drugs) are removed.

6.20 Staff, therefore, need to decide whether each letter attracts privilege or not before they open it. Some staff sort through a pile of letters first, identifying and separating any privileged letters. Others prefer to examine each letter as they work.

- 6.21** When suspicions are aroused, governors may give authority for privileged mail to be opened by staff, but this is rare.
- 6.22** A proportion of incoming mail (usually 5%) is read on a random basis. Prisoners who are subject to public protection restrictions, or who pose particular security concerns, may have all their incoming mail read. In both cases, these actions are logged.

Section 7. Findings: privileged communications in prisons

The extent of the problem

- 7.1** Organisations that have contact with prisoners often receive complaints about privileged communications. For example, of the letters received from prisoners by this inspectorate between November 2013 and October 2014, 8% included a complaint about telephone communications and 10% about postal communications. Thirty-seven per cent of the complaints about postal communications related to the opening of Rule 39⁹ mail by prison staff.
- 7.2** The Prisons and Probation Ombudsman (PPO) investigates complaints made by prisoners, young people in detention (prisons and secure training centres), offenders under probation supervision and immigration detainees. Around half of complaints received by the PPO are not eligible for investigation, but of the investigations conducted in 2013 to 2014, 36 (2%) related to handling of Rule 39 mail. Half of these were upheld, and in his investigations, the PPO frequently found insufficient staff awareness of relevant policy. In the same period, 24 (1%) investigations related to problems with telephone communications, and 20% of these complaints were upheld. In 2013 one prisoner specifically complained about a confidential access number being recorded. The PPO upheld the complaint, recording the fact that the confidential access number had been incorrectly marked on the system as 'allow monitoring', reflecting human error in processing PIN phone accounts.
- 7.3** The Prison Reform Trust told us that fewer than 1% of the 6,740 queries it received in 2014 related to problems with telephone communications, which included problems with access as well as a range of other issues. In contrast, the Prisoner Advice Service told us that queries about Rule 39 were among the most frequent prisoner concerns.
- 7.4** In 2011, NOMS investigated a complaint from the President of the Howard League for Penal Reform that legal calls between a prisoner and a lawyer at the Howard League had been recorded and listened to. The initial concern dated from 2003. NOMS concluded that administrative weaknesses both in prisons and at NOMS headquarters had led to calls that should have been confidential being recorded (and so potentially listened to). It estimated that just over 2,300 calls to the Howard League for Penal Reform had been recorded in the five-year period but could not establish how many, if any, had been listened to. The situation was resolved when action was taken centrally to prevent calls to all Howard League numbers being recorded.
- 7.5** Between January 2011 and November 2014, IOCCO conducted 352 prison inspections and made a total of 2,034 recommendations to improve compliance or systems and procedures governing the interception of prisoner communications. Of those recommendations 142 related to the need to protect telephone calls made (68) or mail sent (74) by prisoners to solicitors or other confidential access organisations.
- 7.6** Between 1 January 2011 and 7 October 2014, IOCCO identified 21 instances where calls to legal advisors had been listened to in error or without proper authorisation. Five of the 21 were identified by IOCCO during its inspections, and the others were identified by

⁹ 'Rule 39' is the prison rule which permits prisoners to send and receive confidential mail from/to legal advisors.

prison staff. IOCCO has not found cases of calls to MPs or other privileged organisations being listened to.

- 7.7** Just over a quarter of the 68 IOCCO recommendations relating to telephone calls have involved the use of the incorrect Annex B form for prisoners to apply to have telephone numbers added to their account. A further 13% related to inappropriately allowing prisoners to make calls from reception prior to their account being set up.
- 7.8** In his 2013 annual report¹⁰, the Interception of Communications Commissioner pointed out that numerous prison documents governing the recording and listening to of prisoners' calls were 'fragmented and contradictory', and that it was difficult for prison staff to fully understand the regulations. In his most recent report¹¹ he again criticised the absence of a 'clear defined policy... for the interception of prisoners' communications'. We agree with this assessment.
- 7.9** We attended a one day IOCCO inspection in January 2015 and reviewed several recently published reports.
- 7.10** At an inspection in August 2014, IOCCO inspectors found that a legal call had been monitored when examining monitoring logs. Further investigation revealed that the prisoner's account was completely unrestricted because it had not been enabled (see paragraph 6.8). This omission meant that the prisoner could call any number, and that all his calls would be recorded. The error was possible because the prison routinely enabled accounts at an individual level, rather than at prison level, which is a better way of ensuring that all PIN accounts are appropriately configured. Further investigation by NOMS revealed that a minority of prisons used the most efficient system.
- 7.11** The PIN system has insufficient safeguards to prevent staff downloading and listening to a call on an ad hoc basis (see paragraphs 5.5v and 6.10), and it is therefore possible for a member of staff with a login code (not all staff have one) to listen to any call, including live calls. Staff members should record this act, but there is no routine audit process for managers to ensure that staff log all the calls they listen to, or that they only listen to the calls they have authority to monitor. Conversely, although staff may record that they have listened to calls, there is no way for managers to check that the listening actually took place.

The communications compact

- 7.12** We found that not all the prisons we visited were using the correct communications compact. Two prisons were using an outdated version, at least at the start of our inspection. The outdated version of the compact was not as clear about the responsibility on staff to ensure that prisoners understand what they are signing.
- 7.13** First night staff were usually responsible for ensuring that newly arrived prisoners were aware of the compact, although in practice this function was sometimes done by prisoner orderlies. We witnessed some good explanations, but during both phases of our inquiry, prisoners told us the compacts were not explained or were explained in such a cursory way that they had not absorbed the contents. All prisoners we asked were aware that their calls could be recorded and listened to, and all thought their solicitors' numbers and

¹⁰ The Rt Hon Sir Anthony May, *2013 Annual Report of the Interception of Communications Commissioner*, published April 2014.

¹¹ The Rt Hon Sir Anthony May, *Report of the Interception of Communications Commissioner, March 2015*.

letters were confidential. Most, however, had little knowledge of other exceptions and did not understand arrangements for calling MPs. We saw no improvement in this awareness during the second phase of our inquiry.

- 7.14** In many prisons the compacts had been photocopied so many times that they were hard to read or, in parts, completely illegible. While compacts were always signed by prisoners, most were not signed by staff to confirm that they had explained the contents as required in PSI 24/2012.
- 7.15** Prisoners' ability to absorb practical information on their first night in custody is limited. They often arrive tired and distressed after long days in court, sometimes after long trials, or after lengthy journeys from other prisons, and may be experiencing alcohol or drug withdrawal symptoms. The volume of information given to prisoners on their arrival was considerable. The communications compact (Appendix V), which was not written in plain language and was several pages long, was just one of a number of documents that prisoners were expected to understand and sign shortly after arrival. In a few prisons, prisoners were given a copy of the compact to keep, and this was good practice.
- 7.16** We were not assured that the many prisoners with literacy difficulties and foreign nationals with limited understanding of English had a sufficient understanding of the compacts. Although in one prison we were told that Toe-by-Toe mentors¹² 'might' assist those with literacy difficulties, this was clearly not systematic. The compact was available in English only and interpreters were not regularly used for those who were not fluent in English. HMP Bronzefield provided useful guidance notes in a range of common languages and HMP Thameside made innovative and good use of technology to provide professional interpretation for all first night processes.
- 7.17** There were notices above phones in most, but not all, prisons informing prisoners of the policy on recording calls (see Appendix VI). While they listed the names of groups such as the PPO and Samaritans, to which calls should never be monitored, they did not make it clear that MPs' or lawyers' numbers had to be listed by prisoners as confidential in order to be treated as such.
- 7.18** There were no suitable notices displayed anywhere in the Serco establishments advising prisoners that their calls could be listened to or about the confidential calls policy, and in-cell telephones did not have notices next to them to remind prisoners that their calls could be listened to.
- 7.19** The Annex B application form contained two sections entitled 'family and friends numbers' and 'legal telephone numbers'. The title of the latter was misleading for both prisoners and staff because it implied that only legal representatives' telephone numbers could be included, whereas NOMS' intention was that prisoners entered all 'confidential access' numbers in this section as well. The only mention of MPs was in a footnote to the compact, which also listed a range of other numbers that should not be recorded.
- 7.20** Not all prisons routinely provided prisoners with a written response to their Annex B application, which meant that prisoners had no easy method of checking that their application had been processed correctly.

¹² Toe by Toe is a phonics-based approach to helping prisoners learn to read (usually delivered as part of the Shannon Trust reading plan).

The effectiveness of the new arrangements¹³

- 7.21** We tested calls to confidential access numbers on the global lists. Tests with the BT system were successful with one exception. In this instance, a call to HM Inspectorate of Prisons was recorded due to the fact that NOMS had not updated the global list with our new office number after it changed over a year earlier.
- 7.22** In a Serco prison, calls to five confidential access organisations were all recorded – including a call to the Samaritans. We concluded this was mainly because they were made from a phone in the prison reception which was unrestricted and not configured for use with a restricted PIN. We understand that reception PIN phones in all prisons are generally configured in this way and therefore the problem may be widespread. We were assured that calls to the Samaritans from all other PIN telephones at the prison would not have been recorded.
- 7.23** However, calls to some confidential access organisations would still have been recorded from ordinary PIN phones elsewhere in the establishment. This was because the Serco ‘global list’ (see paragraph 6.3) did not have the same telephone numbers for some organisations (namely the Criminal Cases Review Commission and the PPO) as the NOMS global list (which inspectors used as their reference document). We also noted that numbers for two other organisations (HM Inspectorate of Prisons and the Care Quality Commission) were not included in the Serco global list and calls to these organisations were therefore recorded. We were satisfied that the numbers that were included on Serco’s global list were not subject to recording.
- 7.24** Calls to MPs were not recorded at any establishments. We tested whether a call to an MP’s number which was on the ‘family and friends’ side of the system would be recorded, and it was not. In prisons using the BT system, however, the input screen was confusing when this happened because a ticked ‘allow monitor’ box appeared, suggesting that the call would be recorded. We established that no recording would be made, but the input screen suggested the opposite. In Serco prisons, the Unify system produced a warning, and prevented an MP’s number being added to a PIN account as a ‘social’ contact. In addition, in Serco prisons, calls made to an MP from an unrestricted phone (see paragraph 7.22) were not recorded.
- 7.25** We were satisfied that the arrangements made to ensure calls to MPs calls were not recorded were now fit for purpose. These arrangements, however, had not been extended to AMs and MEPs. Furthermore, they will only remain effective if the lists of MPs’ telephone numbers are kept up to date.
- 7.26** NOMS told us that they planned to keep the global list up to date by informing all the organisations on it that they were required to tell NOMS whenever their contact details changed. We did not think this was likely to prove successful. Many of the organisations on the list were large, with many client groups, and could not reasonably be expected to consider prisoners. NOMS will have to take a much more active approach to this task, including after every election.
- 7.27** Overall, we were satisfied that all calls clearly identified as ‘confidential access telephone numbers’ on the communications compact pro forma, which were then accurately transferred to the PIN computer system, would not be recorded or listened to, and that numbers on the relevant ‘global lists’ would not be recorded or listened to.

¹³ See paragraph 1.4 and 1.7i.

- 7.28** It was possible for staff in prisons to bar a particular prisoner from calling a particular number on the global list. This meant that if any prisoner made nuisance calls to an MP's office, the staff working there could be protected from such behaviour by preventing calls if the MP requested it.

Staff awareness of telephone monitoring policy

- 7.29** In all our establishment visits, many staff had insufficient knowledge about which organisations and which people prisoners could telephone in confidence. Most of the staff we interviewed thought that this only applied to calls to solicitors and many used the term 'legals' to describe calls which would not be recorded. This term is misleading.
- 7.30** Too few staff we interviewed were aware of the requirement to report inadvertent listening of a privileged telephone call (see paragraph 6.11) using Annex C of PSI 24/12 (see Appendix V). Only 20 Annex C reports had been submitted since 2012, which is much lower than the actual number of incidents which had occurred. It cannot be discounted that, in some cases, the failure to submit an Annex C report was deliberate. Although more recent reports were completed more thoroughly, many of the reports we reviewed had information missing. We saw, however, that when the process was followed correctly, it provided good additional safeguards.
- 7.31** There were no reports of staff identifying that they had inappropriately listened to a call to an MP. Yet the fact that (albeit only in a few cases) staff had identified that they had listened to other confidential access calls shows that it is possible to identify breaches of privilege, either by listening to the content of the conversation, or looking at the computer screen. At one establishment, the identification of inadvertent listening was correctly investigated, which uncovered further breaches of privilege. This showed that the process, if followed correctly, could provide good additional safeguards.
- 7.32** In several of the Annex C reports we examined, the inadvertent listening to a confidential access call was identified and reported by the police, who had requested the calls via covert monitoring processes. It was concerning, however, that at least one of these calls was listened to several times.
- 7.33** NOMS investigations into Annex C reports in 2014 often found that the prisoner had correctly requested for the number to be confidential, but it had been incorrectly set up 'to record' on the system. This mirrors our findings. In one case an IOCCO inspector identified from monitoring logs that a call had been listened to inappropriately. In this case the member of staff listening to calls was unaware of the required reporting procedure. This reinforces our findings that too few staff were aware of the required reporting process, and that if they were, levels of reporting of incidents might be much higher.

Retention of call data

- 7.34** In our inquiry we found that no calls to MPs had ever been retained beyond 90 days by being tagged (see paragraph 6.15), but one was exported to disk (see paragraphs 6.15 and 8.24).
- 7.35** At the start of this inquiry the BT system retained more data for longer than the Unify system. Since January 2015, there was less difference. NOMS intends in the future to delete all data about calls after seven years, but currently it is retained indefinitely. A single data retention policy which applies to all prison providers is required.

