

## Prison Reform Trust response to HMPPS Draft Prisoners' Property Policy Framework – May 2021

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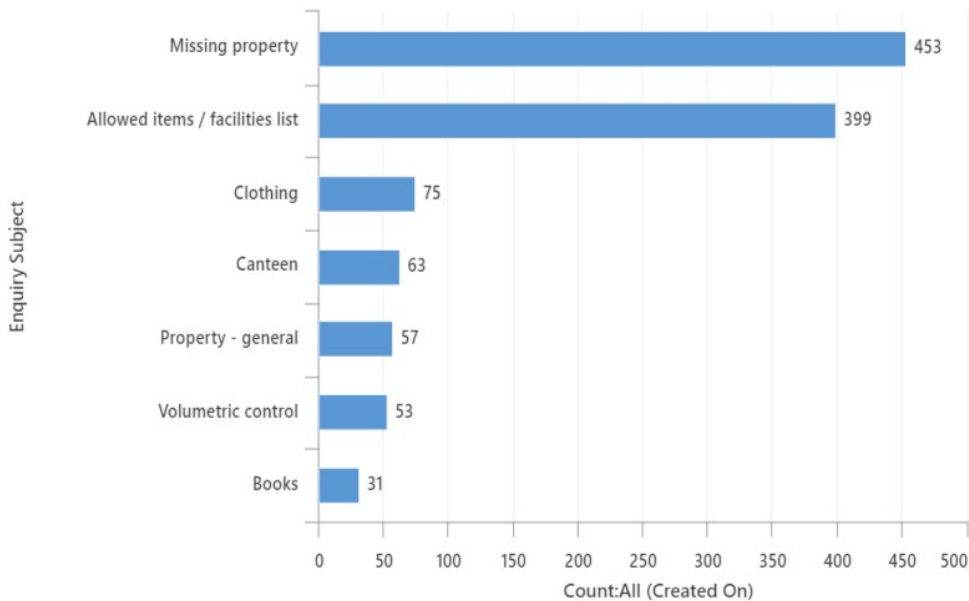
- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

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### Executive summary

We welcome the opportunity to submit feedback on the draft *Prisoners' Property Policy Framework*. Our Advice and Information service receives a large number of enquiries about this subject—in fact in the last 3 years we have received 1,131 enquiries within the category 'Property and Canteen' of which 'Missing property' is the most common subject. We have drawn on these enquiries within our response.

### Enquiries about Property and Canteen within the last 3 years, by subject



There are elements to welcome in the draft document. It marks an important acknowledgement of the problems that have historically existed with the management of property by prisons, and places emphasis on the importance of good record keeping and efficient investigation into property complaints. It seeks to remind staff that the impact of property loss or damage goes much wider than the material concerns, and can have a long lasting impact of people's perception of trust in staff and the prison service.

*“Staff are saying my property is lost. How can all my property go missing? This is stressing me out, I feel let down from this prison and it's having a traumatic impact on me. I don't trust the prison anymore and it's leaving me anxious so can you help me please cuz my mental health is going downhill.”*

(Extract from a letter to our A&I service)

Despite the intentions, we are not convinced that the changes represented in this policy will be enough to make a significant difference to this longstanding issue. The requirements must be strengthened to better meet the ambitions of the policy, and we have identified those areas below that our contact with prisoners show are particularly problematic. The importance of respect and responsibility in dealing with property, whilst acknowledged in places, needs to be clearly echoed throughout the document.

In particular there is a lack of time limits in appropriate places and overly lenient time frames where they are included. The more time that is allowed to elapse before property is forwarded to a receiving prison; before property is secured and cleared from a cell; before a proper investigation is conducted when something is reported missing; the more likely it is that something will go missing. It is important that reasonable time frames are in place and monitored. We have highlighted specific examples at the relevant places below.

It is apparent at nearly every stage of the process where digital solutions could vastly improve things and we are disappointed that this is not part of the current review. We have nonetheless made some suggestions of this nature within our response. We urge this change to be made as soon as possible—the financial benefits involved in property claims alone surely justify some of the financial investment necessary. We cannot not see how technology for this purpose would create any real security concerns, and it would reduce many.

