**The Prison Officers’ Dispute**

Thousands of prison officers across England and Wales [held a day of protest](http://www.itv.com/news/2016-11-15/thousands-of-prison-officers-set-to-go-on-strike/) on the 15th of November, in a dispute over health and safety concerns. In recent months, the Prison Officers’ Association (POA) has repeatedly highlighted the ‘[unprecedented levels of violence](http://www.bbc.co.uk/news/uk-36912888) and life-changing injuries to staff and prisoners’, as a result of chronic under-staffing across prisons. Strikes by prison officers are prohibited by law, but the officers took the action when negotiations with the government broke down. They were forced to return to work later that day when the government obtained an [emergency High Court injunction](http://www.bbc.co.uk/news/uk-37984479) against the action.

This report will detail the antecedent conditions and background to the dispute. It will include a discussion of a [legal case](https://www.tuc.org.uk/workplace-issues/health-and-safety/risks-newsletter/risks-2016/tuc-risks-757-2-july-2016#_Toc454967614) brought by the POA in relation to serious staff assault and will also describe the series of unofficial actions that had taken place in the first half of 2016. Finally, the report will outline the protest on the 15th of November as well as reactions to the dispute and the implications of the action. It will conclude with a brief overview of the most recent developments.

*Background to the Dispute and the November walk-outs*

The action on the 15th of November was taken to highlight officers’ concerns as to their own health and safety, as well as that of prisoners. The POA, [describing the service as being in ‘meltdown’,](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161115-2_poa-national-executive-reject-health-safety-proposals) pointed to a ‘continued surge in violence, unprecedented levels of suicide and acts of self-harm [by prisoners].’

There have been numerous reports as to the factors contributing to these problems. These include a rise in the prison population accompanied by [major staff shortages](http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37900752), attributed largely to ongoing funding cuts. The [POA states that](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20160518-10_prisons-bill) whilst the prison population has increased over the past five years, there has been a 28% reduction in numbers of front-line operational staff. [Other sources point to a cut in officer numbers of 7,000 since 2010; from 25,000 to under 18,000.](http://www.bbc.co.uk/news/uk-37854358) In turn, the lack of staff means that officers cannot police the [vast amounts of illegal drugs](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20160518-10_prisons-bill) entering prisons, delivered [via drones](http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-32014247) or through being thrown over prison walls. The [wide availability of drugs](http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37476678) (including the psychoactive substance, ‘Spice’), has been closely associated with the escalation in violence and assaults. There are also [reports of knives being brought in by drones](http://www.bbc.co.uk/news/uk-37854358). The [Chief Prison Inspector’s Annual Report of 2015](http://www.bbc.co.uk/news/uk-33517116) described prisons as being in their worst state for ten years, confirming that the use of drugs was fuelling violence. The report identified the ‘most alarming’ feature as being the ‘accelerating increase in serious assaults’, with the number of prison murders also at its highest level since records began.

The [Ministry of Justice’s own data](http://www.bbc.co.uk/news/uk-36912888), relating to incidents occurring between March 2015 and March 2016, confirmed the picture of increasing violence. Official figures for the year up to March 2016 showed that assaults on prison officers in England and Wales had risen to the highest level on record. There were 5,423 assaults on prison staff in the twelve month period – 15 a day - a rise of 40% from the previous year. [The figures released in October 2016 (for the 12 months up to June 2016)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/562897/safety-in-custody-bulletin.pdf) reported a further increase to 5,954 assaults on staff, a rise of 43% on the figure of 4,177 in the preceding twelve months. This constitutes a rate of seventy ‘assault on staff’ incidents per 1,000 prisoners, up from 49 in the previous year. 697 assaults on staff were categorised as ‘serious’, up 20% from the preceding twelve months.