Correspondence

- 7.36** As with telephone calls, most staff understood that legal letters were privileged, but their understanding of the other organisations covered by privilege was limited. During our phase two visits, we continued to find staff working in post rooms who did not know which letters they should not open. This was often the result of insufficient training and supervision.
- 7.37** Privileged letters were occasionally opened in error. During our visits to prisons in phase two of this investigation, we asked how many privileged letters had been opened in the previous six months. In two prisons, no such incidents had been recorded. In a further two, there was no effective record of such incidents, and in another, 25 letters had been opened. In two prisons, two privileged letters (in each prison) had been opened by staff on the governor's authority, because they were suspicious.
- 7.38** Mistakes sometimes happened because the envelope had not been marked clearly as 'Rule 39' or 'confidential access'. Occasionally staff lost concentration and made a genuine mistake. Annex D of PSI 49/2011 requires solicitors and other confidential access organisations to use a double envelope method when sending confidential mail to prisoners, but this instruction is rarely followed. Greater use of this method would reduce accidental opening.
- 7.39** As part of each prison inspection we conduct a prisoner survey. Prisoners are asked: 'Have staff ever opened letters from your solicitor or legal representative when you were not with them?' In the 45 prison inspection reports published in 2013–14, which included a total of 7,233 survey responses, an average of 41% of prisoners told us that confidential legal communications had been opened by staff.
- 7.40** Prisoner X, whose complaint triggered this inquiry (but is not otherwise a subject because his calls to MPs were not downloaded for listening), has made complaints about breaches of his confidential correspondence over several years. Some of his complaints have been upheld, including by the PPO. The quality of the investigations undertaken by NOMS have not always been sufficient. For example, in some, the prisoner was not interviewed and in others the conclusions drawn suggest a very limited understanding of policy.
- 7.41** During this inquiry, Prisoner X wrote to us again, via his solicitors, with a very specific and recent allegation about mishandling of legal mail. He said that a letter from his solicitor, which had been sent to the prison via the double envelope method, had gone missing before he had received it, and that all he received was the empty outer envelope. We asked NOMS to investigate this and it concluded that the envelope had been open and empty on arrival at the prison.
- 7.42** Prisoner 7 also wrote to us to tell us that a letter from his MP, Sarah Teather, had been opened by staff before he received it. A NOMS investigation found that the error had been accidental but also described inconsistent staffing arrangements, frequent interruptions, poor working conditions and procedural lapses which were typical of what we often find in post rooms. The same prisoner had made a similar complaint in December 2014, and had received an apology and reassurance that additional guidance had been issued to staff. The most recent investigation, however, found that no remedial action had been taken previously. This incident reinforced our general finding that insufficient attention was paid to the management of confidential communications.

Section 8. Findings: the calls

The size of the problem

- 8.1** Since 2006, prisoners have made around 5,600 calls to MPs. Of these, around 3,150 were recorded (56%), involving 189 MPs. The arrangements in place prior to October 2014 to ensure confidentiality were therefore ineffective for the majority of calls.
- 8.2** In stage one of this inquiry we understood that 358 of these recordings were downloaded to a playback application and were listened to. We now believe that only 280 (8.8%) of recorded calls were downloaded for listening. The discrepancy arose because some of the calls were listened to more than once, and some of the calls lasting 0 seconds had previously been included. The calls downloaded for listening were made by 35 prisoners (less than 0.05% of the daily population) who called 32 different MPs (5% of MPs). Recordings were downloaded for listening in 38 different prisons (around a quarter of prisons). This does not suggest a widespread deliberate attempt to monitor communications with MPs.
- 8.3** The system is unable to evidence how many of the 280 downloaded calls were actually listened to or for how long. It does show, however, that 67 calls were downloaded to the playback application while the call was in progress. It is very likely that these calls were listened to, and we describe them as having been listened to 'live'. Sixty of the calls listened to live were from Prisoner 29 to Adam Holloway MP. Three further calls were from Prisoner 23 to three MPs: Paul Burstow, Edward Davey and Conor Murphy.
- 8.4** Most prisoners made few calls, but four made over 20. Most MPs' offices received fewer than 20 calls from prisoners between March 2006 and October 2014 (see Appendix VIII).
- 8.5** There were two main groups of MPs whose calls were recorded. Of the 32 who had calls recorded and downloaded for listening, the telephone numbers of 15 were clearly identified on the PIN system as belonging to an MP. The 15 numbers were called by 16 prisoners. These calls are of greatest concern because if prison staff registered the number as belonging to an MP, they should have set it up not to be recorded, by making it a 'confidential access' number. We prioritised this group of 16 prisoners for our inquiries. The telephone numbers of the remaining 18 MPs were not clearly identified on the PIN system as belonging to MPs. Some numbers had completely different names assigned to them. In the analysis which follows, we specify in each case whether the MP was identified as such on the PIN system.
- 8.6** Most calls were short (52 lasted less than 60 seconds and only six lasted longer than 20 minutes). A chart showing these details is attached at Appendix VIII.
- 8.7** From March 2006 to October 2014, only two calls to AMs were recorded and downloaded for listening, and these are included in the sample of MPs. No calls to MEPs were recorded and downloaded for listening.
- 8.8** Of the 18 former MPs who lost their seat at the 2010 general election or stood down between then and the 2015 election¹⁴, six had calls from prisoners recorded (a total of 42 calls), and two had calls downloaded for listening. We have not investigated these cases in any detail.

¹⁴ Excluding Paul Goggins who already appears in our sample.

8.9 Unify's different data retention policy meant that it was unable to produce comparable data for prisons run by Serco (see paragraph 7.35). An internal inquiry, however, included a report of 90 days of data for the period ending 18 November 2014. This showed that in the seven prisons managed by Serco, prisoners made 21 calls to MPs. The majority were not recorded, but five calls to one MP from a single prisoner were recorded at HMP Dovegate. The longest of these calls was around 3.5 minutes, but Serco was unable to confirm if these calls were listened to, because at the time its system did not retain such data for longer than three months.

Why were the calls recorded and downloaded for listening?

8.10 This section of the report uses example cases to illustrate the 12 evidence themes we have identified. A detailed explanation of our findings is included at Appendix III, presented alphabetically by MPs surnames. We have also assigned one of four judgements, indicating the degree of concern we have identified, as follows:

- i. **Significant concern** – In four cases, calls were downloaded for listening and listened to in breach of the rules and there are multiple strands of evidence to suggest that this was deliberate. We have asked NOMS to conduct an investigation to establish whether there were any disciplinary offences by identified individuals in these cases.
- ii. **Some concern** – In 10 cases, calls were downloaded for listening in breach of the rules and there is at least one strand of evidence to suggest that this was not accidental. The evidence we have does not amount to a compelling case of deliberate interception of privileged communication, but further investigation may be possible and this should be done if the current or former MPs concerned are able and wish to provide additional information that would assist such an investigation.
- iii. **Low level concern** – In 21 cases, there was a technical breach of the rules, but we have not found any evidence to suggest that this was due to anything other than widespread lack of knowledge or administrative error.
- iv. **No concern** – In two cases, there is a reasonable explanation for why the calls were recorded and downloaded for listening, which is within the rules.

8.11 The judgements are based on our level of concern about whether there was a deliberate attempt to monitor an MP's communications. In every case, there are gaps in the evidence base: often due to the age of the case and the data retention policy and practice within NOMS. The chart at Appendix II summarises our assessment of each case.

8.12 Five calls to one MP (David Ruffley) by one prisoner in HMP Bronzefield were identified as our investigation concluded. It was not possible to tell if the calls had been listened to and in this case we have not made a judgement about our level of concern because of the more limited evidence base.

Theme 1: Lack of staff knowledge

8.13 In 16 cases we have concluded that the most likely explanation of the error was a lack of staff knowledge of the correct procedures. The unavailability of most 'Annex B' application forms (see Appendix V) meant it was not possible for us to establish whether the MPs were correctly identified by the prisoners, but incorrectly entered on the system by staff. If prisoners did request confidentiality, staff either routinely and deliberately ignored their instructions, or were ignorant of prisoners' right to contact an MP in confidence. In our view, the most likely explanation is a widespread lack of knowledge, both because this is what we have found in practice and because 56% of all calls made to MPs were recorded,

and we do not consider that staff would have the interest or motivation to listen to this number of calls if they understood they were not required to do so (see paragraph 8.1). In Prisoner 30's case, which is recent, we spoke to the member of staff who processed the PIN application and are satisfied that she was unaware that prisoners were allowed to contact their MPs in confidence at the time. A lack of staff awareness is likely to have led to many MPs' telephone numbers being set up incorrectly, with the result that they were recorded and downloaded for listening.

- 8.14** We identified one account that was not set up in accordance with the prisoner's wishes. At HMP Wakefield in 2012, Prisoner 11 asked for Ian Paisley MP to be added to the confidential access side of his PIN account, clearly identifying that he was an MP. His application was altered, presumably by a member of staff, who crossed out 'legal', replaced it with the word 'domestic' and placed the number on the social side of the system. Staff in this prison said that they had been told that MPs' numbers did not attract confidential access privilege.

Theme 2: The prisoner did not intend to contact an MP

- 8.15** In two cases, we concluded that the prisoner did not intend to contact their MP, and therefore the calls were appropriately recorded. Prisoner 8 contacted a family member who worked in a constituency office. Prisoner 22 called a number which is now associated with an MP, but which previously belonged to the prisoner's partner. It is possible that there were more cases like this that we did not identify.

Theme 3: Administrative error

- 8.16** We found one example of staff error, at HMP Peterborough in 2013, where the recording systems permitted detailed investigation. Prisoner 17 applied to have two telephone numbers for Kate Green MP added to the confidential access side of his PIN account. The applications clearly specified that she was an MP and were approved. At the same time, the same prisoner applied for some 'family and friends' numbers to be added to his account. These were also approved. It seems likely that an administrative error led to Kate Green's constituency office telephone number being mistakenly attributed to a member of the public and set up as a social call. The parliamentary office number was, however, correctly set up to be privileged. Prisoner 17 told us this may have been deliberate, but because one number was correctly set up, we did not think this was likely.

Theme 4: The prisoner did not apply for privilege

- 8.17** In one case, calls to an MP were recorded and downloaded for listening because the prisoner did not clearly ask for the calls to be privileged. At HMP Highpoint in May 2014, prisoner 20 asked for the number for the MP's office of Simon Hughes to be added to his PIN account, as a 'friend'. As a result, Simon Hughes' number was added as a 'family and friends' contact, and calls to this number were routinely recorded. Staff followed the application given by the prisoner and could not reasonably have been expected to know that the name given was that of an MP which should, therefore, have been treated as privileged.

Theme 5: Only a small proportion of the calls made to the MP were downloaded for listening

- 8.18** In some of these cases the number of calls downloaded for listening was a small proportion of the total calls made to the MP. This reflected random monitoring (see paragraph 5.5i) and was therefore not of particular concern.

Theme 6: A concerning proportion of calls were downloaded for listening, but the prisoner was subject to additional monitoring

8.19 In other cases the number of calls downloaded for listening seemed high in proportion to the total number of calls made to the number (that is, higher than we would have expected from the usual 5% random monitoring (see paragraph 5.5i)). In these cases we looked for evidence that additional monitoring (see paragraph 5.5ii) was in place. Prisoner 3 called Jack Straw MP multiple times in 2008 from HMPs Rye Hill and The Mount, and many calls were downloaded for listening (not live). Although we did not see formal documented authority for additional monitoring, notes on the file made it clear that additional monitoring was in place. The pattern and the timing of the listening did not appear to be random and the evidence showed that some calls were downloaded for listening more than once. In our view the more times a call is listened to, the more opportunity staff have to spot that the call is to an MP, either by reading what is on the screen in front of them (if the number is clearly attributed to an MP) or by deducing this from the content of the conversation.

Theme 7: A concerning proportion of calls were downloaded for listening, and either there was no additional monitoring, or we saw no evidence of such

8.20 Sometimes, NOMS was not able to provide documentary evidence that provided assurance that additional monitoring was in place, and we had to consider the possibility that calls were listened to more systematically, and without appropriate authority. Between 2006 and 2009, half of Prisoner 15's calls to Diane Abbott, who was identified on the system as an MP, were listened to, from HMPs Norwich, Highpoint and Blundeston. This was much higher than the 5% we would expect from random listening, but fell short of routine monitoring, which would normally aim to capture every call. We were therefore not assured that this listening was inadvertent.

Theme 8: Calls were listened to live

8.21 The calls which were listened to live gave us greater concern because live listening might suggest a more deliberate approach. This was particularly so for the two MPs and one AM who were clearly identified as such on the PIN system, but whose calls were listened to live (Sarah Teather, Conor Murphy and Rhodri Glyn Thomas).

8.22 If calls were listened to live very infrequently, and if the MP was not clearly identified as such on the system, we have not raised this as a particular concern. For example, Prisoner 20 called Simon Hughes MP many times from HMP Highpoint, but only one call was downloaded for listening. It was listened to live, but Simon Hughes was not marked as an MP, so we do not believe this was likely to have been a systematic attempt to monitor communication with an MP. The login code used to listen to this call (see paragraph 6.10) was, however, shared between several members of staff, which prevented us discovering who listened to the call.

Theme 9: Calls were downloaded for listening, but not actually listened to

8.23 It is possible that in many of these cases, a call may have been downloaded for listening (with the intention of being listened to), but that this never happened (see paragraph 3.7). For example, Prisoner 30 called Siobhan McDonagh MP from HMP Bronzefield on many occasions. We knew that one call was downloaded for listening, but having checked the hard copy logs of listening held at the prison (which otherwise appear comprehensive), we could find no evidence of it having been listened to.

Theme 10: Calls were exported to disc

- 8.24** In one case (Prisoner 23), a call was exported to a disc using the process described at paragraph 6.15 (see paragraph 8.30).

Theme 11: Only one or two calls were made

- 8.25** In some cases only one or two calls were made, and there was very little other evidence. In these cases, because the sample size was so small, we have not raised particular concern.

Theme 12: Calls discovered late in our investigation

- 8.26** These calls were discovered at the end of our investigation and have not been investigated in the same depth as the others (see paragraph 4.15). In these cases, we have not made a judgement about our level of concern because of the more limited evidence base.

Cases of significant concern

- 8.27** There were five cases which were of particular concern, three of which involved the same prisoner (23), who called three separate MPs: Paul Burstow, Edward Davey and Conor Murphy. Prisoner 23 was frequently subject to offence-related monitoring and therefore his calls to Paul Burstow MP were recorded and downloaded for listening because Mr Burstow was not identified as an MP on the system. Edward Davey and Conor Murphy were, however, identified as MPs on the system and calls made to them should have been confidential. In other cases, we accepted that this was because of staff error or ignorance, but here, other circumstances gave us additional concern. We consider that there should be a formal investigation into all these cases to establish whether these officers listened to or recorded these calls to MPs, despite knowing that they should not have done so.
- 8.28** Prisoner 23 made a call to Conor Murphy at 10.40am on 19 August 2008 from HMP Camp Hill, which was listened to live by Officer A. Just prior to this, at 10.27am, he had called Paul Burstow and this call was also listened to live, at least in part, by Officer A. The same day, Prisoner 23 wrote a complaint, alleging that when he had spoken to Officer B at 10.55am, the officer had been aware that he (Prisoner 23) had just been on the telephone to Conor Murphy, an MP. It therefore seemed very likely that Officer A and B had spoken to each other about this.
- 8.29** On 1 September 2008, Officer B submitted a security information report stating that Prisoner 23 had made this claim and that it was not true. In refuting the prisoner's allegation, Officer B was clearly aware that the allegation was serious. We concluded that either he felt that the live listening should not have taken place or he was aware that calls to MPs should not be listened to. Nevertheless, Officer B downloaded the call for listening twice more, on 20 and 28 August 2008. The same officer also downloaded the call to Paul Burstow again on 20 August. After this date, Prisoner 23 made no more calls to Conor Murphy, and the number was made inactive on his account on 6 November 2008. These circumstances caused us to doubt that these officers were unaware that these calls to MPs should not be listened to.
- 8.30** Prisoner 23 also made a call to the Edward Davey MP on 6 August 2008, which was downloaded for listening by Officer B and then exported to disc on 27 October and 17 November 2008 by Officer C. Staff who do this work should have a heightened awareness of the rules. We considered it unacceptable, therefore, that a call to an MP, who was clearly marked as such on the system, was exported in this way (see paragraph 6.15).

