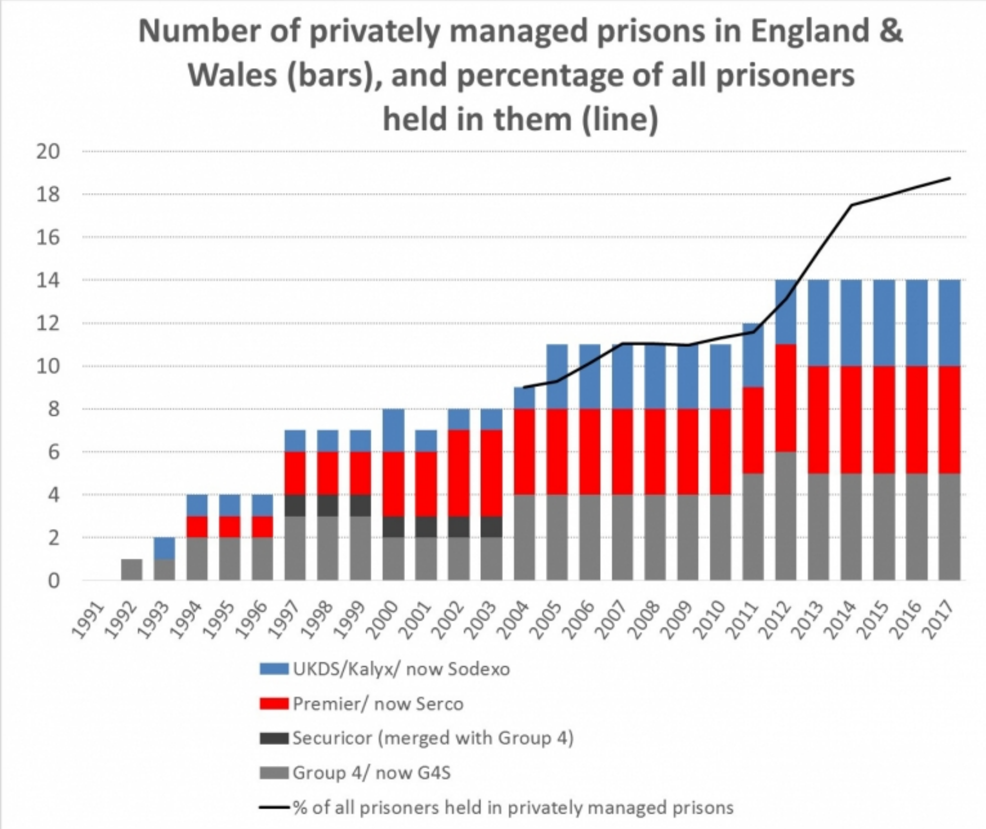
Curtailing the market for private prisons: schism or blip?

The reputation of the privately managed prison sector in the UK has taken a beating in recent years. Does this spell the end for the 'whole prison' contracting era, asks Dr. Simon Bastow.

For nearly 25 years, new prisons built in the UK have predominantly been procured through 'design build finance and operate' (DBFO) contracts with the private sector. So the opening earlier this year of a new supersized prison to be financed and operated by the public sector – HMP Berwyn in north Wales – puts the future of 'whole prison' contracting in doubt.

Should we see this as a fundamental break with past orthodoxy? Or is it just a blip in the development of a mature and ever-growing market for privately-managed prisons?

The Figure below shows the trend towards a mature oligopolistic market that has formed an important integrated part of the national system. Three firms – G4S, Serco, Sodexo – hold about one third each of the market share, running 14 prisons between them, equivalent to around 18 per cent of the total prison population.



Up until recently, the British government has shown confidence in this role for the private sector. The operation of Birmingham prison, one of the largest and strategically most important in the national estate, was handed to G4S in 2011. And Serco and G4S each opened brand new prisons in 2012.

