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MANAGING PRISONS USING A 'BUSINESS-LIKE APPROACH:
A CASE STUDY OF
THE SCOTTISH PRISON SERVICE

Assanee Sangkhanate

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The University of Edinburgh
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DECLARATION

I declare that this thesis has been composed by me; that it is my own work; and that it has not been submitted for any other degree or professional qualification except as specified.

Assanee Sangkhanate

August 2011

ABSTRACT

The primary aim of this research is to examine the extent which prison management has been influenced by *New Public Management* (NPM). Much has been written about the growing influence of NPM on public services like health, transport and education. In the prison field, however, the literature is relatively limited. Accordingly, with particular reference to the Scottish Prison Service (SPS), this research attempts to fill this gap in knowledge by exploring the influence of NPM on the SPS and its relation to the use of contractual management of prisons.

Key concerns of this research are the development of prison policy during the last two decades, the use of "business-like" mechanisms to manage prisons and the accountability measures which the SPS has undergone as a result of NPM. The main sources of data are interviews with key actors in the recent development of the SPS and documentary analysis. Interviewees were asked during the semi-structured interviews to reflect on the key concerns referred to above. Material from the interviews was then integrated with academic literature, policy papers, annual reports, contracts and other published documents.

This research concludes that NPM has affected the SPS on the dimensions of both prison policy *discourse* and of *operations*. For the former, the analysis of contemporary prison discourse demonstrates that the focus of prison policy in Scotland has extended over time from traditional concepts, for instance control, deterrence and rehabilitation, to embrace managerial ones such as *effectiveness*, *efficiency* and *value for money*. On the operational dimension, this research reveals that the extensive use of a "business-like" approach in the management of prisons, in particular the delegation of decision-making power from the Headquarters to prison governors; the use of contractual management to manage both private and public prisons; the use of contracting out for prisoner transportation and prisoner programme and the SPS's focus on 'customer service'. In summary, the influence of NPM is more far-reaching than the privatisation of public prisons as such. This is because NPM changed the way public prisons are managed by bringing in managerial mechanisms borrowed from the private sector.

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LIST OF ABBREVIATIONS

AC   Assessment and Control
ACLU   American Civil Liberties Union
ACT2C   Act to Care
ACT&C   Act and Care
AD   Assistant Director
AFSCME   American Federal of State, Country and Municipal Employees
BBC   British Broadcasting Corporation
CBI   Confederation of British Industry
CC   Custody and Care
CEO   Chief Executive Officer
CIP   Community Integration Plan
CJA   Community Justice Authority
CJSW   Criminal Justice Social Work
CO   Custody Officer
CP   Complaint
CPRS   Central Policy Review Staff
DCMF   Design Construct Manage Finance
DOC   Department of Corrections
ECHR   European Commission on Human Rights
FD   Framework Document
FMI   Financial Management Initiative
FOI   Freedom of Information
FPHP   Framework for Promoting Health in Scottish Prison Service
HCS   Health Care Standards
HMIP   Her Majesty Inspectorate of Prisons for Scotland
HMP   Her Majesty Prison
HMSO   Her Majesty's Stationery Office
HPP   Health Promoting Prison
HQ   Headquarters
ICM   Integrated Case Management
IISS   Intervention and Integration for a Safer Society
IP   Inclusion Policy
KPI   Key Performance Indicator
MINIS   Management Information System for Ministers
MLAG   Multi-Agency Liaison Group
MP   Member of Parliament
MPO   Management and Personnel Office
MSP   Member of Scottish Parliament
NCJC   National Community Justice Council
NHS   National Health Service
NPM   New Public Management
NSMO   National Strategy for the Management of Offenders
OE   Organising for Excellence
OECD   Organisation for Economic Co-operation and Development
OEEC   Organisation for European Economic Co-operation