8.31 The fourth and fifth cases concern Prisoner 29, who had called Adam Holloway MP over 400 times from HMP Swaleside since 2009, with 127 of the calls downloaded for listening. Mr Holloway was not identified as an MP on the system, so the recording of his calls was not unexpected. Around 60 calls were, however, listened to live over a five-year period, despite the fact that Prisoner 29 was not subject to any additional monitoring. Prisoner 29 had also made one call to Gordon Henderson MP which was listened to live. The pattern of monitoring was concerning because of its frequency, and because sometimes two members of staff appeared to listen live together.

Section 9. Recommendations from the interim report

9.1 When I published my interim report on 28 November 2014, I made five recommendations, which are listed below, together with a judgement about progress made.

9.2 The most urgent elements of the recommendations have been achieved, but I was particularly disappointed that progress had not been made to implement the two recommendations about the communications compact. These recommendations are therefore repeated in this report.

- i. **NOMS and BT should check that all published MPs' telephone numbers are on the global list of numbers that are set to 'not record', and NOMS and Unify should ensure that similar steps are taken in relation to Serco prisons. This measure should immediately be extended to all AMs and MEPs.**

Partially achieved. We are satisfied that all MPs' telephone numbers are on the global list of numbers and will not be recorded. This measure has not yet been extended to AMs and MEPs.

- ii. **Plans should be made now to update the telephone numbers of MPs immediately after the General Election in 2015 and these numbers should be regularly reviewed thereafter.**

Partially achieved. NOMS has committed to updating the telephone numbers of MPs after the 2015 General Election, but it is not yet clear how it will ensure the other numbers on the global list are kept up to date.

- iii. **NOMS and BT should establish that globally allowed numbers cannot be overridden locally and explain the variation in the local systems.**

Achieved. We are satisfied that staff in prisons cannot override the global list.

- iv. **Communications compacts should be legible, fully explained to arriving prisoners, signed by staff as well as prisoners, and copies should be given to prisoners.**

Not achieved. During the second phase of our inquiry, we found the wrong communications compact in use in some prisons.

- v. **Immediate action should be taken to re-write the compact in clear language and test it with prisoners. It should make it absolutely clear which calls must be notified to staff for them to be regarded as confidential. Notices should reflect the same.**

Not achieved. The same communications compact is still in use.

Section 10. Appendices

Appendix I: Investigation – Terms of reference

Purpose

To investigate the circumstances surrounding the interception of telephone calls from prisoners in England and Wales to the offices of Members of Parliament, and to make recommendations to ensure that there are sufficient safeguards in place to minimise the risk of such calls being recorded inappropriately in the future.

To consider the current arrangements and make recommendations, if appropriate, to ensure that there are sufficient safeguards in place for all confidential calls from prisoners.

Background

It has been established that a number of telephone calls from serving prisoners to the Parliamentary or constituency offices of Members of Parliament were recorded by prison staff between 2006 and 2014. In some instances the prisons involved appear to have been informed by their prisoners that the telephone numbers to be called were those of the offices of MPs, in others not. In some instances the calls were recorded, in others the calls were recorded and those recordings later listened to, at least in part, by prison staff. In other instances the calls were recorded and listened to live, at least in part.

Rules 34 and 35A of the Prison Rules 1999 make provision in relation to prisoner communications. Of particular relevance, rule 35A(2A) provides that a prison governor may not make arrangements for interception of any communications between a prisoner and ‘any body or organisation with which the Secretary of State has made arrangements for the confidential handling of correspondence’ unless there are reasonable grounds to believe that the communication is being made with the intention of furthering a criminal purpose and authorisation from specified officers of NOMS is obtained. The arrangements for the confidential handling of correspondence are set out in PSI 49/2011 and include:

Correspondence between prisoners and their MP, AM and MEP must be treated as privileged but only where they are acting in a constituency capacity (not in a social capacity). This privilege does not extend to Members of the House of Lords, who have no constituency responsibilities, or to Local Councillors.

Investigation

The investigation will:

Facts

- i. Establish the full extent of calls recorded to the offices of Members of Parliament – numbers, dates, recipients, duration. This should highlight calls which were recorded, later listened to or monitored live.

- ii. Consider the Prison Rules and policy relevant to the interception of prisoner phone calls to MPs and assess whether (and if so to what extent) any interception was not in accordance with those Rules and policy. In particular:
 - Establish whether whole or parts of calls were monitored live or recordings listened to inappropriately.
 - Determine how, why and on whose authority calls to MPs' offices came to be recorded, recordings listened to or monitored live inappropriately.
- iii. Determine whether the Rules, policy and safeguards relating to the monitoring of calls to the office of MPs, and other confidential communications, are clear and make any recommendations for changes to improve compliance.

Conclusions and recommendations

- iv. Set out conclusions and recommendations to minimise the risk of confidential calls being intercepted inappropriately in the future.

Approach

- v. The investigation will be carried out working closely with NOMS Officials and with the Interception Commissioner's office.

Final report

The report will be delivered to the Secretary of State for Justice in two stages:

- vi. By 30 November review the urgent, practical steps which NOMS are currently taking to minimise the risk of recording or listening to of calls inappropriately in the future.
- vii. A final report will be submitted early in 2015.

Appendix II: Summary of judgements about calls to individual MPs

Name of MP associated with number	Prisoner identifier	Prisons where listening happened	Judgement
Diane Abbot	35	Wellingborough	Low level concern
Diane Abbot	15	Norwich, Highpoint and Blundeston	Some concern
Bob Ainsworth	21	Rye Hill	Some concern
Hazel Blears	26	The Wolds	Low level concern
Paul Burstow	23	Camp Hill	Significant concern
Edward Davey	23	Winchester Camp Hill	Significant concern
Jim Dowd	34	Wayland	Low level concern
Maria Eagle	27	Kingston	Low level concern
Lynne Featherstone	33	Holloway	Low level concern
Jim Fitzpatrick	25	Wellingborough	Low level concern
Rhodri Glyn-Thomas	5	Cardiff	Some concern
Kate Green	17	Peterborough	Low level concern
Paul Goggins	28	Deerbolt	Low level concern
Mike Hancock	32	Camp Hill	Some concern
Mike Hancock	2	Winchester	Low level concern
Alan Haselhurst	10	Rye Hill	Low level concern
Adam Holloway	29	Swaleside	Significant concern
Kelvin Hopkins	1	Littlehey	Low level concern
Martin Horwood	4	Gloucester, Channings Wood, Erlestoke and Ford	Low level concern
Simon Hughes	20	Highpoint	Some concern
Huw Irranca-Davies	31	Rye Hill, Full Sutton and Long Lartin	Some concern
Tessa Jowell	6	Coldingley	Low level concern
David Lammy	14	Wymott and Acklington	Low level concern
David Lammy	24	Full Sutton	Some concern
Kerry McCarthy	16	Guy's Marsh	Low level concern
Siobhan McDonagh	30	Bronzefield	Low level concern
John McDonnell	19	Dorchester	Low level concern
Jessica Morden	8	Parc	No concern
Conor Murphy	23	Stocken, Lincoln, Bullingdon and Camp Hill	Significant concern
Ian Paisley	11	Wakefield	Some concern
Claire Perry	22	Bristol and Erlestoke	No concern
Adrian Sanders	13	Wandsworth	Some concern
Chris Skidmore	9	Erlestoke	Low level concern
Jack Straw	3	Preston and Garth	Some concern
Jack Straw	18	Rye Hill and The Mount	Low level concern
Sarah Teather	7	Albany	Low level concern
Sarah Teather	12	The Mount	Low level concern

No concern		There is a reasonable explanation of why these calls were downloaded for listening, which is within the rules
Low level concern		There was a technical breach of the rules, but there is no evidence to suggest that this was due to anything other than widespread lack of knowledge or administrative error.
Some concern		Calls were downloaded for listening in breach of the rules and there is at least one strand of evidence to suggest that this was not accidental. The evidence we have does not amount to a compelling case of deliberate interception of privileged communication, but further investigation may be possible and this should be done if MPs produce any additional evidence of concern.
Significant concern		These calls were downloaded for listening and listened to in breach of the rules and there are multiple strands of evidence to suggest that this was deliberate. We have asked NOMS to conduct a disciplinary investigation.

Appendix III: Detailed evidence about the calls to each MP

The following paragraphs present the evidence collected about the calls made to each MP. In each case only as much information as was needed to contribute to our findings was sought, and much of the information we requested was not available; in some cases, therefore, the list of available evidence is more comprehensive than in others. In general, the oldest cases have the least evidence, but we do not think this suggests that had evidence been available, more concerns would have been identified.

The information is presented alphabetically by MPs' surnames. In each case, a summary paragraph takes into account the more general findings of this inquiry and indicates which of the 12 evidence themes we have identified (see paragraphs 8.10–8.26) are most pertinent. Most cases have also been categorised according to the level of concern identified, as follows. However, where the calls were discovered at the end of our investigation (see paragraph 4.15), we have not made a judgement about our level of concern because of the more limited evidence base.

- i. **Significant concern** – These calls were downloaded for listening and listened to in breach of the rules and there are multiple strands of evidence to suggest that this was deliberate.
- ii. **Some concern** – These calls were downloaded for listening in breach of the rules and there is at least one strand of evidence to suggest that this was not accidental. The evidence we have does not amount to a compelling case of deliberate interception of privileged communication.
- iii. **Low level concern** – Although these calls were downloaded for listening and this was a technical breach of the rules, there is no evidence to suggest that this was due to anything other than widespread lack of knowledge or administrative error.
- iv. **No concern** – There is a reasonable explanation for why these calls were recorded and downloaded for listening, which is within the rules.

The levels of concern we have identified are illustrated in a colour coded table at Appendix II.

In some cases, the number of calls we now say took place is slightly lower than the information originally provided to individual MPs. This is because we have now had the opportunity to examine the data in more detail and have established that some calls were counted more than once because they were listened to more than once. In addition, some calls which lasted 0 seconds have not been counted. The data below is based on the best available data and our best interpretation of it at the time the report was compiled (see paragraph 2.1).

Calls to Diane Abbott MP from Prisoner 35

- On 15 March 2012, Prisoner 35 made a call to Ms Abbott from HMP Wellingborough which was recorded and downloaded for listening.
- The call was not listened to live.
- Prisoner 35 made five other calls to Ms Abbott which were recorded but not downloaded for listening, and were all less than 90 seconds long.
- We have not tried to contact Prisoner 35 because he is no longer in prison.
- Staff in Ms Abbott's office said that not all calls were logged, and that although the prisoner would not have spoken to Ms Abbott herself, any calls would have been about constituency business.
- Prison staff had identified Ms Abbott as an MP on the prisoner's PIN account. However, her telephone number was incorrectly set up so that all calls to it would be recorded.

- NOMS was unable to provide us with a record of Prisoner 35's request to have Ms Abbott's number on his PIN account, so we do not know what he requested.
- NOMS has no evidence to suggest that any additional monitoring was in place for Prisoner 35.

Evidence theme 1. It is likely that the prisoner had stated that Ms Abbott was an MP in his PIN application because staff identified her as such on the PIN phone system. They should therefore have set up the number to prevent the recording of calls. Poor staff awareness of confidential access probably explains these failings. Given that only one call was listened to, we conclude that the recording was listened to as part of a random sample and is of **low level concern**.

Calls to Diane Abbott MP from Prisoner 15

- Between 20 December 2006 and 6 May 2009, Prisoner 15 made five calls from HMPs Norwich, Highpoint and Blundeston to Ms Abbott, which were recorded and downloaded for listening.
- The longest call was for just over four minutes. The rest were for under two minutes, two of which were for less than half a minute. Two short calls were listened to twice.
- A further five calls were not downloaded for listening. This means that 50% of this prisoner's calls were listened to, which is much higher than we would expect from random listening.
- None of the calls was listened to live.
- We have not tried to contact Prisoner 15, because he is no longer in prison.
- Staff in Ms Abbott's office said that not all calls were logged, and that although the prisoner would not have spoken to Ms Abbott herself, any calls would have been about constituency business.
- Prison staff clearly identified Ms Abbott as an MP on the prisoner's PIN account. However, her telephone number was incorrectly set up so that all calls to it would be recorded.
- The error was only corrected by the intervention of NOMS in October 2014 when MPs' details were added to a global list of confidential numbers.
- NOMS was unable to provide us with a record of Prisoner 15's request to have Ms Abbott's number on his PIN account, so we do not know what he requested.
- We do not know whether Prisoner 15 was subject to additional monitoring, but if he was, it would appear to be ad hoc (selected calls) rather than routine (all calls).
- Given the length of time which has elapsed since these calls were made, we would not expect to find any monitoring logs.

Evidence themes 1 and 7. It is likely that the prisoner had stated that Ms Abbot was an MP in his PIN application, because staff had identified Ms Abbott as an MP on the PIN system. They should therefore have set up the prisoner's account to prevent the recording of calls to her. Staff listening to calls should have spotted this error and amended the prisoner's PIN account. Although poor awareness of confidential access may explain these failings, it is unlikely that five out of 10 calls would be downloaded as part of a random sample, and we are therefore not assured that the calls were listened to inadvertently. This case is therefore of **some concern**.

Calls to Bob Ainsworth MP from Prisoner 21

- Between 17 May 2007 and 23 May 2007, Prisoner 21 made two calls from HMP Rye Hill to Mr Ainsworth, which were recorded and downloaded for listening.
- The first of these calls was downloaded for listening twice. Neither was listened to live.
- The call which was listened to twice lasted just over three minutes and the other call was for one-and-a-half minutes.
- Prisoner 21 did not make any other calls to Mr Ainsworth.
- We have not tried to contact Prisoner 21 because he is no longer in prison.
- Mr Ainsworth did not respond to our letter asking for information about these calls.

- Prison staff clearly identified Mr Ainsworth as an MP in the PIN phone account. However, the account was incorrectly set up to record calls to him. The error was not corrected after the calls were listened to. It remained uncorrected until the date the number was removed from the prisoner's account.
- NOMS was unable to provide us with a record of Prisoner 21's request to have Mr Ainsworth's number on his PIN account, so we do not know what he requested.

Evidence themes 1 and 7. It is likely that the prisoner had stated that Mr Ainsworth was an MP in his PIN application, because Mr Ainsworth was marked as an MP on the PIN system. In this case, staff should have set up the account to prevent the recording of calls to him. Poor staff awareness of confidential access may explain these failings. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. The volume of calls is small, but two calls were listened to in a short period of time and one of the calls was listened to twice, which is not something we would usually expect from random monitoring. This case is therefore of **some concern**.