We note that the draft version shared with us does not have the cover page which usually contains the assessment of resource impact. In the majority of revised policies, the judgment has been made that it is not expected that there will be any resource impact to an existing service. We urge you to consider this carefully with consultation with staff—managing property properly, making accurate and detailed records, and effectively investigating in the way that this policy intends will inevitably take more staff time. Not fully accounting for this would really undermine the potential of this policy. Conversely, an objective analysis of the time staff spend dealing with an antiquated process would help make the case for its modernisation.

We understand the prison service is also keen to adopt “high reliability” as an operating ambition. It is hard to see how it will meet that test without a more fundamental reform of the property handling process.

## **Outcomes**

We note the removal from the previous policy, PSI 12/2011, of the outcome 'Prisoners are able to lead as normal and individual an existence as possible within the constraints of the prison environment.' This should be a fundamental principle of both prison policy and in the day-to-day decisions made by staff. It is central to the rehabilitative culture to which the prison service has committed. In our view it is essential that this is reinstated as a key outcome.

We welcome the inclusion of the outcome that 'Rules and decisions about a prisoner's property are properly explained to the prisoner'. This is a crucial element of a procedurally just approach and one that has often been lacking in cases we have been made aware of. We are encouraged to see that this point is repeated in a number of places throughout the document. Of course, it only helps if the rules being explained are reasonable in the first place, which is why the re-instatement of the normality principle is so crucial.

Similarly, we welcome the inclusion that 'Property complaints are investigated thoroughly and efficiently' within the main outcomes'. It is apparent from our contact with people in prison that this does not always happen.

## **Evidence**

This section includes an important recognition that property is something the prison service has not always got right, with references to evidence from HMIP, PPO and IMB. Combined with the recognition of the impact this can have on people in prison at 3.2, this will provide some reassurance to prisoners that there is a genuine intention to address issues which have led to property loss and damage in the past. It may be worth referencing a couple of the relevant reports here, such as *'Learning Lessons from PPO investigations: Prisoners' property complaints (2014)'*.

The points made in the evidence section also sets an appropriate tone of respect and responsibility which must be at the centre responding to complaints about property. So many property issues are caused or exasperated by a lack of respect or responsibility—changing this approach will improve practice. Given its importance, we will come back to this later in our response.

The points about the key issues at 3.3 could be expanded upon or link to reports which give detailed examples of each issue.

We continue to welcome the inclusion of explicit references to procedural justice within prison policy, and note this is followed by detailed guidance later in the document. For real impact, this should be reinforced through staff training.

## **Requirements**

### *Management checks*

At 4.1, we note that the previous outcome in PSI 12/2011 that 'Governors consider the extent to which they should introduce management checks' has been strengthened to a requirement that 'Governors should ensure management checks are undertaken to make sure that prisoners' property is being handled correctly and with care'. This is an important change which could improve compliance in each establishment, but should be taken further by describing the minimum regularity in which such checks should be undertaken, and what those checks should look like.

For example, we would recommend “mystery shopping” exercises, and unannounced physical audits. We would also include regular reviews of responses to property complaints.

### ***Recording of information***

The ‘Recording of information’ section is an improvement from the previous policy document. The requirements are more clearly set out and more detail is provided as to the requirements at each stage for different types of property. The details listed under 4.6 are particularly helpful to ensure staff are aware of everything that should be recorded. This is an area which would clearly benefit from supplementary staff training when the reviewed policy is published.

In relation to 4.7, prisoners can only check something is correct if they too understand how it should be completed. We have heard of cases where a prisoner has signed a property card after staff insisted it had been filled it out correctly—only to have problems pursuing a property issue at a later date because this had not been the case. If prisoners checking and signing records is one of the key safeguards, information about how things should be done must be clear and readily available to them at each stage.

*Transferred to this prison in January. Only one bag was added on his prop card but he was told the he will be called to reception another time to go through other bags. He ended up in segregation and did not have the opportunity to go to reception.*

*He got transferred again and was located on normal wing. When he went to reception a bag is missing with lots of stuff such as books. He has put in complaints and nothing is being done.*

(Notes from a call to our A&I service)

The requirement to accurately describe property, including items with brand names, is an obvious area where technology could make significant improvements. For example, being able to take digital photographs of items which are automatically uploaded onto a digital property record would be both more accurate and less time consuming. The use of barcodes or QR codes on individual items or sealed bags is another simple example of how property records could be digitalised to reduce error.