OR	Opportunity and Responsibility
PC	Performance Contract
PCA	Parliament Commissioner for Administration
PCO	Prison Custody Officer
PECCS	Prison Escorting and Court Custody Service
PES	Public Expenditure Survey
PFI	Private Finance Initiative
PO	Personal Officer
POA	Prison Officer Association
POAS	Prison Officer Association of Scotland
PPC	Public Petitions Committee
PPP	Public Private Partnerships
PQD	Parole Qualifying Date
PRS	Prisoner's Records System
PSS	Prisoners Supervision System
PSX	Public Service and Public Expenditure Committee
RCS	Reliance Custodial Services
RO	Residential Officers
SA	Service Agreement
SACRO	Safeguarding Communities-Reducing Offending
SCCCJ	Scottish Consortium on Crime and Criminal Justice
SCCL	Scottish Council for Civil Liberties
SCQF	Scottish Credit and Qualifications Framework
SE	Shared Enterprise
SEL	Special Escorted Leave Scheme
SLA	Service Level Agreement
SNP	Scottish National Party
SPC	Scottish Prison Commission
SPCC	Scottish Prisons Complaint Commission
SPS	Scottish Prison Service
SPSO	Scottish Public Services Ombudsman
STOP	Sex Offender Treatment Programme
SWOT	Strength Weakness Opportunity and Threats
TAS	Throughcare Addictions Services
TQM	Total Quality Management
UK	United Kingdom
UKDS	United Kingdom Detention Services
USA	United States of America
VCE	Vision for Correctional Excellence
VFM	Value for Money
YOI	Young Offender Institution

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CHAPTER 1

INTRODUCTION

This research is inspired by my experience in the prison system in Thailand. Having worked at the Department of Corrections (DOC) of Thailand for four years, I witnessed a lot of changes in the DOC as a result of developments in the civil service, in particular the introduction of *New Public Management (NPM)*. In Thailand, NPM emerged in the late 1990s with the aim of improving quality of service without increasing the number of civil servants or the size of the national budget. The DOC as a public organisation promptly responded to this development. The Headquarters decreased the number of administrative staff by implementing the government's '*Early Retirement Programme'*, which used the savings as an incentive for those who had a few years left before their official retirement. A number of staff who remained at the Headquarters were rotated to prison establishments. Prison Governors were given more power to negotiate their prison's budget and personnel. They also have more control of the daily management of their prisons without the intervention of Headquarters. These changes have taken place at the macro level in recent years as a result of NPM.

When I arrived in the UK to pursue a PhD degree, I was still interested in examining whether recent trends in the prison service in Thailand resembled those in the UK[1]. However, before finalising my research, I undertook a pilot project to explore what I was really interested in (see Chapter 3). Field visits were made to private prisons in both England and Scotland and to Scottish Prison Service Headquarters, and exploratory interviews were conducted with prison managers and staff in the two jurisdictions. After the field trips, the interview materials were reviewed and reports on the visits were produced. At the end of the pilot project, I was able to narrow

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[1] Thailand has been influenced by the UK in many ways, in particular by its political system (Constitutional Monarchy) and its civil service administration. Administrative reform in Thailand started in the reign of King Rama IV and continued with significant changes in King Rama V's era when the king appointed his sons, most of whom graduated from UK universities, to take charge of major ministries and public organisations. That was when the UK's administrative principles and philosophy were 'imported' to Thailand and applied to both central and local administrations. Though this was not a direct impact of the UK on Thailand, the existence of what had been brought into the country at the time can still be observed today.

down my research topic to the relationship between NPM and the management of the prison service in recent years and the Scottish Prison Service (SPS) was selected, mainly for reasons of convenience, as a case study.