Calls to Hazel Blears MP from Prisoner 26

- On 3 July 2012, Prisoner 26 made one call from HMP Wolds to Ms Blears, which was recorded and downloaded for listening.
- This call was not listened to live.
- The call lasted for just over a minute.
- Prisoner 26 made five further calls to Ms Blears which were recorded but not downloaded for listening.
- We wrote to Prisoner 26, who is currently in prison, but he did not respond to our letter.
- Ms Blears did not respond to our letter asking for information about these calls.
- Ms Blears was clearly marked as an MP in the PIN phone account. However, the account was incorrectly set up to record calls to her. The error was only corrected by the intervention of NOMS in October 2014 when MPs' details were added to a global list of confidential numbers.
- NOMS was unable to provide us with a record of Prisoner 26's application to have this number on his PIN account, so we do not know what he requested.
- NOMS could not supply any evidence that Prisoner 26 was subject to additional monitoring.

Evidence themes 1 and 5. It is likely that the prisoner had stated that Ms Blears was an MP in his PIN application because she was marked as an MP on the PIN system. Therefore, staff should have set up the account to prevent recording. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains these failings. The fact that this was a single call suggests that the recording was listened to as part of a random sample, and is therefore of **low level concern**.

Calls to Karen Buck MP, from Prisoner 36

- On 6 October 2006, Prisoner 36 made a single nine-minute call to Ms Buck from HMP Swaleside, which was recorded and listened to live.
- Prisoner 36 made two other calls to Ms Buck which were not downloaded for listening.
- Ms Buck was not clearly identified as an MP in the PIN system.

Evidence theme 12. This call was identified late in our investigation and has not been fully investigated. The call was recorded in accordance with the settings in place on the system. It is unusual for a call to be listened to live, but other calls were not downloaded for listening, suggesting it was part of a random sample.

Calls to Paul Burstow MP, from Prisoner 23 (see also calls to Edward Davey and Conor Murphy)

- Between 13 August 2008 and 19 August 2008, Prisoner 23 made two calls from HMP Camp Hill to Mr Burstow, which were recorded and downloaded for listening.
- One of these calls, on 19 August 2008, lasted about five minutes and was listened to live. The other call was about 10 minutes long.
- Despite the length of time since these calls were made, we have tried to contact Prisoner 23 because of the live monitoring (see Conor Murphy MP) which took place and the volume of calls made to MPs. We wrote to him at the address he gave to NOMS on release, but have had no reply.
- There is evidence that Prisoner 23 was subject to routine listening to monitor compliance with a restraining order. This should not have included calls to MPs.
- Mr Burstow did not respond to our letter asking for information about this call.
- Mr Burstow was not clearly identified as an MP on the PIN phone account and therefore the account was set up to record calls to him.
- NOMS was unable to provide us with a record of Prisoner 23's application to have this number on his PIN account, so we do not know what he requested.

Evidence themes 6 and 8. Mr Burstow was not identified as an MP on the prisoner's PIN account, but we cannot tell whether this is because the prisoner did not specifically request this. It is likely that staff were unaware that Mr Burstow was an MP when his number was entered onto the system. However, staff listening to calls should have identified the error and amended the prisoner's account. It is possible that calls were recorded and listened to by staff unaware that MPs' numbers should have been excluded from targeted monitoring. However, this case is closely linked with others (see Edward Davey and Conor Murphy and paragraphs 7.29–7.33) and therefore it is of **significant concern**.

Calls to Edward Davey MP from Prisoner 23 (see also Paul Burstow and Conor Murphy)

- Between 7 July 2008 and 6 November 2008, Prisoner 23 made 15 calls from HMPs Camp Hill and Winchester to Mr Davey, which were recorded and downloaded for listening.
- Prisoner 23 made two calls to Mr Davey during this period which were recorded but not listened to.
- No calls were listened to live.
- The calls lasted from between one-and-a-half to three-and-a-half minutes.
- Despite the length of time since these calls were made, we have tried to contact Prisoner 23 because of the live monitoring (see Conor Murphy MP) which took place and the volume of calls made to MPs. We wrote to him at the address he gave to NOMS on release, but have had no reply.
- Staff in Mr Davey's office told us that Prisoner 23 spoke to office staff about constituency matters.
- Prison staff clearly identified Mr Davey as an MP on the PIN account but from 7 November, when the number was added to the prisoner's account, it was incorrectly set up to record calls. The status of the number was changed at HMP Camp Hill on 6 November 2008, two days after the last recording was made. It became recognised as a confidential access number and no further recording or listening was possible.
- It is clear from Prisoner 23's prison file that his communications were subject to targeted monitoring to prevent the harassment of others. While such monitoring was generally appropriate, there was no specific authority to record and listen to call to MPs. The evidence suggests that some calls to Mr Davey were recorded and listened to by staff who knew they were breaching confidentiality of calls to MPs (see paragraphs 8.27–8.30).
- NOMS was unable to provide us with a record of Prisoner 23's request to have Mr Davey's number on his PIN account, so we do not know what he requested.

- We have also discovered that Prisoner 23's telephone conversation with Mr Davey on 6 August 2008 was exported to disc on 27 October and again on 17 November 2008. Staff who completed this work should have had a much higher level of awareness of confidential access rules, and we consider it unacceptable that a call to an MP was exported to disc unless there was appropriate authority from the Home Secretary. We have not yet found such an authority.

Evidence themes 6 and 10. It is likely that the prisoner had stated that Mr Davey was an MP in his PIN application because he was clearly identified as an MP on the PIN system. Therefore, his number should have been set up in the system to prevent recording. The fact that it wasn't, together with the fact that Prisoner 23's communications were being routinely listened to, explains why so many calls were listened to, but this should not have included calls to MPs. It is possible that some of these calls were listened to by staff unaware that MPs' numbers should have been excluded from targeted monitoring. However, the export of a recording to disc should have been undertaken by fully trained staff and authorised at high level. Subject to further investigation, it seems very possible that listening was deliberate and therefore this case is of **significant concern**.

Call to Jim Dowd MP from Prisoner 34

- On 5 February 2008, Prisoner 34 made one call from HMP Wayland to Mr Dowd, which lasted about a minute and which was downloaded for listening.
- The call was not listened to live.
- Prisoner 34 made no other calls to Mr Dowd.
- We wrote to Prisoner 34. He replied that he knew he was entitled to call his MP in confidence and he believed he had made the request for 'privilege' correctly.
- Mr Dowd did not respond to our letter asking for information about these calls.
- The name associated with Mr Dowd's telephone number on the PIN account was 'Jim Dowd' and he was not clearly identified as an MP.
- NOMS was unable to provide us with a record of Prisoner 34's application to have this number on his PIN account.

Evidence theme 11. Mr Dowd was not identified as an MP on the prisoner's PIN account and it is likely that staff were unaware that Mr Dowd was an MP when his number was set up. It is most likely that the call was listened to as part of a random sample, and therefore this case is of **low level concern**.

Calls to Maria Eagle MP from Prisoner 27

- On 10 April 2007, Prisoner 27 made a single call from HMP Kingston to Ms Eagle which was recorded and downloaded for listening.
- The call was not listened to live.
- The call lasted for almost 10 minutes.
- Three calls made earlier that year had been recorded but were not downloaded for listening.
- We wrote to Prisoner 27. He replied to say that at the time he did not know that calls to MPs could be private and that he could not remember what he put on his application. However, he also said that he did not know his call would be recorded and potentially listened to.
- Ms Eagle confirmed that Prisoner 27 was a constituent and a regular correspondent. On 10 April 2007, he spoke to two members of staff. Ms Eagle raised concerns about the timing of the recording because she had received correspondence from Prisoner 27 which was dated the same day as the call was made.
- We held a video conference with Prisoner 27 to discuss these concerns, but given the length of time elapsed, we were unable to come to any firm conclusions.
- The name associated with Ms Eagle's telephone number on the PIN account was 'MARIA EAGLE MP', and staff had therefore clearly identified the number as belonging to an MP. However, the account was incorrectly set up to record calls to her in January 2007. The

account was amended to prevent recording in October 2007 and there is no evidence of what prompted this.

- NOMS was unable to provide us with a record of Prisoner 27's application to have this number on his PIN account.

Evidence themes 1 and 5. It is likely that the prisoner had stated that Ms Eagle was an MP in his PIN application because she was clearly identified as an MP on the PIN system. Therefore, staff should have set up the number to prevent recording. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised that it involved an MP (especially since it was one of the longer ones we have encountered) and amended the prisoner's account to ensure no further calls were recorded. The fact that three previous recordings were not listened to suggests there was no concerted attempt to monitor calls from the prisoner to Ms Eagle and the listening is likely to have been random. Poor staff awareness of confidential access probably explains these failings and therefore this case is of **low level concern**.

Calls to Lynne Featherstone MP from Prisoner 33

- On 13 January 2009, Prisoner 33 made a single call from HMP Holloway to Ms Featherstone, which was recorded and downloaded for listening.
- This call was not listened to live, but it was listened to within 20 minutes of the recording, which is unusual.
- The call lasted for almost two minutes.
- Prisoner 33 made a further two calls to Ms Featherstone which were recorded but not downloaded for listening.
- We did not write to Prisoner 33 because she is no longer in prison.
- Ms Featherstone did not respond to our letter asking for information about this call.
- Staff identified Ms Featherstone as an MP in the PIN account, but it was incorrectly set up to record calls to her.
- NOMS was unable to provide us with a record of Prisoner 33's application to have this number on her PIN account, so we do not know what she requested.

Evidence themes 1 and 5. It is likely that the prisoner had stated that Ms Featherstone was an MP in her PIN application, because staff identified her as such on the PIN system. Therefore, they should have set up the system to prevent the recording of calls to her. Poor staff awareness of confidential access probably explains these failings. It is likely that the recording was listened to as part of a random sample and is therefore of **low level concern**.

Call to Jim Fitzpatrick MP from Prisoner 25

- On 2 December 2010, Prisoner 25 made one call from HMP Wellingborough to Mr Fitzpatrick.
- This call was not listened to live.
- Prisoner 25 made a further 19 calls to Mr Fitzpatrick which were recorded but not downloaded for listening between 2003 and 2011.
- We did not write to Prisoner 25 because he is no longer in prison.
- Mr Fitzpatrick did not respond to our letter asking for information about these calls.
- Staff recorded Mr Fitzpatrick's telephone number on the PIN system as belonging to 'FITZPATRICK' and it was not clearly identifiable as an MP's number.

Evidence theme 5. Mr Fitzpatrick was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Fitzpatrick was an MP when his number was set up. Given that only one call was listened to, and only one was made, we have not pursued any further evidence. The call was probably listened to as part of a random sample and is therefore of **low level concern**.

Calls to Mike Gapes MP, from Prisoner 37

- Between 12 April 2007 and 28 September 2007 three calls were recorded and downloaded for listening.
- In the same period, Prisoner 37 made about 25 other calls to Mr Gapes which were not downloaded for listening.
- Mr Gapes was not clearly identified as an MP in the PIN system.

Evidence theme 12. This call was identified late in our investigation and has not been fully investigated. The calls were recorded in accordance with the settings in place on the system. Poor staff awareness of confidential access probably explains this failing. The volume and frequency of these calls means it is likely that they were part of a random sample.

Calls to Rhodri Glyn Thomas AM from Prisoner 5

- Between 18 December 2008 and 3 December 2009, Prisoner 5 made two calls from HMP Cardiff to a telephone number associated in the PIN system with Jonathan Edwards MP which were recorded and downloaded for listening.
- One call made on 18 February 2009 was listened to live and lasted almost 17 minutes. The other call, which was not listened to live, lasted almost two minutes.
- In the same period, 20 recordings were not downloaded for listening.
- We did not write to Prisoner 5 because he is no longer in prison.
- Mr Edwards told us that at the time these calls were made, Adam Price was the incumbent MP. We noticed that the name prison staff had attributed to this number (presumably at the prisoner's request) was Rhodri Glyn Thomas, who was clearly identified as an MP.
- We wrote to Mr Thomas on 2 February 2015, but have had no reply.
- On 16 December 2008, the number was approved and set 'to record'. The number was removed from the prisoner's PIN account on 7 May 2010.
- NOMS was unable to provide us with a record of Prisoner 5's request to have Mr Thomas' number on his PIN account so we do not know what he requested.
- We do not have any information from NOMS about whether additional monitoring was authorised for Prisoner 5.

Evidence themes 1 and 8. It is likely that the prisoner had requested the addition of an MP's number in his PIN application because staff identified Mr Thomas as an MP on the PIN phone system. Therefore they should have set up the system to prevent the recording of calls to this number. Staff listening to calls should have identified the error and amended the prisoner's PIN account. Poor staff awareness of confidential access may explain these failings. If there was a deliberate concerted attempt to interfere with the prisoner's calls, then it is likely that more of them would have been downloaded for listening. However, it remains of **some concern** that a particularly long call was listened to live.

Calls to Paul Goggins MP from Prisoner 28

- On 13 March 2013, Prisoner 28 made two calls from HMP Deerbolt to Mr Goggins which were recorded and downloaded for listening.
- Neither of these calls was listened to live.
- Both calls were under two minutes long.
- Prisoner 28 did not make any further calls to Mr Goggins.
- We wrote to Prisoner 28 who said that he had asked for the number to be added to the system as 'confidential access' so that the call would not be recorded.
- We wrote to the new MP for this constituency, Mike Kane, who told us that he did not have any casework records for Prisoner 28.

- Mr Goggins was not clearly identified as an MP on the PIN phone system which was set up to record calls to his number.
- NOMS was unable to provide us with a record of Prisoner 28's application to have this number on his PIN account, so we do not know what he requested.

Evidence theme 11. Mr Goggins was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Goggins was an MP. In the absence of the prisoner's PIN application we have not been able to verify the prisoner's account that he asked for Mr Goggins' number to be added as a confidential contact. Staff listening to the calls should have identified the error and amended the prisoner's PIN account. Poor staff awareness of confidential access may explain this failing. Because the listening only occurred on one occasion, this case is of **low level concern**.

Calls to Kate Green MP from Prisoner 17

- Between 6 September 2014 and 6 October 2014, Prisoner 17 made four calls from HMP Peterborough to Ms Green's constituency office which were recorded and downloaded for listening. All lasted less than three minutes.
- None of these calls was listened to live, but two were listened to more than once.
- Prisoner 17 also called Ms Green's parliamentary office on three occasions and these calls were not recorded.
- We wrote to Prisoner 17, and he replied to say that he had asked for the number to be on the confidential side of the system. He also told us that he believed this monitoring may have been done deliberately.
- The Director of HMP Peterborough contacted us about these matters and provided us with additional information.
- Prisoner 17 was subject to intelligence-led monitoring which was correctly authorised and recorded.
- Ms Green's constituency office told us that Prisoner 17 spoke to a caseworker about constituency business.
- The name associated with Ms Green's telephone number on the PIN account was an entirely different name, belonging to a member of the public, and therefore not included in this report. It was not clear that the number belonged to an MP.
- Prisoner 17 provided us with a copy of his applications to have Ms Green's numbers on his PIN account (printed receipts from the computerised system used by prisoners to make applications at HMP Peterborough). They clearly show that Prisoner 17 made an application for Ms Green's numbers to be added as 'legal numbers' and that this was approved. At the same time, he applied for some 'social numbers' to be added to his account.
- BT call data confirms that calls made to Ms Green's parliamentary office were correctly set up to be privileged and these were not recorded. However, calls made to the constituency office were recorded.