Prisoner safety was also highlighted as a concern in the official data: self-inflicted prisoner deaths were up by 28% on the preceding year, from 82 to 105. Moreover, 321 people died in prison custody during the 12 months to the end of June 2016 - an increase of 30%. [The Ministry of Justice’s October 2016 figures, relating to the twelve-month period up to June 2016](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/562897/safety-in-custody-bulletin.pdf), pointed to a 32% increase in violent assaults on prisoners by other prisoners; the overall number of such assaults standing at 17, 782 for that period. 2,462 of these were serious assaults, up 28% from the previous year. In the twelve months up to June 2016, there were 36,440 reported incidents of self-harm, up by 7,509 incidents (26%) on the previous year. 10,544 individuals self-harmed, up by 1,943 (23%) from the year before.

In response to these figures, the [Chief Inspector of Prisons](https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/07/HMIP-AR_2015-16_web.pdf) said that jails had become ‘unacceptably violent and dangerous places.’ The director of campaigns at the Howard League for Penal Reform, a national charity that campaigns to have fewer people in prison, [said the figures pointed](http://www.bbc.co.uk/news/uk-36912888) to ‘the urgent need for prison reform.’ He went on to speak of how an increasing number of prisons had been awarded the worst-possible performance rating, arguing that this provided further indication of system failure, after years of rising numbers, chronic overcrowding and deep staff cuts. The Justice Secretary, Elizabeth Truss, had responded to the data by stating that the level of violence in the UK’s prisons was ‘unacceptable’, and arguing that improving safety in prisons was a fundamental element in the Government’s intended reforms.

In a [press statement released on the figures, the POA](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20160428-10_poa-are-not-surprised-at-latest-prison-statistics) had said that the data highlighted how the National Offender Management Service (NOMS) is failing in its duty of care towards both their employees and prisoners. The POA also attributed the system’s failings to the ‘savage funding cuts’ made by the Ministry of Justice and the Treasury, which have led to the ‘deterioration in service delivery.’   The POA cautioned that the Prison Service is in crisis, rapidly approaching a precipice from which it will be unable to recover from unless urgent action is taken.

In fact, the POA had been attempting to publicise the escalation in violence and members’ concerns as to safety for months before the walk-out in November and indeed, the statistical confirmation of the worsening situation. As part of their campaign to improve safety for members, the [POA had secured a landmark victory for prison officers at the High Court](https://www.tuc.org.uk/workplace-issues/health-and-safety/risks-newsletter/risks-2016/tuc-risks-757-2-july-2016#_Toc454967614) in July 2016. The union brought the case on behalf of a member who had been assaulted by a prisoner at HMP Coldingley in January. The prisoner had punched the officer and had attempted to gouge out his eye. The police had decided it was ‘not in the public interest’ to prosecute, due to the length of the prison term the man was already due to serve, and the fact that the prisoner had been moved to a higher security prison as a result of the attack. The court had ruled in favour of the POA, judging that it is important to be able to prosecute prisoners for acts of violence committed against officers whilst serving time in prison, in order to protect staff.

Moreover, despite being prohibited from taking industrial action by the Criminal Justice and Public Order Act 1994,[[1]](#footnote-1) there had been [a number of instances earlier in 2016](http://www.bbc.co.uk/news/uk-36714721) when prison officers had withdrawn their labour or staged unofficial walkouts in protest over safety concerns. In May, four members of staff refused to carry out their duties at the Mount Prison in Hertfordshire, while forty prison officers at Holme House Prison in Stockton on Teesside, walked out. Moreover, on the 6th of May, POA members at Wormwood Scrubs declined to enter the prison over safety fears. A Chief Inspector’s report published at the time had identified that the prison was unsafe, with prisoners easily able to access drugs and alcohol. In June, officers on two wings at Swinfen Hall in Staffordshire had left prisoners locked in their cells because of safety concerns. [In a statement](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20160506-10_health-and-safety-concerns-at-wormwood-scrubs), the POA had said that staff had taken such action because they feared a ‘significant and imminent threat to their health and safety.’