Another clear improvement would be for technology to facilitate the management of property using in-cell and wing based kiosks. This could allow prisoners to easily view the details of their property records from their cell, check where things are located and the accuracy of records—perhaps also to make requests for property to be send out, etc. This would allow an extra level of control and oversight and relieve concerns without such involvement of staff time. This is similar to being able to check account balances via kiosks or laptops which The *Evaluation of digital technology in prisons* published by MOJ last year reported was seen to be a major improvement.

*“How do I go about knowing what I have in my property? Do I really need to give an app and mention what I need to grab or is there a way to go and have a look what’s there?”*

(Extract from letter to our A&I service)

### **Authorised items**

There is repeated emphasis in this section on providing explanations to prisoners about the property processes and policies. At time of writing we do not have access to Annex A, as referenced at 4.14, to make detailed comments—the previous version was limited to Volumetric Control exemptions but we hope this has been widened and that an Easy Read version will be included. We look forward to seeing a draft of the Annex, and suggest that this should be shown to prisoners in draft as well.

At 4.15, we suggest including a reference to the Incentives Policy Framework. As per this policy, prisoners should be provided with a copy of the local incentives scheme to aid their understanding.

The points about individual groups at 4.16 are clear and well referenced and we welcome the addition of the third bullet that reads ‘In permitting items of property, the Governor must consider the needs of transgender prisoners’. We also recommend that the booklet for staff ‘A Guide to Religious Practice in Prison’ could be made available wider than the intranet as prisoners and their families would undoubtedly find this useful.

We are concerned that the requirement at 4.19 that ‘governors impose restrictions on the display of material which could cause offence’ is vague and will lead to confusion and complaint. For example, what is considered ‘indecent’ could vary widely. We also worry there could be some misinterpretation of the line ‘where it would be inconsistent with commitments to eliminate discrimination and harassment and to promote equality’. Furthermore, without a clear explanation, the final line—‘It is important that prisoners understand what content would fall into these categories and why it is not allowed.’—becomes all the more difficult.

### **Volumetric Control**

A similar point arises at 4.21 and 4.22 in relation to Volumetric Control. 4.22 states ‘It is important, therefore, that prisoners understand:

- what the volumetric control limits are.
- why volumetric control exists.
- why the limits are set as they are.

However, the explanation provided at 4.21 fails the test the framework sets. It simply says ‘Limits on property exist to ensure safety and security and so that all property can be transferred with a prisoner on their movement to another establishment’. How the volumetric control relates to safety and security need to be described in more detail if staff are then to help prisoners understand. And for someone spending many years in prison, it may be hard to understand why the amount they can have in possession depends on the size of the van the prison service is prepared to use to transport it.

At 4.23, the line which reads ‘In addition, the following items are permitted under volumetric control limits’ is not clear—we assume that it means these items are allowed *in addition* to the two standard volumetric control boxes described, but this could be interpreted as within these limits.

We object to the inclusion of ‘education materials’ included in 4.24 as something that are not exempt from volumetric control. Engaging in education is an important part of

rehabilitation and anything that limits or discourages this is at odds with this purpose. In particular, materials that relate to a course which an individual is currently engaged in should be considered exempt to ensure that their study is not hindered.

### ***Valuable property and items of sentimental value***

In relation to valuable property, we repeat our earlier point about the value of digital photography when recording valuable property to be stored. 4.29 and 4.32 make important points about explanations being given to prisoners about these arrangements.

In relation to items of sentimental value, we welcome the recognition at 4.24 that 'Loss or damage to such items can have a particular impact on prisoners'.

There is however a problem with presumptions and communications made about in-possession property which this section should highlight. Staff attitudes to in-possession property are often simplified to it being at the individuals own risk and therefore not the responsibility of staff if it goes missing or gets damaged. This attitude results in complaints of this nature being unduly dismissed. This is of course incorrect—there are plenty of examples of when the prison must take responsibility for in-possession property because individuals do not have full control over its security. For example, if a member of staff opens a cell door whilst one of the occupants is absent and that subsequently results in theft, the prison has responsibility for that. Equally, if a theft is alleged to have occurred, prisons have a responsibility to investigate as best possible regardless of whether they consider themselves to be at fault in that instance. The Policy Framework should clearly reflect this.