Evidence themes 3 and 6. It is likely that staff made a mistake adding new numbers to Prisoner 17's PIN account, with the result that Ms Green's number was attributed to someone else and was set up so that calls to it would be recorded. Staff listening to calls should have identified this error, particularly as some calls were listened to more than once. Prisoner 17 was subject to intelligence-led monitoring which explains why four of his calls were listened to, but the fact that this mistake happened means that this case is of **low level concern**.

Calls to Mike Hancock MP, from Prisoner 2

- On 16 July 2008, Prisoner 2 made a single call from HMP Camp Hill to Mr Hancock which was recorded and downloaded for listening and lasted about six minutes.
- This call was not listened to live.
- Prisoner 2 made a further two calls to Mr Hancock which were recorded but not downloaded for listening.

- We did not write to Prisoner 2 because he is no longer in prison.
- Mr Hancock did not respond to our letter asking for information about this call.
- Mr Hancock was not clearly identified as an MP in the PIN account which was set up to record calls to him.
- NOMS was unable to provide us with a record of Prisoner 2's application to add this number to his PIN account, so we do not know what he requested.

Evidence theme 5. Mr Hancock was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Hancock was an MP and therefore did not prevent calls being recorded. Given that only one call was listened to, we have not pursued any further evidence. The call was probably listened to as part of a random sample and is therefore of **low level concern**.

Calls to Mike Hancock MP, from Prisoner 32

- On 9 June 2008, Prisoner 32 made a single call from HMP Camp Hill to Mr Hancock's constituency office which was recorded and downloaded for listening. The call lasted about one minute.
- This call was not listened to live, but it was listened to twice. The second time it was listened to was a month after the first.
- Prisoner 32 made a further three calls to Mr Hancock which were recorded but not downloaded for listening.
- We did not write to Prisoner 32 because he is no longer in prison.
- Mr Hancock did not respond to our letter asking for information about this call.
- Mr Hancock was not clearly identified as an MP on the PIN phone system and telephone calls to his number were set up to be recorded.
- NOMS was unable to provide us with a record of Prisoner 32's application to have this number on his PIN account, so we do not know what he requested.

Evidence theme 7. Mr Hancock was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Hancock was an MP and therefore did not prevent calls being recorded. We have not sought any information about whether additional monitoring was in place because of the age of this case, but the pattern of listening is unusual and might suggest targeted activity. We note also that this case took place at Camp Hill (the site of three of the four cases of significant concern that we have identified) and therefore this case is of **some concern**.

Calls to Alan Haselhurst MP from Prisoner 10

- On 24 November 2010, Prisoner 10 made one call from HMP Rye Hill to a number belonging to Mr Haselhurst, which was recorded and downloaded for listening.
- The call lasted almost two minutes and was not listened to live.
- Prisoner 10 made a further 16 calls to Mr Haselhurst which were recorded but not downloaded for listening.
- We have not tried to contact Prisoner 10 because he is no longer in prison.
- Mr Haselhurst told us that he spoke to Prisoner 10 in person and that a number of calls were made over a period of time about constituency matters.
- The name associated with this number on the PIN phone account was 'Sir Michael Heseltine MP'. We do not know why.
- NOMS was unable to provide us with a record of Prisoner 10's request to have Alan Haselhurst's number on his PIN account, so we do not know what he requested.

Evidence theme 1. It is likely that the prisoner applied to add an MP's number in his PIN application, although the mismatch between 'Haselhurst' and 'Heseltine' is confusing. Staff clearly believed that the number belonged to an MP and they should have set the system up to prevent the recording of calls. Poor staff awareness of confidential access probably explains this failing. It is likely

that the recording was listened to as part of a random sample and it is therefore of **low level concern**.

Gordon Henderson MP, from Prisoner 29 (see also Adam Holloway MP)

- On 2 July 2012, Prisoner 29 made a six-and-half minute call to Mr Henderson which was recorded and listened to live.
- Prisoner 29 did not make any additional calls to Mr Henderson.
- Mr Henderson was not clearly identified as an MP on the PIN phone account and therefore the account was set up to record calls to him.

Evidence theme 12. This call was identified late in our investigation and has not been fully investigated. The calls were recorded in accordance with the settings in place on the system. We are concerned that such a long call was listened to live, particularly since the individual who listened to this call also listened live to numerous calls made by Prisoner 29 to Adam Holloway MP. We have asked NOMS to include this call in its investigation of the calls between Prisoner 29 and Adam Holloway.

Calls to Adam Holloway MP from Prisoner 29 (see also Gordon Henderson MP)

- Between 17 February 2009 and 6 February 2014, Prisoner 29 made 127 calls from HMP Swaleside to Mr Holloway, which were recorded and downloaded for listening.
- The calls varied in length from a few seconds to 18 minutes.
- Around 60 of these calls were listened to live. In some cases, two members of staff appeared to listen to live calls together. Over 400 other calls were recorded but not downloaded for listening.
- We have written to Prisoner 29, who said that he did not specifically ask for Mr Holloway to be placed on the confidential side of the system, but did not know that the call would be monitored. He said his calls concerned constituency matters.
- There are no records to suggest that Prisoner 29 has ever been subject to any form of offence-related or public protection monitoring.
- Prisoner 29 was a category B prisoner, so live listening would not have been routine for security purposes.
- Mr Holloway told us that Prisoner 29 called his office frequently.
- A record of Prisoner 29's request to have Mr Holloway's number on his PIN account confirms that he did ask for it to be added as a 'legal' number, but did not indicate that Mr Holloway was an MP. Prisoner 29 requested four 'legal' numbers on the same day. Two were set up to prevent recording, but two others, including Mr Holloway's, were set up to be recorded.

Evidence themes 7 and 8. Although the prisoner did not state that Mr Holloway was an MP on the Annex B application, he did ask for him to be a confidential access contact. In these circumstances we would have expected staff to check with Prisoner 29 about why he was requesting confidential access. It is not clear whether this happened, but it is clear that Mr Holloway's number was set to record. NOMS has informed us that Prisoner 29 was not on any form of additional monitoring. Therefore, the fact that so many calls were listened to, and so many listened to live (in some cases apparently by two staff together), is of **significant concern**.

Calls to Kelvin Hopkins, MP from Prisoner I

- On 1 March 2006, Prisoner I made one call from HMP Littlehey to Mr Hopkins, which was recorded and downloaded for listening. The call lasted about three minutes.
- This call was not listened to live. In fact it was not listened to until 13 May 2006, which is an unusually long time lag.
- Prisoner I made a further two calls to Mr Hopkins between 2005 and 2009.

- We did not write to Prisoner 1 because he is no longer in prison.
- Mr Hopkins did not respond to our letter asking for information about this call.
- The name associated with Mr Hopkins' telephone number on the PIN account was 'KELVIN HOPKINS', and was not easily identifiable as an MP. The system was set up to record calls to this number.
- NOMS was unable to provide us with a record of Prisoner 1's application to have this number on his PIN account, so we do not know what he requested.

Evidence theme 5. Mr Hopkins was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Hopkins was an MP. It is unusual for a call to be listened to on a random basis so long after the recording was made and this suggests some degree of deliberate targeting. However, this call is the oldest in our sample, and is a single call, and therefore of **low level concern**.

Calls to Martin Horwood MP, from Prisoner 4

- Between 19 February 2008 and 17 October 2012, Prisoner 4 made five calls from HMPs Gloucester, Channings Wood, Erlestoke and Ford to Mr Horwood which were recorded and downloaded for listening.
- Two calls lasted over 20 minutes, but the others were only a few minutes.
- None of these calls was listened to live, but one was downloaded for listening within 30 minutes, and one was downloaded for listening twice.
- Prisoner 4 made a further nine calls to Mr Horwood which were recorded but not downloaded for listening.
- The name associated with Mr Horwood's telephone number on the PIN account was 'MARTIN HORWOOD', and was not clearly identifiable as an MP.
- We wrote to Prisoner 4, and he said that he knew he could speak to his MP in confidence and believes he requested this explicitly.
- Mr Horwood's office told us that Prisoner 4 spoke to Martin Horwood in person about constituency matters.
- NOMS was unable to provide us with a record of Prisoner 4's application to have this number on his PIN account, so we do not know what he requested.
- NOMS told us that Prisoner 4 was on offence-led monitoring until 2012.

Evidence theme 6. Mr Horwood was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that was an MP. Staff listening to the calls should have noticed the error and amended the settings on the number. The fact that Prisoner 4 was on offence-led monitoring explains why so many calls were listened to, and therefore this case is of **low level concern**.

Calls to Simon Hughes MP, from Prisoner 20

- On 2 May 2014, Prisoner 20 made a single call from HMP Highpoint to Mr Hughes, which was recorded and downloaded for listening. It was just over two minutes long.
- The call was listened to live.
- Prisoner 20 made 107 other calls to Simon Hughes which were not downloaded for listening.
- We wrote to Prisoner 20 and he told us that he knew he could speak to his MP in confidence and that he believed he had made the application correctly.
- Mr Hughes did not respond to our letter asking for information about this call.
- NOMS provided us with a copy of Prisoner 20's application to have Mr Hughes' constituency telephone number added to his PIN account. Mr Hughes is listed as a 'friend'.
- The number was added to Prisoner 20's account on 26 February 2013 and was set to record. The account was not amended following the live listening, but it was amended in November 2014 by NOMS when this investigation was announced. NOMS has been unable to produce

evidence of this listening activity, despite having checked all the monitoring logs for ad hoc, random and intelligence monitoring.

- The BT log records a code to show which member of staff listened to a call. However, the login code applying to this call was shared between a number of different staff, so it is not possible to tell who was listening on this occasion.

Evidence themes 4 and 8. Mr Hughes was not identified as an MP on the prisoner's PIN account, in accordance with the prisoner's request. This explains why the call was recorded, but not why it was listened to live. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised it involved an MP and amended the prisoner's account to ensure no further calls were recorded. While it is unusual for a call to be listened to live, the fact that so many subsequent calls were not downloaded for listening suggests the breach of confidentiality was inadvertent. There are some additional concerns about shared login codes and we have made a separate recommendation about this (3.42). Otherwise, this case is of **low level concern**.

Calls to Huw Irranca-Davies, from Prisoner 31

- Prisoner 31 made nine calls from HMPs Rye Hill, Full Sutton and Long Lartin to Mr Irranca-Davies between 5 February 2011 and 6 January 2012.
- None of these calls was listened to live, but some, on 11 November 2011, were downloaded for listening within 10 minutes of their start.
- Calls lasted from half a minute to three calls which lasted almost four minutes.
- Twenty-eight additional calls were recorded but not downloaded for listening.
- We did not try to contact Prisoner 31 because he is no longer in prison.
- Mr Irranca-Davies did not respond to our letter asking for information about these calls.
- NOMS was unable to provide us with a record of Prisoner 31's application to have this number on his PIN account.
- Although Mr Irranca Davies was clearly marked as an MP the account was originally set up to record calls to his number. On 23 February 2011 the account was amended so that calls to the number would no longer be recorded, and then changed again on 4 July 2011 to reinstate recording. Finally, the number was removed from Prisoner 31's account in May 2012. We have not been able to establish why these changes were made.

Evidence themes 1 and 7. It is likely that the prisoner had stated that Mr Irranca Davies was an MP in his PIN application because staff identified him as such on the PIN system. Therefore, they should have set up the number to prevent recording. Poor staff awareness of confidential access probably explains this failing. A significant proportion of Prisoner 31's calls to Mr Irranca-Davies were downloaded for listening, mostly over two days when Prisoner 31 made frequent calls to the MP. This is not a pattern than we would expect of random monitoring and is of **some concern**.

Calls made to Tessa Jowell MP, by Prisoner 6

- Between 30 April 2007 and 5 June 2007, Prisoner 6 made two calls from HMP Coldingley to Ms Jowell, which were recorded and downloaded for listening. Both calls lasted less than two minutes.
- Neither call was listened to live.
- Prisoner 6 made a further 60 calls to Ms Jowell which were recorded but not downloaded for listening.
- We wrote to Prisoner 6 and he told us that he did know he could speak to an MP in confidence and that he had asked for the number to be treated as 'legal'.
- Ms Jowell's office informed us that there was ongoing casework for Prisoner 6 at this time. Not all calls were logged, but it is clear that on 19 April and 31 July at least, Prisoner 6 spoke to office staff.
- Ms Jowell was not clearly identified as an MP on Prisoner 6's PIN phone account and the system was set up to record calls to her.

- NOMS was unable to provide us with a record of Prisoner 6's application to have this number on his PIN account, so we cannot tell what he requested.

Evidence theme 5. Ms Jowell was not clearly identified as an MP on the PIN system. It is likely that staff were unaware that Ms Jowell was an MP. We do not know for how long the calls were listened to, but the staff listening to the calls should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains this failing. The recordings were probably listened to as part of a random sample and this case is therefore of **low level concern**.

Calls to David Lammy MP from Prisoner 14

- Between 8 April 2010 and 13 July 2012, Prisoner 14 made 11 calls from HMPs Wymott and Acklington to Mr Lammy, which were recorded and downloaded for listening. Most of these calls were around three minutes long.
- Prisoner 14 made a further 74 calls to Mr Lammy which were recorded but not downloaded for listening.
- None of these calls was listened to live.
- We did not write to Prisoner 14 because he is no longer in prison.
- Mr Lammy did not respond to our letter asking for information about these calls.
- Mr Lammy was not marked as an MP on the PIN account which was set up to record calls to him. This error had not been corrected by March 2012 when Mr Lammy's number was removed from the account.
- NOMS was unable to provide us with a record of Prisoner 14's application to have this number on his PIN account, so we cannot tell what he requested.

Evidence theme 5. Mr Lammy was not identified as an MP on the PIN system. It is likely that staff were unaware that Mr Lammy was an MP. We do not know for how long the calls were listened to, but the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains this failing. The recordings were probably listened to as part of a random sample and therefore this case is of **low level concern**.