But since 2012, reputation of the private sector has unravelled – and tested the patience of ministers in the process. Central to this were damaging allegations that G4S and Serco had fraudulently claimed payments for electronic tagging of offenders. But this also coincided with high-profile failures in private prisons, not least the serious operational instability in the early years of the Oakwood prison.

The Ministry of Justice (MOJ) responded with a combination of punishment and retrenchment. G4S and Serco were banned from bidding to operate any further prisons. G4S also lost the contract for The Wolds prison that they had held since 1992, as the contract expired in 2013 and was taken back into public sector management. MOJ also shelved plans in 2013 to 'market test' and transfer several prisons to private sector operation.

But the response seemed more than punishment alone. Underlying the subsequent decision to keep Berwyn in the public sector was the belief that the public sector could now operate prisons as cost-efficiently as their private sector competitors. A quarter of a century of learning from and competing with them had finally closed the gap. Or so ministerial rhetoric had us believe.

Also the Berwyn model guarantees more than one third of its prison services will be commissioned externally. This signals a move to a kind of 'public sector core and commissioned periphery' model, one that fits neatly with reforms in the probation system with regional Community Rehabilitation Companies (CRCs) providing commissioned services around a core public sector National Probation Service. The CRCs incidentally were another set of contracts for which G4S and Serco were not allowed to bid.

There are also questions about the sustainability of the more recent prison contracts in terms of adequate staffing and resourcing. In recent years the pressure to procure low-cost prisons has pushed bidders to offer up more services at stripped-down prices. If '*governments get the contracts they deserve*', why would we be surprised that MOJ's emphasis on low-price contracting has contributed to serious breakdown of control in two of their most recently procured prisons, Birmingham and Northumberland.

Firms' interest in these 'low price' contracts has begun to wane too. In terms of reputation, there is very little desire on the part of the firms to be associated with catastrophically failing prisons. Believe it or not, firms and their directors want to be associated with high-performing prisons – not failing ones. As contracts are squeezed and expectations increased in return for what is generally seen as diminishing profitability, the risk-reward pay-off begins to look much less attractive for the private sector.

Of course, this unravelling may just be a blip. We should not after all underestimate the resilience of the market and the ability of firms to take their punishment, demonstrate sufficient humility, and find ways to grow existing and new markets. Neither should we overlook the fact that although all three incumbent firms have suffered high-profile failures in recent years, they all run high-performing prisons as well.

It is also a fact that most of the contracts in place are not up for renewal until after 2023, and the interim cost of cancelling them would be exorbitant. Incidentally, all of the early contracts that have reached expiry have been transferred back to the public sector – the next contract to reach expiry is Doncaster in 2019. So it may be business as usual for at least another couple of years.

Clearly the system has been through a period of punishment and retrenchment, but in the new Berwyn model there are signs of a constructive and designed break from the past orthodoxy. The 'whole prison' contracting model may be creaking, but it has brought insights and understanding to the public sector over the years. One would hope now that a new model of a strong and lean public sector core, combined with an innovative, competitive, and integrated commissioned periphery can push on towards more constructive and rehabilitative prisons.

Notes:

- *The post gives the views of its author, not the position of Management with Impact or the London School of Economics.*

Simon Bastow has been an LSE Fellow in the Department of Management since 2015. Simon has worked in university research and teaching since the early 2000s in the fields of political science, public policy, and public management. He worked as a Research Fellow at the School of Public Policy at University College London, and from 2005 he was a Senior Research Fellow in the LSE Public Policy Group, working on a wide range of public policy and management projects. This included research with colleagues to produce six commissioned Value for Money (VFM) studies for the UK National Audit Office. In 2012, Simon received his doctorate from the LSE Government department for research on capacity stress in the England and Wales prison system, which he has subsequently published as a research book. He also co-authored a book in 2014 on the Impacts of Social Science.

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Afroditi was the editor of the Management with Impact blog between February - June 2017. In September, Afroditi is starting her PhD at LSE to investigate the mediation of migration.

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