*The ‘Protest Meetings’ of the 15th of November*

A number of serious incidents occurred in the weeks preceding the staging of the protests on the 15th of November. [A prisoner, Jamal Mahmoud, died](http://www.bbc.co.uk/news/uk-england-london-37708697) after being stabbed at Pentonville prison on the 18th of October, with two other prisoners critically injured in the incident. Following the attack, about half of the 200 prison officers at the jail passed a vote of no confidence in its governor, with the officers stating that they are unable to prevent the influx of weapons and drugs coming into the prison.

Further, a [riot by prisoners at Bedford prison on the 6th of Nove](http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37906409)mber caused £1million worth of damage. [A report, published in May, on the prison by the HM Inspectorate of Prisons](http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37476678) had found that the use of ‘Spice’ was prevalent. Prisoners informed the inspectors that it was easier to obtain illegal drugs in the prison than it was to get clothes or sheets. HMIP found that the use of drugs was having a "serious impact" on safety at the prison. Just four days after the riot at Bedford, on the 10th of November, a [prisoner slashed an office’s throat](http://www.bbc.co.uk/news/uk-england-hampshire-37932128) with a razor blade at the Isle of Wight prison.

These violent incidents were cited by [the POA on the 15th of November](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161115-10_poa-national-executive-reject-health-safety-proposals) as evidence for the ongoing crisis, with the union stating that it had ‘consistently raised the volatile and dangerous state of prisons, as chronic staff shortages and impoverished regimes has resulted in staff no longer being safe, a lack of discipline and prisoners taking control of areas.’ As a result of these unresolved concerns, the POA instructed its members to take protest action on the 15th. It is estimated that [10,000 officers](http://www.bbc.co.uk/news/uk-37984479) in England and Wales participated. The union had been in in talks with NOMS, following a suspension of earlier action over safety concerns on the 1st of November, when the [union had similarly instructed members to ‘hold meetings outside every establishment in England and Wales.](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161101-10_the-poa-national-executive-committee-have-suspended-its-instruction-to-members-to-hold-meetings-outside-every-establishment-in-england-and-wales) As a result, NOMS had requested a meeting with the POA and during this, NOMS and the Secretary of State allowed for meetings to take place inside every prison on the 2nd November 2016. Moreover, it was agreed that negotiations on safety issues would commence immediately at national level, with a view to reaching agreement by the 11th November 2016. However, [the POA said that the discussions](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161115-10_poa-national-executive-reject-health-safety-proposals) failed to address the union’s fears and did not provide sufficient safeguards, hence the further action on the 15th.

*Government Response to the Protest and to the Underlying Problems*

The [Government’s immediate response](http://www.bbc.co.uk/news/uk-37984479) was to seek an urgent High Court injunction.During the Court hearing, the POA's lawyer cited a series of incidents that had occurred in the last two weeks, including 30 assaults by inmates on officers, 14 hostage situations and 13 absconds, attempted escapes or escapes. The government's lawyers, in turn, accused the POA of ‘seeking to take over the control of jails from governors and run them on a controlled lock-down basis.’ The Justice Secretary, in a speech to the House of Commons that morning, had said that the POA had failed to respond to government proposals aimed at tackling their concerns and had called the unlawful and necessary action ‘without notice.’ The Justice Secretary claimed that the POA’s actions would ultimately exacerbate the situation inside prisons, going on to say that the POA had refused to continue with talks scheduled for the 15th. [The POA strongly refuted this](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161116-10_statement-made-by-liz-truss-in-the-house-of-commons-151116-with-regard-poa-protest-action), publishing a series a circulars and press statements, which pointed to agreement from NOMS that all talks would be ‘time bound’ and completed by the 11th and that if matters were not resolved by this date, the suspended action would be reinstated.

However, the Government won the injunction, which ordered the officers back to work. The Ministry of Justice said it welcomed the decision to stop the ‘unlawful industrial action’, whilst pointing to its commitment to improving safety across the prison estate and the actions already taken to these ends.