Calls to David Lammy MP from Prisoner 24

- Between 6 February 2008 and 4 November 2010, Prisoner 24 made six calls from HMP Full Sutton to Mr Lammy, which were recorded and downloaded for listening.
- One call was listened to live, at least in part, on 6 February 2008. This call lasted for just under four minutes. Some other calls were downloaded for listening soon after they had finished.
- Prisoner 24 made a total of 91 calls to Mr Lammy between 2003 and 2011 and therefore the monitoring seems likely to have been random.
- We wrote to Prisoner 24 who is currently in prison. He replied telling us that he knew calls to MPs were confidential. He believes that when he made the request for Mr Lammy's number to be added to his PIN account, he asked for it to be private. His contacts with Mr Lammy were as a constituent.
- Mr Lammy did not respond to our letter asking for information about these calls.
- Mr Lammy was not marked as an MP on the PIN account. The records are not as clear as most others, and it is not possible to be clear about how the account was set up when the calls were made.
- NOMS was unable to provide us with a record of Prisoner 24's application to have this number on his PIN account, as all associated documentation had been shredded, so we cannot tell what he requested.
- NOMS told us that Prisoner 24 was not subject to any additional PIN phone monitoring.

Evidence theme 5 and 8. Mr Lammy was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that Mr Lammy was an MP. We do not know for how long the calls

were listened to, but the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains this failing, but the live listening means that this case is of **some concern**.

Calls to Fiona Mactaggart MP, from Prisoner 38

- On 23 March 2011, Prisoner 38 made a one-and-a-half minute call to Ms Mactaggart, which was recorded and listened to live.
- Prisoner 38 made numerous other calls to Ms Mactaggart which were not downloaded for listening.
- Ms Mactaggart was not clearly identified as an MP in the PIN system.

Evidence theme 12: The call was recorded in accordance with the settings in place on the system. While it is unusual for a call to be listened to live, the fact that so many other calls were not downloaded for listening suggests the breach of confidentiality was inadvertent.

Calls to Kerry McCarthy from Prisoner 16

- On 3 July 2009, Prisoner 16 made single call from HMP Guys Marsh to Ms McCarthy, which was recorded and downloaded for listening.
- This call was not listened to live.
- Prisoner 16 made one other call to Ms McCarthy which was recorded but not downloaded for listening.
- We did not write to Prisoner 16 because he is no longer in prison.
- Ms McCarthy's office told us that Prisoner 16 left a voicemail which was listened to by a caseworker.
- The name associated with Kerry McCarthy's telephone number on the PIN account was 'KERRY MCCARTHY', and was not easily identifiable as an MP.
- NOMS was unable to provide us with a record of Prisoner 16's application to have this number on his PIN account.

Evidence theme 5. Ms McCarthy was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that she was an MP. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised it involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains this failing. It seems likely that the call was listened to as part of a random sample and is therefore of **low level concern**.

Call made to Siobhan McDonagh MP, by Prisoner 30

- On 25 October 2013, Prisoner 30 made one call from HMP Bronzefield to Ms McDonagh, which was recorded and downloaded for listening.
- The call was not listened to live. It lasted over 19 minutes. We spoke to the member of staff who added this number to the PIN account and she was unaware at the time that prisoners were allowed to contact their MPs in confidence.
- Eleven other calls were made between 25 October 2013 and 8 January 2014 which were not downloaded for listening.
- We wrote to Prisoner 30 who believed she could speak to her MP in confidence. She did not answer our questions about her application to add Ms McDonagh's number to her PIN account.
- Ms McDonagh's office confirmed that Prisoner 30 called the office on several occasions and spoke to a caseworker about a constituency matter.
- Ms McDonagh was clearly identified as an MP on Prisoner 30's PIN phone account. The number was added to the prisoner's account on 25 October 2013 and it was set up to record calls to it.

- NOMS was unable to provide us with a record of Prisoner 30's application to have this number on her PIN account, so we do not know what she requested.
- HMP Bronzefield kept well-maintained records of its PIN monitoring. The records for the date this listening took place provide reassurance that monitoring and recording was done correctly, but do not include a record of Prisoner 30's call to Ms McDonagh. It is possible that although the call was downloaded for listening, it was not listened to. It is also possible that a member of staff forgot to log this particular call. The alternative possibility is that the member of staff sought to hide the fact that they listened to the call, but we can find nothing in Prisoner 30's circumstances which would make this likely.

Evidence themes 1 and 9. It is likely that the prisoner had stated that Ms McDonagh was an MP in her PIN application because staff identified her as such on the PIN system. Therefore, they should have set up the number to prevent recording. The call was one of the longer ones we have encountered and this of itself a matter of concern. We do not know for how long the call was listened to, but the staff member who listened to the call should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Because only one call was listened to, this case is of **low level concern**.

Call to John McDonnell MP from Prisoner 19

- On 6 March 2006, Prisoner 19 made one call from HMP Dorchester to Mr McDonnell, which was recorded and downloaded for listening. The call lasted almost three minutes.
- This call was not listened to live, but it was listened to twice.
- Prisoner 19 did not make any other calls to Mr McDonnell.
- We did not write to Prisoner 19 because he is no longer in prison.
- Mr McDonnell's office said that they had no conclusive records of this call, but believed that Prisoner 19 spoke to office staff, rather than the MP in person.
- Mr McDonnell was not clearly identified in the PIN account as an MP and it was set up to record calls to him.
- NOMS was unable to provide us with a record of Prisoner 19's application to have this number on his PIN account, so we do not know what he requested.

Evidence theme 11. Mr McDonnell was not identified as an MP on the prisoner's PIN account. It is likely that staff were unaware that he was an MP. Although the call was listened to twice, this case is of **low level concern**, because there was only one call. It is likely that poor staff awareness of confidential access explains these failings and that the recording was listened to as part of a random sample.

Calls to Jessica Morden MP from Prisoner 8

- Between 4 December 2009 and 15 January 2010, Prisoner 8 made 23 calls to Ms Morden's constituency office which were recorded and downloaded for listening.
- Many of these calls were very short; the longest lasted about seven minutes.
- None of the calls was listened to live, but several were listened to more than once.
- Prisoner 8 made a further 13 calls to Ms Morden which were recorded but not downloaded for listening.
- We did not write to Prisoner 8 because he is no longer in prison.
- Ms Morden's office told us that the calls were not related to a constituency matter.
- The name associated with Ms Morden's telephone number on the PIN account was a member of her office staff. The system was set up to record calls to the number, appropriately in this case.

Evidence theme 2. The recording and listening arrangements were appropriate given the nature of the calls. It is likely that the prisoner was subject to additional telephone monitoring. This case raises **no concern**.

Calls to Conor Murphy MP from Prisoner 23 (see also Paul Burstow and Edward Davey)

- Between 15 November 2006 and 19 August 2008, Prisoner 23 made 18 calls from HMPs Stocken, Lincoln, Bullingdon and Camp Hill to Mr Murphy which were recorded and downloaded for listening,
- Over half the calls listened to lasted less than one minute. The longest call was for 12 minutes.
- Prisoner 23 made 44 calls during this period which were recorded but not listened to.
- Two calls made on 19 August 2008 and 14 September 2007 were listened to live.
- Despite the length of time since these calls were made, we have tried to contact Prisoner 23 because of the live monitoring which took place and the volume of calls made to MPs. We wrote to him at the address he gave to NOMS on release, but have had no reply.
- It is clear from Prisoner 23's file that he was subject to routine monitoring to monitor a restraining order, but this should not have included calls to MPs.
- Mr Murphy told us that Prisoner 23 spoke to office staff about his case.
- The name associated with Mr Murphy's telephone number on the PIN account was 'conor murphy sinn fein', which should have been sufficient to alert staff that he was an MP. However, Prisoner 23's account was incorrectly set up to record calls to Mr Murphy. This error had not been corrected by November 2008 when the number was removed from Prisoner 23's account.
- NOMS was unable to provide us with a record of Prisoner 23's application to have this number on his PIN account, so we do not know what he requested.

Evidence themes 1 and 8. It is likely that the prisoner had stated that Mr Murphy was a Sinn Fein MP in his PIN application, because staff recorded his Sinn Fein affiliation on his PIN account. This should have been sufficient to alert staff that he was an MP and the number should have been set up to prevent recording. The fact that so many calls were listened to, including from the same prisoner to other MPs (see Edward Davey and Paul Burstow MP) reflects the routine monitoring in place. It is possible that some of these calls were listened to by staff unaware that MPs' numbers should have been excluded from targeted monitoring. However, there is also evidence that at least some staff knew that such calls should not have been listened to (see paragraphs 8.27–8.30). We have **significant concern** that these calls were listened to deliberately, and in spite of the rules.

Calls to Ian Paisley MP (junior) from Prisoner 11

- Between 5 March 2012 and 13 June 2012, Prisoner 11 made four calls from HMP Wakefield to Mr Paisley, which were recorded and downloaded for listening.
- None of the calls lasted more than a minute and a half. None were listened to live, but two were listened to twice.
- Prisoner 11 made two further calls to Mr Paisley which were recorded but not downloaded for listening.
- We wrote to Prisoner 11, who is currently in prison, but he did not respond to our letter.
- Mr Paisley did not respond to our letter asking for information about these calls.
- Mr Paisley was clearly marked as an MP on the PIN phone account, and at the time all the calls were made, the number was set up to be recorded. This error had not been corrected by the time Mr Paisley's number was removed from the prisoner's account in July 2013.
- Prisoner 11's application to have Mr Paisley's number on this PIN phone account was traced. Prisoner 11 submitted an application entitled 'legal PIN telephone application form' and clearly identified Mr Paisley as an MP. Someone other than Prisoner 11 (presumably a member of staff processing the application) has crossed out the word 'legal' and handwritten 'domestic' in its place. Staff processing PIN phone applications in this prison believed that MPs were not included as confidential access contacts. This would explain why the number was set up to be recorded.

- This prison still has records of monitoring conducted in 2012 but has not been able to find any record of these calls being listened to.

Evidence themes 1 and 7. The prisoner had clearly indicated in his application that Mr Paisley was an MP and that calls to him should be confidential. Staff should have set up the account to prevent the recording of calls to him, but deliberately altered his request, apparently without informing the prisoner. We do not know for how long the calls were listened to, but the staff member who listened to the call should have realised it involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access may explain these failings. However, the pattern of listening (three calls were listened to, two of them twice) is not indicative of random monitoring and this case is therefore of **some concern**.

Calls to Claire Perry MP from Prisoner 22

- Between 9 July 2008 and 8 December 2008, Prisoner 22 made 55 calls from HMPs Bristol and Erlestoke to a number now associated with Ms Perry, which were recorded and downloaded for listening.
- At the time this number did not belong to Ms Perry.
- Prisoner 22 made around 1,000 calls to this number in total, most of which were recorded but not downloaded for listening.
- None of these calls was listened to live.
- The PIN application provided by NOMS states the number was for Prisoner 22's partner. The partner's name was entered onto the PIN system when the number was added to Prisoner 22's account.
- We have not written to Prisoner 22 because he is no longer in prison.

Evidence theme 2. The evidence in this case suggests the prisoner was contacting his partner, rather than an MP, and therefore the PIN system was set up appropriately to record these calls. This case is of **no concern**.

Calls to Dame Joan Ruddock MP, from Prisoner 39

- On 23 September 2008, Prisoner 39 made a single three-minute call to Dame Ruddock, which was recorded and downloaded for listening.
- Prisoner 39 made no other calls to Dame Ruddock.
- Dame Ruddock was not clearly identified as an MP on the PIN system.

Evidence theme 12: The call was recorded in accordance with the settings in place on the system. Poor awareness of confidential access probably explains this failing.

Calls to Adrian Sanders MP from Prisoner 13

- Between 4 August 2009 and 11 August 2009, Prisoner 13 made three calls from HMP Wandsworth to Mr Sanders, which were recorded and downloaded for listening.
- The calls lasted between one and two minutes and none were listened to live.
- Prisoner 13 made a total of eight calls to Mr Sanders between 2006 and 2009, mostly in August and September 2009.
- We have not tried to contact Prisoner 13 because he is no longer in prison.
- Mr Sanders did not respond to our letter asking for information about the calls.
- Mr Sanders was clearly identified as an MP on the prisoner's PIN account. However, his number was incorrectly set up to be recorded.
- NOMS were unable to provide us with a record of Prisoner 13's request to have Mr Sanders' number on his PIN account, so we do not know what he requested.

Evidence themes 1 and 7. It is likely that the prisoner had stated that Mr Sanders was an MP in his PIN application, because staff clearly identified him as an MP in Prisoner 13's PIN account. Therefore, they should have set the number up to prevent the recording of calls. We do not know for how long the calls were listened to, but the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access may explain these failings. Three calls were listened to in a short period, and this does not seem likely to be the result of random monitoring, so this case is of **some concern**.

Calls to Chris Skidmore MP from Prisoner 9

- On 15 November 2009, Prisoner 9 made one call from HMP Erlestoke to a number associated with Mr Skidmore, which was recorded and downloaded for listening.
- An unidentified woman's name was associated with this number on the PIN phone system, and at the time the call was made, Roger Berry MP was the incumbent.
- We wrote to Prisoner 9, who is currently in prison, on 16 January 2015, but have received no reply.
- Mr Skidmore did not respond to our letter asking for information about this call.
- NOMS has been unable to provide us with a record of Prisoner 9's application to have this number on this PIN account, so we do not know what he requested.

Evidence theme 5. Given the lack of information available, it is impossible for us to judge why this call was recorded and listened to and whether this was appropriate. Because it is a single call, it is of **low level concern**.

Calls to Jack Straw MP from Prisoner 3

- Between 9 July 2008 and 9 September 2008, Prisoner 3 made nine calls from HMPs Preston and Garth to Mr Straw, which were recorded and downloaded for listening
- Prisoner 3 made a further eight calls which were recorded but not downloaded for listening.
- The longest call was for almost six minutes. None of the calls were listened to live, but three were listened to more than once. One of these, made in July 2008 and lasting almost two minutes, was listened to four times.
- We did not write to Prisoner 3, because he is no longer in prison.
- Mr Straw's office told us that Prisoner 3 spoke to a caseworker about constituency matters.
- Mr Straw was clearly marked as an MP on the PIN phone account, and at the time all the calls were made, the number was incorrectly set up to be recorded.
- NOMS was unable to provide us with a record of Prisoner 3's application to have this number on his PIN account, so we do not know what he requested.
- Some documentation provided by NOMS, found on a public protection file, includes notes of a telephone conversation (not to an MP) which was monitored in November 2008, suggesting that offence-related monitoring was taking place. We also have information which demonstrates that not all calls made to Mr Straw were downloaded for listening, which suggests that if monitoring had been authorised, it was ad hoc (selected calls), rather than routine (all calls). We selected one day when several calls to Mr Straw were downloaded (11 September 2008) and asked BT to search for other calls from Prisoner 3 which were downloaded that day. Several calls to another person were also downloaded. It may be that this person (the same person whose call was noted on the file – see above) was the target and the download of the whole day's calls may have been an administrative convenience. However, given that some of the calls were downloaded more than once, it seems likely that they were listened to.