Further to the above, a significant improvement would be to give people more autonomy to look after valuable, sentimental or private property themselves. For example, a secure locked box in cell for each individual would be a straightforward way to give prisoners more control over the security of their belongings.

### ***Sending in and handing out of property***

At 4.39, we welcome the clarification that prisoners must be allowed to hand out both in-possession and stored property items through social visits.

We receive regular enquiries about difficulties of being sent in items which people clearly need—for example replacement items of clothing after something has been lost or damaged, books for ongoing courses, items such as reading glasses or even mobility aids. We appreciate that the Incentives Policy Framework includes gives the Governor discretion for what is permitted in most circumstances. However, we often hear of long delays and miscommunication before a person is actually given an item which has been approved. We advise that there should be a maximum time-frame of two business days for property sent in to a prison is made available to the recipient, subject to any required security checks.

*Mr G contacted us to say that he is visually impaired and had been approved to be sent in glasses following support from healthcare staff. His friend paid £75 for some glasses and had them sent to the prison but he had still not been given them. The delays were causing him real frustrations:*

*"I am going through all the correct channels. Still no glasses. This constitutes to a disability. I need glasses, I can't see, I am getting migraines. This prison is winding me up."*

(Notes from a call received by our A&I service)

### ***Property on transfer between prisons***

You are clearly aware from the acknowledgement at 4.42 that a large number of property issues occur as a result of transfers, and the enquiries we receive on the subject also reflect this.

Although there is some clarification is made below at 4.48, the requirements at 4.43 and 4.50 should clearly specify whether exempt items fall within the volumetric control limits described. We have been advised in the past by both prisoners and prison staff that it is often standard practice to leave just the room for the two boxes on transport, which results in important property being left behind. If the normal approach should be that exempt items such as legal papers are transported with individuals (other than when there are exceptionally large amounts, as per 4.47) then this should be made clear throughout this section.

*He got transferred from IOW to Swaleside, he had quite a few religious books which he could not take. He was told that there is no space on the bus. He was told that these books will get shipped and he will be charged. He had to pay £70.00. He has now heard that he should not have been charged as these were religious books.*

(Notes from a call to our A&I service)

We welcome the inclusion, at 4.50, of a time limit for the discharging prison to forward excess property to a receiving prison. This should be shortened to 1 week as 4 weeks is still a very long time for someone to be without their property and there does not seem to be a good reason for it to take nearly a month to do this. A requirement should also be placed on the receiving prison to make sure property received is processed and given to the individual within one business day of receipt—we are aware of delays occurring following arrival at the prison which can cause an extra window for mistakes and loss.

*The last time I was transferred from Frankland to Full Sutton I had to wait 3 and a half months [for my property]. This made life very difficult but I was told they can take as long as they like. Is this true?*

(Extract from a letter to our A&I service)

4.47 is an important clarification to a recurring issue (also made in the Incentives Policy Framework). This has been particularly relevant in relation to stereos with Bluetooth over the past few years. Prisoners should be made aware of this policy both at the time of purchase of substantial items and again at arrival to a receiving prison. Being advised of this only when coming to replace the item in question is likely to cause greater frustration. Although this is largely covered by the Incentives policy, we suggest a reminder here that some consultation and alignment between prisons of the same cluster or those which regularly transfer between each other will help to avoid frustrations in this area.

Where excess property is to be forwarded, prisoners should be made aware of the process and time frames, and be given regular progress updates where possible.

Doing this properly is likely to be a more effective use of staff resources than having to respond to regular enquiries by prisoners understandably worried about where their possessions are. Updates provided through in-cell technology would be an efficient way to do this.

*He was only allowed 3 bags on the bus... There are another 3 bags he is waiting to receive which have still not been delivered.*

*Officers have been chasing this up with [the previous prison]. He said that he was told that his stuff will come on the next bus.*

*A bus has arrived today and his stuff has still not arrived.*

(Notes from a call to our A&I service)

### ***Discharge***

4.54 reminds staff that the requirement for property to accompany prisoners when they are discharged 'includes from court appearance'. This policy is also included in PSI 12/2011, though we know from anecdotal evidence that this does not always happen and is regularly the cause of people being separated from their property—particularly on the occasions when people are unexpectedly returned to a different prison.