Indeed, the [Justice Secretary had announced an investment of £14 million pounds](http://www.bbc.co.uk/news/uk-england-37702964) in order to recruit 400 additional frontline staff in ten of the ‘most challenging’ prisons on the 4th of October. Moreover, on the 3rd of November, [a White Paper](https://www.gov.uk/government/publications/prison-safety-and-reform), setting out reforms to the system, had been unveiled. The White Paper [outlined a 1.3bn investment in new prisons](http://www.bbc.co.uk/news/uk-37854358) over the next five years, as well as plans for 2,100 extra officers, drug tests and more autonomy for governors. The Justice Secretary also promised a zero-tolerance approach toward attacks on prison staff, promising that body-worn cameras will be rolled out across the prison estate.

The 2,100 extra officers announced in the White Paper are in addition to 400 new staff announced in October; thus, the goal is to recruit a total of 2,500 new officers to the service. The new staff are due to be in place by the end of 2018, but crucially, even if the target is met, this will still leave staffing short of pre-2010 levels. Moreover, there are doubts as to whether sufficient staff will be willing to stay in the job when the salary - starting at £20,500 - can be bettered in less stressful and dangerous environments.

[The POA has stated](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20161111-10_prison-officer-numbers-fall) that it has little confidence in the recruitment and retention plan, pointing to the latest Ministry of Justice figures, which showed that between the 30th of September 2015 and the 30th September 2016, prison officer numbers fell by 585 full time equivalents.

*Recent Developments*

On the 16th of February, it emerged that the number of front-line prison staff in England and Wales had fallen further in 2016. The Justice Secretary defended this by saying that due to digitisation and changes to how prisons are managed, previous levels of staffing are no longer necessary.

On the 19th of February, [the Ministry of Justice announced](http://www.bbc.co.uk/news/uk-39014192) that ‘Band 3’ prison officers (who make up the majority of front-line officers), at 31 prisons across London and south-east England are to receive pay rises worth between £3000 and £5,000, in order to boost staffing levels. The 31 prisons are identified as having severe recruitment and retention problems.

The [POA described the move](http://www.poauk.org.uk/index.php?press-releases&newsdetail=20170219-10_12-million-boost-to-attract-new-recruits) as ‘papering over the cracks’, saying that the increase was "divisive and destructive" as it didn't apply to all staff. The union had not been consulted over the policy, having only been informed of it on the 16th. It also pointed to the fact that the pay rise only covers 31 prisons out of more than 100 across England and Wales and moreover, that the increases exclude many other grades of staff, particularly those on lower grades. The POA also emphasised that pay was not the only concern of members, highlighting that the levels of violence and staff health and safety remain central.

1. [Section 127 of the Criminal Justice and Public Order Act 1994, passed by a Conservative Government, made it unlawful for prison officers to take industrial action](http://www.poauk.org.uk/index.php?poa-history-in-prisons). Section 127 also made it unlawful for any person or body to induce a prison officer to withhold their services or commit a breach of discipline. Section 128 of the Act made provision for regulations to establish new procedures for the determination of pay and conditions for governors and prison officers. Under the Labour Government of 1997, progress was made on the establishment of voluntary agreements on the conduct of industrial relations, the withdrawal of the provisions of Section 127 and later, for the introduction in 2001 of a Pay Review Body for public sector staff in England, Wales and Scotland under Section 128. In 2004, a Joint Industrial Relations Procedural Agreement (JIRPA) replaced the Voluntary Agreement (VA). Furthermore, Section 127 was revoked for public sector staff in England, Wales and Scotland. However, following a number of disputes with the employer and breaches of the agreement by local management (a High Court ruling in favour of the POA on the 1st of May 2007 substantiated the POA’s claims as to breach), the POA gave notice as to its withdrawal from the agreement. In August 2007, the POA called a national strike for prison staff in England and Wales on the 29th August 2007. In May 2008, the Secretary of State for Justice reintroduced the provisions of Section 127 of the Act to officers in England and Wales, making strike action unlawful. [↑](#footnote-ref-1)