Evidence themes 1 and 6. It is likely that the prisoner had stated that Mr Straw was an MP in his PIN application, because staff identified Mr Straw as an MP on Prisoner 3's PIN phone account. Therefore they should have set up the account to prevent the recording of calls to him. We do not know for how long the calls were listened to, but ideally the staff listening should have realised the

call involved an MP and amended the prisoner's account to ensure no further calls were recorded. There is evidence to suggest that some additional monitoring was in place and that calls were listened to repeatedly, but some calls were not downloaded for listening, and a variety of staff were involved. Given that Jack Straw was Secretary of State for Justice and Lord Chancellor at this time, we have considered this case very carefully, but on balance we do not think that there are multiple strands of evidence to suggest deliberate listening and, therefore, this case is of **some concern**.

Calls to Jack Straw MP from Prisoner 18

- Between 10 August and 7 October 2008, Prisoner 18 made five calls from HMPs Rye Hill and the Mount to Mr Straw, which were recorded and downloaded for listening.
- Two of these calls were listened to twice, but lasted for less than half a minute. The longest call was for six-and-a-half minutes. None of the calls was listened to live.
- Prisoner 18 made a total of 86 calls to Mr Straw from 2008–10.
- We did not write to Prisoner 18.
- Mr Straw's office told us that Prisoner 18 spoke to a caseworker about constituency matters.
- Mr Straw was clearly marked as an MP on the PIN phone account, and at the time all the calls were made, the number was incorrectly set up to be recorded.
- NOMS was unable to provide us with a record of Prisoner 18's application to have this number on his PIN account.

Evidence theme 1 and 5. It is likely that the prisoner had stated that Mr Straw was an MP in his PIN application, because staff identified him as an MP in the prisoner's PIN account. Therefore, they should have set up the account to prevent the recording of calls to him. We do not know for how long the calls were listened to, but the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access may explain these failings. The volume of calls downloaded for listening is small in comparison to the volume of calls made and therefore this case is of **low level concern**.

Calls to Sarah Teather MP, from Prisoner 12

- On 8 March 2006, Prisoner 12 made a single call from HMP the Mount to Ms Teather which was recorded and downloaded for listening.
- This call was not listened to live, but lasted for over 21 minutes.
- We did not write to Prisoner 12 because he is no longer in prison.
- Ms Teather's office confirmed that they had corresponded with Prisoner 12 in 2006, but they did not have records of specific telephone calls, so were unable to confirm to whom he spoke.
- Ms Teather was clearly identified as an MP on Prisoner 12's PIN account and the system was incorrectly set up to record calls to her.
- NOMS was unable to provide us with a record of Prisoner 12's application to have this number on her PIN account so we do not know what he requested.

Evidence themes 1 and 5. It is likely that the prisoner had stated that Ms Teather was an MP in his PIN application because staff had clearly shown her as an MP in the prisoner's PIN phone account. Therefore, staff should have set the system up to prevent the recording of calls to this number. The call was one of the longest ones we have encountered. We do not know for how long the call was listened to, but the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains these failings. It is likely that the recording was listened to as part of a random sample and is therefore of **low level concern**.

Calls to Sarah Teather MP, from Prisoner 7

- Between 4 September 2007 and 18 March 2009, Prisoner 7 made three calls from HMP Albany to Ms Teather's constituency office which were recorded and downloaded for listening.
- One of the calls, on 4 September 2007 was listened to live.
- The longest call was for 11 minutes and the shortest was for four-and-a-half minutes.
- We wrote to Prisoner 7. He told us that he was aware that he could contact his MP privately and he believed that Ms Teather was registered on his PIN account as a confidential access contact at the time. He also told us about some personal circumstances around the time of these calls which he believed would have made it more likely for staff to want to listen to his conversations.
- Ms Teather's office confirmed that Prisoner 7 had been on the caseload, and they had a record of a specific call to a caseworker, on 5 March 2009. Our records suggest a call was made on 4 March, so this may be a reporting error.
- Ms Teather was not clearly identified as an MP on Prisoner 7's PIN account which was set up to record calls to her.
- NOMS was unable to provide us with a record of Prisoner 7's application to have this number on his PIN account, so we do not know what he requested.

Evidence theme 8. Ms Teather was not identified as an MP in Prisoner 7's PIN account. It is likely that staff were unaware that Ms Teather was an MP. We do not know for how long the call was listened to, but ideally the staff listening should have realised the call involved an MP and amended the prisoner's account to ensure no further calls were recorded. Poor staff awareness of confidential access probably explains this failing. The volume and frequency of these calls means it is likely that they were part of a random sample and therefore this case is of **low level concern**.

Appendix IV: Confidential access organisations

The current list of confidential access organisations is published in PSI 49/2011 and applies to both telephone and mail communications, as follows:

- Criminal Cases Review Commission (CCRC)
- Legal Ombudsman
- Care Quality Commission
- Parliamentary & Health Service Ombudsman
- Office of the Legal Services Ombudsman
- Prisons and Probation Ombudsman (PPO)
- Her Majesty's Inspectorate of Prisons (HMI Prisons)
- Members of the National Council of Independent Monitoring Boards (IMB) and its Secretariat
- Equality and Human Rights Commission (EHRC)
- Members of Parliament (MP) or Members of the National Assembly for Wales (AM) or Members of European Parliament (MEP)
- Embassy or Consular Officials
- Samaritans
- Registered Medical Practitioners (but only in cases where they are treating a prisoner with a life threatening medical condition)
- An Electoral Registration Officer (for submitting a postal vote only)

Appendix V: The current communications compact

ANNEX A

NAME.....

PRISON NUMBER.....



Ministry of
JUSTICE

National Offender
Management Service

HMP XXXXXXX COMMUNICATIONS COMPACT

Note to staff – this compact must be explained to all prisoners.

Prisoners must sign a copy of this compact before being allowed to use the PIN phone System. If a prisoner has reading difficulties the compact must be read to them. The prisoner and the member of staff who issued/explained the compact must sign the form.

The signed whole copy must be stored consistently in the prisoners' core record, security file or wing file.

INTRODUCTION

The Prison Service has a duty to ensure that prisoners are able to maintain contact with friends and family where this is in the best interests of both parties. Nevertheless, prisons must balance this with their duty to hold prisoners in lawful custody in well-ordered establishments, and to contribute to prevention and detection of crime. Some monitoring of prisoners telephone calls and mail is therefore necessary.

TELEPHONE CALLS – TERMS & CONDITIONS OF USE OF PIN PHONE SYSTEM

You are being allowed to use the PIN phone system on the following conditions:

1. The Personal Identity Number (PIN), which you will be given, will allow you to use the telephone. Only you must use this PIN number. You must keep it safe. You must not let other prisoners use your PIN and must not use another prisoner's PIN.
2. Calling or attempting to call unauthorised telephone numbers, using PIN numbers which are not yours, or handing the phone to another prisoner to continue a

conversation you have initiated using your PIN number may result in disciplinary action against you or in certain cases a criminal investigation.

The telephone numbers you have on your social and confidential list will be held on your individual account on the computer database which runs the PIN phone system and stored in accordance with the provisions of the Data Protection Act 1998.

4. **CONVERSATIONS WHICH TAKE PLACE USING PRISON PIN PHONES WILL BE RECORDED AND MAY BE MONITORED BY PRISON STAFF. PIN PHONES CAN BE USED ONLY BY PRISONERS WHO CONSENT TO THIS.**
5. The exception to paragraph 4 is that calls to your legal advisers (as notified by you to the PIN phone clerk), courts, or Confidential Access organisations¹⁵ are confidential and will not be recorded or monitored except where there is reasonable cause to believe that the calls are intended to further a criminal purpose. The decision to monitor these calls will be taken only on the authority of the Chief Executive Officer of the National Offender Management Service (NOMS), the Director of National Operational Services or Duty Director. In such circumstances recording will continue for no longer than necessary to establish the facts and to take any action necessary.
6. You must ensure that you clearly **identify your confidential telephone numbers** when you complete the PIN phone application form. This is your responsibility. Failure to do so is likely to result in confidential calls being recorded and they may be monitored.
7. Prisoners in the list below are subject to monitoring on account of an identifiable risk they pose:
 - a. prisoners who are identified as posing a risk to children;
 - b. prisoners remanded for, or convicted of, an offence under the Protection from Harassment Act 1997, or subject to a restraining order or injunction. This must continue while an order/injunction is in force, and subsequently if deemed necessary;
 - c. prisoners convicted of an offence listed in the Sex Offenders Act 1997, and subject to a restraining order, as set out in PSI 28/2001;
 - d. category A prisoners;
 - e. Escape (E) list;
 - f. where information suggests a prisoner may intimidate victims/witnesses.
8. A maximum of up to 5% of all other calls made on the PIN phone system are subject to monitoring on a daily basis.
9. This form may be used as evidence in any subsequent adjudication involving abuse of the telephone.
10. No credit cards calls or diverted calls via other telecommunication providers are permitted.
11. You must not conduct a conversation on a PIN phone that contains any of the following;
 - plans or information which would assist or encourage any disciplinary or criminal offence
 - escape plans that might jeopardise the security of prison;

¹⁵ Confidential Access organisations are explained in PSI 49/2011 and apply to both telephone and mail communications – the current list (December 2011) is detailed in Appendix IV.

- information that might jeopardise national security;
- information associated with the making of any weapon, explosive, poison or other destructive device,
- obscure or coded messages;
- material which would create a clear threat, or present danger of violence or physical harm, to any person, including incitement or racial hatred, or which might place a child's welfare at risk; and/or
- material which is intended to cause distress or anxiety to the recipient or any other person, such as messages which are indecent or grossly offensive, or a threat, or information which is known or believed to be false.

12. **FAILURE TO ABIDE BY THESE CONDITIONS MAY RESULT IN WITHDRAWAL OF ACCESS TO THE TELEPHONE AND DISCIPLINARY ACTION UNDER PRISON RULE 51 (YOI RULE 50).**

LETTERS – TERMS & CONDITIONS FOR WRITTEN CORRESPONDENCE

1. Prisoners must include their name, number and establishment address on any outgoing correspondence. Any legally privileged mail must be marked.
2. A maximum of up to 5% of the correspondence sent and received on a daily basis by prisoners is subject to monitoring. **All mail, except legally privileged or to a confidential access organisation, may be opened to check for illicit enclosures and may be subject to monitoring.**
3. Letters can be read in the following cases:
 - prisoners in High Security establishments or any unit which holds Category A prisoners;
 - prisoners who are on the Escape (E) list;
 - prisoners who are identified as posing a risk to children;
 - prisoners remanded for, or convicted of, an offence under the Protection from Harassment Act 1997, or subject to a restraining order or injunction. Routine reading must continue while an order/injunction is in force, and subsequently if deemed necessary;
 - information has been received that the prisoner presents a risk for the intimidation of victims/witnesses.
 - prisoners remanded for, or convicted of, an offence of sending or attempting to send obscene mail
4. The exception to 2 and 3 is that correspondence that is legally privileged (Prison Rule 39 or YOI Rule 17) or to / from a confidential access organisation, will not normally be opened or read. However, it should be recognised that it may be opened accidentally or in error if it is not clearly marked as either 'Rule 39', 'YOI Rule 17' or 'Confidential Access'. If staff suspect that a letter marked 'Rule 39' or 'confidential access' may contain an unauthorised item, they may, on authority of the Governor, decide to open it in your presence. In exceptional circumstances, the Governor may be so concerned about the contents of the correspondence that they decide to read it in your presence. This would be because they think it may endanger the security of the prison, or someone's safety, or that the letter is intended to further a criminal purpose.
5. Prisoners may write their letters or receive letters in the language of their choice, but letters not written in English and which are subject to reading may be subject to delay while they are translated.

6. Correspondence must not contain the following:
- a. material which is intended to cause distress or anxiety to the recipient or any other person, such as messages which are indecent or grossly offensive; or a threat; or information which is known or believed to be false;
 - b. plans or material which could assist or encourage any disciplinary or criminal offence (including attempts to defeat the ends of justice by suggesting the fabrication or suppression of evidence);
 - c. escape plans, or material which if allowed may jeopardise the security of a prison establishment;
 - d. material which may jeopardise national security;
 - e. descriptions of the making or use of any weapon, explosive, poison or other destructive device;
 - f. obscure or coded messages;
 - g. material which is indecent and obscene under Section 85(3) of the Postal Services Act 2000;
 - h. material which, if sent to, or received from, a child might place his or her welfare at risk;
 - i. material which would create a clear threat or present danger of violence or physical harm to any person, including incitement to racial hatred or which might place a child's welfare at risk;
 - j. material which is intended for publication or use by radio or television (or which, if sent, would be likely to be published or broadcast) if it contravenes the guidance in PSI 49/2011 and PSI 01/2012.

COMMUNICATIONS COMPACT: AGREEMENT TO TERMS AND CONDITIONS

- **I confirm that I understand the terms and conditions of use of the PIN telephone system and for written correspondence and I agree to them. I understand that this Compact will be retained on my file:**

Prisoner Name:	
Prisoner Number:	
Signature:	
Date Signed:	

Name of member of staff:	
Job Title:	
Signature:	

ANNEX B



HMP PIN TELEPHONE SYSTEM NUMBER REQUEST

Prison Number	Name	Unit
---------------	------	------

The telephone numbers you submit will only be allowed on the understanding that the recipient is willing to accept your call.

Certification

I am requesting that the names and telephone numbers listed on this form be added to my list of telephone contacts.

I certify that all numbers listed are to persons willing to accept my calls and that the telephone calls made to those persons will be made for the purposes allowable under Prison Rules.

Signature	Date
------------------	-------------

Wing Staff. I confirm that this form has been fully completed and that the information provided is sufficient to enable the appropriate checks to be made.

Signed: _____ Print: _____

Date forwarded to Security _____

Date arrived at Security _____

(Security) Public Protection Measures apply YES / NO	Not subject to Public Protection Measures Signed: _____ Print: _____
--	--

Date forwarded from Security to Pins Clerk: _____

(Input on PINS System)		
PINS Clerk Name: _____	Signed: _____	Date: _____

LEGAL TELEPHONE NUMBERS TO BE ADDED

Number (Including Area Code)	Name	Company Town/City	Approved by Security OSG YES / NO (Sign/Print/Date)

NUMBERS TO BE REMOVED

Number (Including Area Code)	Name of Recipient	Relationship to Prisoner

ANNEX C

DETAILS OF PIN PHONE CALL TO LEGAL NUMBER WHICH HAS BEEN RECORDED

OCCURRENCE	RESPONSE / ACTION TAKEN
Establishment	
At the time the recording was made, was the establishment operating call barring or call enabling?	
Name of the prisoner making the call	
Prisoner's number	
Sentenced / Remand?	
Index offence / charge	
Is the prisoner subject to offence related restrictions / monitoring?	
Was the PIN account used to make the call registered to the prisoner who made the call?	
If not, what is the name and number of the prisoner to whom the account is registered?	
Is this prisoner subject to offence related restrictions / monitoring?	
Date and time of the call	
Telephone number listened to	
Owner of the number / recipient of the call	
Name of person who heard the call	
Role of the person who heard the call	
Date and time of listening	
Details of conversation heard	
Was the number moved to restricted side?	
If not, why?	
Was the evidence / product downloaded and sealed in an	

evidence bag?	
Was an SIR submitted?	
What was the reference number?	
Was the duty Governor informed?	
What is the name, appointment and phone number of the duty Governor?	
Had the prisoner signed a PIN phone compact?	
Had the prisoner notified the number as a legal one?	
Who entered the number on the PIN system?	
Was the number correctly entered as a legal number?	
Why was the call being listened to? (Intelligence / Offence / Random)	
If a PAS application was in place, what was the reference number?	
Has any other prisoner called this number?	
Have any other calls to the number been recorded and / or listened to?	