*"I went to court, I was not allowed to take my property with me. I was subsequently released on bail, leaving my property at [the prison]."*

(Extract from a letter to our A&I service)

Given that the policy has not changed, we wonder if any consultation has been completed with staff and prisoners about why this often occurs? It is understandable that packing up belongings in instances where they are almost certainly returning would feel like a futile requirement for individuals and this may create the tendency to leave some leeway on this practice. Some additional training or communication to staff may be required to change this practice, and should include giving prisoners and proper explanation of why this practice may be necessary.

At 4.60, it is not clear how reception staff will have access to reliable data to make decisions about returning house keys. Further requirements need to be in place, if they are not already, for staff with access to this data to ensure it is provided.

### ***Locally stored property***

In relation to stored property, on first reading it is confusing that storing property locally and storing at NDC Branston are both described as only in 'exceptional circumstances'. Our understanding is that locally storing property should only be considered if there is good reason it cannot be handed out or disposed of, and that further consideration to store at NDC Branston would be under exceptional circumstances. We suggest amending the language used slightly to ensure this hierarchy is clear.

### ***NDC Branston***

We note the usual three box limit for storage at NDC Branston at 4.67. We are concerned that a strict interpretation of this could have serious impact on people who have recently been made homeless with no family members to assist with property.



We suggest giving some examples as to exceptional circumstances which may be considered.

### **Accommodation clearance**

At 4.76, the policy states that ‘Vacated living accommodation, and any property within, must be secured and checked as soon as possible.’ This is a common area for property disputes to arise—missing items can lead to allegations that other prisoners have been giving the opportunity to take belongings, that staff have not completed the clearance or property cards properly, that there have been mix ups between their property and that of a cell mate. Complaints of this nature can be difficult and time consuming to resolve, and it would be far more effective to ensure that securing and checking property happens quickly. We therefore recommend strengthening this requirement so it is not as open ended—‘Vacated living accommodation, and any property within, must be secured and checked as soon as it is vacated, and access prevented to others until the staff responsible have done so..’

Accommodation clearance without the presence of any remaining prisoner can also cause disputes. 4.78 should be amended to reflect that this should only happen in exceptional circumstances and the reason recorded. We understand that fulfilling this may be at odds with the point above about timeliness, however in most instances property could easily be secured straight away (i.e. ensuring the accommodation is locked) and cleared once the cell mate returns.

We note that many of the concerns raised about property missing after accommodation clearance are related to people who have been removed to segregation. Prisoners often describe a blatant disregard for the importance of their property in these circumstances. It is important to recognise that respect for property should extend to everyone, whatever the concerns are about their recent behaviour. Again, not doing so is likely to further damage relationship between the individual and staff, at a point when this is particularly important.

*Some of his property has gone missing from his cell. He is in the block and his door was opened when he was not there. He believes the prison are breaching the law. He had a present from mother from when he was recalled.*

(Notes from a call to our A&I service)

We note the removal of the following point from PSI 12/2011:

*“2.80 If the prisoner later returns to the establishment, or to normal accommodation within it, the property bags will be unsealed in his or her presence and he or she must be asked to check the contents. Any discrepancies must be recorded. If the prisoner is held in another establishment arrangements should be made to transfer the property there and the same procedures should be followed.”*

The sealing and unsealing of property bags frequently comes up in our enquiries, alongside complaints that seals are missing or broken with no explanation.

*The officers opened his sealed prop bags without him being present. He said he did not think this was allowed. He wants to know if an officer can open the bags without him being there?*

(Notes from a call to our A&I service)

The policy should be clear that property bags should only be unsealed without the owner present in exceptional circumstances. These must be recorded and explained to the prisoner.

### ***Complaints and compensation claims***

We welcome the clear requirement, at 4.93, that ‘Governors must ensure that property complaints and disputes are investigated thoroughly and efficiently’ and the references to procedural justice which accompany this. Too often responses to enquiries or complaints about missing property only serve to further frustrate the complainant—being too dismissive of the issue, not investigating fully, or seemingly making limited effort to contact relevant parties. On a number of occasions our advice service has helped to locate and resolve property issues that have been going on for weeks simply by taking the time to make a few calls. In these examples, it is not clear why staff could not have done this much sooner.