Name of Person Submitting Report.....

Job Title.....

Date.....

Appendix VI: Existing PIN phone notice text

Suggested text for notices to be placed adjacent to wing PIN phones, as set out in PSI 49/2011, annex C.

'CONVERSATIONS MADE ON THIS PINPHONE WILL BE RECORDED AND MAY BE LISTENED TO BY PRISON STAFF. PINPHONES ARE PROVIDED ONLY FOR USE BY PRISONERS WHO CONSENT TO THIS. IT IS YOUR RESPONSIBILITY TO ADVISE THE PERSONS YOU SPEAK TO THAT THE CONVERSATION WILL BE RECORDED AND MAY BE MONITORED BY PRISON STAFF.'

CALLS TO YOUR LEGAL ADVISER, THE SAMARITANS, CONSULAR OFFICIALS, THE PRISONS OMBUDSMAN AND THE CRIMINAL CASES REVIEW COMMISSION, OR CALLS TO CERTAIN OTHER REPUTABLE ORGANISATIONS ARE REGARDED AS PRIVILEGED AND WILL NOT BE RECORDED OR MONITORED.'

Appendix VII: Extract from Prison Rules 1999

Communications generally

34.—(1) The Secretary of State may, with a view to securing discipline and good order or the prevention of crime or in the interests of any persons, impose restrictions, either generally or in a particular case, upon the letters or other communications to be permitted between a prisoner and other persons.

(2) Without prejudice to the generality of paragraph (1), the Secretary of State may require that any visit, or class of visits, shall be held in facilities which include special features restricting or preventing physical contact between a prisoner and a visitor.

(3) Without prejudice to sections 6 and 9 of the Prison Act 1952(8), and except as provided by these Rules, a prisoner shall not be permitted to communicate with any outside person, or that person with him, without the leave of the Secretary of State or as a privilege under rule 8.

(4) Except as provided by these Rules, every letter or other communication to or from a prisoner may be read, listened to, logged, recorded or examined by the governor or an officer deputed by him, and the governor may, at his discretion, stop any letter or other communication on the ground that its contents are objectionable or that it is of inordinate length.

(5) Every visit to a prisoner shall take place within the sight of an officer, unless the Secretary of State otherwise directs.

(6) Except as provided by these Rules, every visit to a prisoner shall take place within the hearing of an officer, unless the Secretary of State otherwise directs.

(7) The Secretary of State may give directions, generally or in relation to any visit or class of visits, concerning the day and times when prisoners may be visited.

(8) In this rule:

“communications” includes communications during or by means of visits or by means of a telecommunications system or telecommunications apparatus, and “telecommunications apparatus” has the meaning assigned by paragraph 1 of Schedule 2 to the Telecommunications Act 1984(9).

Personal letters and visits

35.—(1) Subject to paragraph (8), an unconvicted prisoner may send and receive as many letters and may receive as many visits as he wishes within such limits and subject to such conditions as the Secretary of State may direct, either generally or in a particular case.

(2) Subject to paragraph (8), a convicted prisoner shall be entitled—

(a)

to send and to receive a letter on his reception into a prison and thereafter once a week; and

(b)

to receive a visit twice in every period of four weeks, but only once in every such period if the Secretary of State so directs.

(3) The governor may allow a prisoner an additional letter or visit as a privilege under rule 8 or where necessary for his welfare or that of his family.

(4) The governor may allow a prisoner entitled to a visit to send and to receive a letter instead.

(5) The governor may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(6) The board of visitors may allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

(7) The Secretary of State may allow additional letters and visits in relation to any prisoner or class of prisoners.

(8) A prisoner shall not be entitled under this rule to receive a visit from:

(a)

any person, whether or not a relative or friend, during any period of time that person is the subject of a prohibition imposed under rule 73; or

(b)

any other person, other than a relative or friend, except with the leave of the Secretary of State.

(9) Any letter or visit under the succeeding provisions of these Rules shall not be counted as a letter or visit for the purposes of this rule.

Police interviews

36. A police officer may, on production of an order issued by or on behalf of a chief officer of police, interview any prisoner willing to see him.

Securing release

37. A person detained in prison in default of finding a surety, or of payment of a sum of money, may communicate with and be visited at any reasonable time on a weekday by any relative or friend to arrange for a surety or payment in order to secure his release from prison.

Legal advisers

38.—(1) The legal adviser of a prisoner in any legal proceedings, civil or criminal, to which the prisoner is a party shall be afforded reasonable facilities for interviewing him in connection with those proceedings, and may do so out of hearing but in the sight of an officer.

(2) A prisoner's legal adviser may, subject to any directions given by the Secretary of State, interview the prisoner in connection with any other legal business out of hearing but in the sight of an officer.

Correspondence with legal advisers and courts

39.—(1) A prisoner may correspond with his legal adviser and any court and such correspondence may only be opened, read or stopped by the governor in accordance with the provisions of this rule.

(2) Correspondence to which this rule applies may be opened if the governor has reasonable cause to believe that it contains an illicit enclosure and any such enclosures shall be dealt with in accordance with the other provision of these Rules.

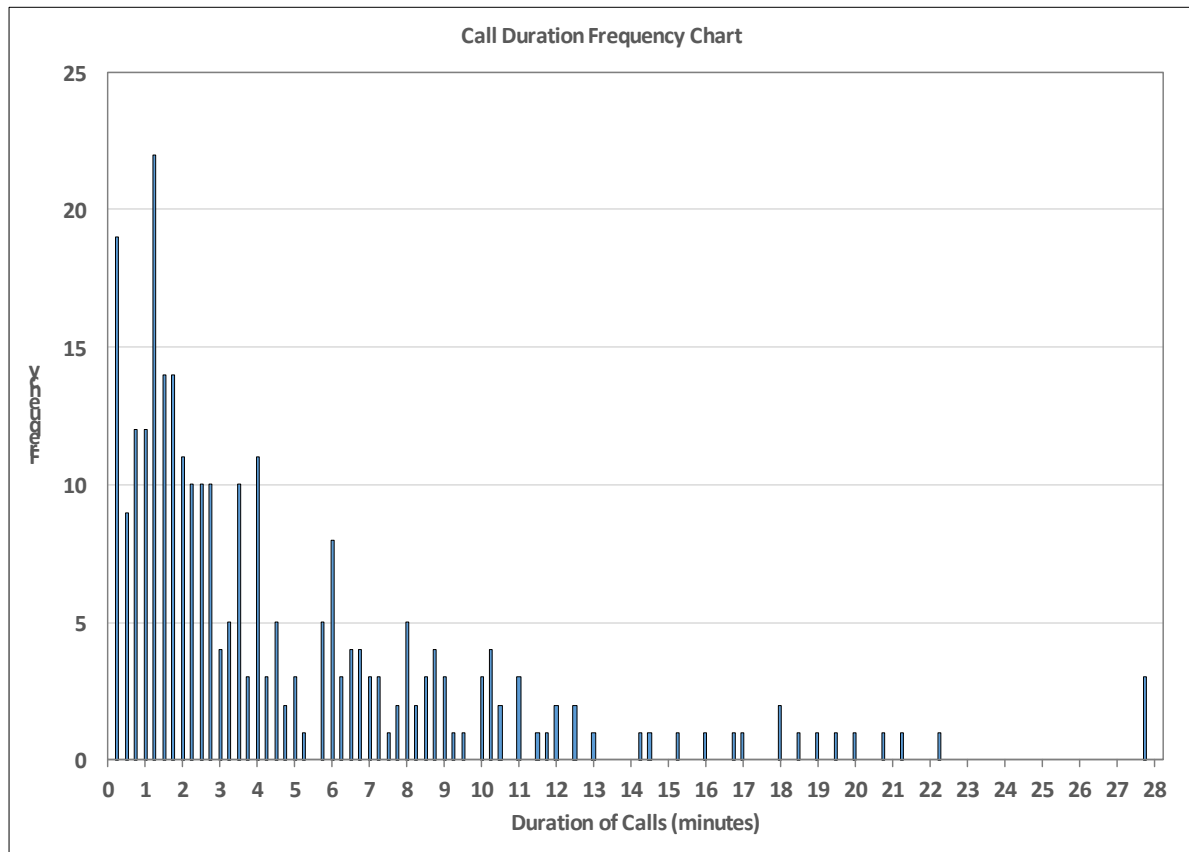
(3) Correspondence to which this rule applies may be opened, read and stopped if the governor has reasonable cause to believe its contents endanger prison security or the safety of others or are otherwise of a criminal nature.

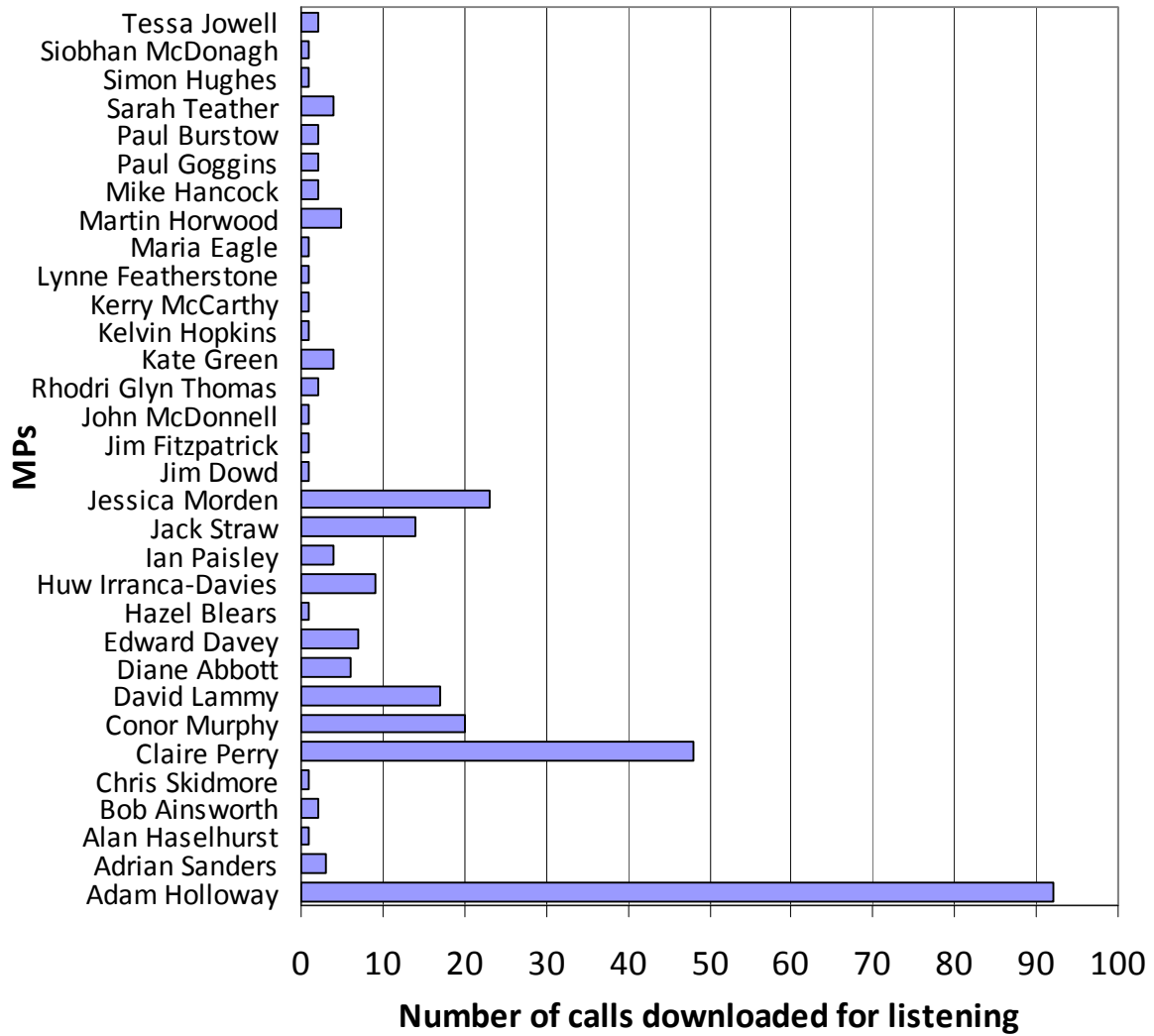
(4) A prisoner shall be given the opportunity to be present when any correspondence to which this rule applies is opened and shall be informed if it or any enclosure is to be read or stopped.

(5) A prisoner shall on request be provided with any writing materials necessary for the purposes of paragraph (1).

(6) In this rule, "court" includes the European Commission of Human Rights, the European Court of Human Rights and the European Court of Justice; and "illicit enclosure" includes any article possession of which has not been authorised in accordance with the other provisions of these Rules and any correspondence to or from a person other than the prisoner concerned, his legal adviser or a court.

Appendix VIII: Call data





Appendix IX: Glossary

Annex B	A form used by prisons to apply for telephone numbers to be added to their PIN account
Communications compact	A pro forma which prisoners sign to accept the terms and conditions for communications in prisons, including the PIN phone system
Confidential access	An alternative phrase for 'privileged communications', specifically those which are not legal
Downloaded for listening	The first part of the listening process, whereby recorded calls are transferred to the playback application
Global list	A list of telephone numbers that all prisoners are permitted to call, regardless of whether they have registered that number on their personal PIN account
IOCCO	Interception of Communications Commissioner's Office
Legals	A term commonly used in prisons to refer to privileged telephone calls or numbers
Live listening	When a call is listened to in real time i.e. as it is taking place
NOMS	National Offender Management Service
PIN	Personal identification number
PIN account	Register of numbers an individual prisoner is authorised to call, linked to his/her available telephone credit
PIN application	An alternative name for an Annex B form
PIN phone system	The prison system by which prisoners can make telephone calls
Playback application	The software used to listen to prisoners' telephone calls
PPO	Prisons and Probation Ombudsman
Privileged communications (letters and telephone calls)	Those which are excluded from the usual censorship arrangements. This applies to calls to legal advisors and to a range of other professionals and organisations including MPs
PRT	Prison Reform Trust

HM Inspectorate of Prisons is a member of the UK's National Preventive Mechanism, a group of organisations which independently monitor all places of detention to meet the requirements of international human rights law.