*“I ask for my prop card on 15.04.20 and Officer M says for me to get my prop card, so he answers my question with a question.*

*“Then on the next paper within the complaint, CM of Reception said he located my property.*

*“On my next complaint... I ask for prop card and property officer P says I have no property within the prison.*

*“These are all reception officers.”*

(Extract from a letter to our A&I service about missing property)

This leads to the point that must be strengthened both in this section and throughout the Policy Framework—that of taking responsibility. It must be impressed upon all staff that part of having respect for the impact of missing property is taking some responsibility for it. It is too common for staff to respond to a property issue as ‘not their fault’ or ‘not their problem’, particularly regarding in-possession property or when the loss has occurred on transfer from another establishment or by another department within the prison. We hear of prisoners being told to contact the previous prison themselves where staff could have easily done this for them, and poor attempts to communicate between wing staff and reception. In many instances, property issues could be resolved before even getting to a formal complaint if staff took real responsibility for looking into it when the issue is first raised with them.

*“It’s incredibly frustrating that I can’t speak directly to them... These items will not have left the prison and so they would eventually be found if enough effort is put in by the prison.”*

(Extract from a letter to our A&I service)

The importance of responsibility clearly extends to when investigation shows that property has been lost or damaged. We welcome the requirement, at 4.95, that an apology is given as well as reimbursement. The importance of this is often underestimated—in some cases it can be more important as it demonstrates respect and can go some way to earning back the trust that might have been damaged by the experience. This may seem obvious, but we often see responses which have neglected or avoided to do this completely. A sincere apology demonstrates that responsibility has been taken. Prisons expects the people in their care to show

responsibility for mistakes they have made on a daily basis—it is about time they got better at modelling this themselves.

*His previous prison lost his property after officers took his games console and games and never took them to reception, When finally located a month later the builders were playing on it. The prison admitted liability.*

(Notes from a call to our A&I service)

Further to this, it is a sad reality that a small minority of corrupt staff take advantage of the property system for their own gain. Many of the policies in place in this draft should help prevent this but will not completely remove this possibility. Prison Governors must be mindful of any staff which are associated with a disproportionate discrepancy in their handling of property and be prepared to pursue the appropriate investigation and disciplinary action. An absence of appropriate action on a minority of cases will further cultivate distrust in the system and the expectations that losses are the result of deliberate misconduct rather than error.

*14 weeks ago he ordered a play station and games. He has not received them and has been told that he has signed for it on his prop card. He put in a comp 1 and after 4 weeks he received a reply saying nothing can be done as there is a signature on his prop card. He said that the signature is not his.*

(Notes from a call to our A&I service)

We recommend that a specific requirement is made in this section of Policy Framework to the importance of expediting an investigation into missing property where there are implications around access to justice. We have been contacted on a number of occasions by people whose missing or delayed property includes legal paperwork which they are in urgent need of for an ongoing legal matter. Failure to respond to this appropriately could be a breach of article 6 of the Human Rights Act—right to a fair trial.

*He arrived on Thursday and he had 2 x separate bags of legal documents that are still in reception and he needs to access them to get access to documents linked to appeal.*

(Notes from a call to our A&I service. Note that even after we contacted the prison in relation to this, it took many weeks before he was escorted to reception and given access to legal paperwork)

Similarly, we recommend a requirement that investigations into complaints about missing items pertaining to health and wellbeing are expedited.

As demonstrated in some of the examples given above, a common aspect of property complaints we receive is a delay or refusal to escort the person to reception to allow them to check or access property. Although we appreciate that this can be staff intensive, doing so sooner would relieve unnecessary frustration and resolve issues sooner. We recommend including some guidance within the Policy Framework about how and when prisoners can make such requests and a that it should be facilitated within 7 calendar days.

*He asked to see his property he came in with. He needed his gym gloves and his juggling balls. He has been told that he has no property. He said that when he came into this prison his prop card was completed by an officer. He has asked to go to reception but not been able to as officers won't take him.*

(Notes from a call to our A&I service)

### **Guidance**

As with previous Policy Frameworks that have done the same, we welcome the inclusion of procedural justice principals in the guidance section of this document.

We support the idea, at 5.4, of creating a point of contact for property issues at each prison. This could really help resolve many of the issues which have been identified by ourselves and other commentators in this area, and creates a natural place for responsibility to sit within the prison. Given the potential benefits, this should be a requirement rather than suggested practice.