1.1 Overview: The Scottish Prison Service (SPS)

At the time of writing this thesis (2008-2009), the SPS had 15 prison establishments under its supervision, two of which (HMP Kilmarnock and HMP Addiewell) were privately managed. In terms of human resource management, the SPS Annual Report 2007-08 reveals that there were 4,048 staff working across Scotland (SPS 2008a). As suggested by others (Bryans 2007; Liebling and Price 2001), the work of prison staff is quite different from that of civil servants in other areas especially in terms of their responsibility and accountability. An address of Lord James Douglas Hamilton, who was then the minister with responsibility for prisons in the Scottish Office, to the senior governors at the SPS Senior Management Conference on 5th September 1990, made clear how significant prison staff are in the prison service:

> The most important resource of the prison service is the people who work in it. I know that you, as senior managers of the Service have identified, as a key priority, the need to maintain a well-motivated and professional workforce. In the process, you have set yourselves the objective of recruiting the best available talent and of developing new and existing talent in the full. No one can deny that the Prison Service faces a tremendous challenge in the 1990s and if we fail in our responsibility to support and carry forward the staff of the Service to meet that challenge, then it can only be to the detriment of the Service as a whole.

In 1993, in the SPS Framework Document, Ian Lang, the Secretary of State for Scotland at the time, reaffirmed that 'I know that there is a high level of skill and dedication among staff. The staff are key assets for the Agency. I recognise that the staff of the SPS have a difficult and demanding task to perform and I am grateful to them for their sustained effort and commitment' (SPS 1993:4).

The management of prison staff, therefore, requires a great deal of leadership especially when under pressure as the former SPS Chief Executive explained

'In the late 1980s, at the peak of the disturbances, you had new staff coming in. So there was real challenge with them to get them to understand that that was not a norm and that we try to change to the norm.' (Interview, Former Chief Executive of SPS, 4 June 2007)

1.1.1 Current Prisoner Statistics

The SPS Annual Report 2007-08 reveals that the SPS was responsible for as many as 8,083 prisoners, including those on the Home Detention Curfews (SPS 2008a). This number is much higher than the SPS had forecasted in previous decade. The trend of prison population has increased over the last two centuries (Figure 1.1) as the general population increased. It also reflects changes in sentencing practice (which has become more punitive) and penal policy (which has become more expansionist). Currently, the majority of prisoners are serving serious assault and attempted murder, drugs and homicide respectively (Figure 1.2).
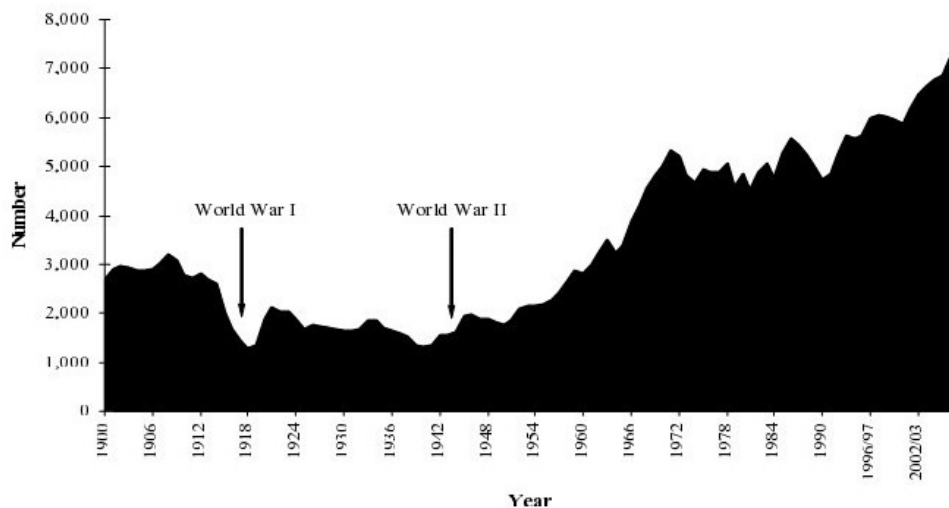
Figure 1.1: Average daily prison population, 20th-21st Century
Source: Scottish Government (2008)
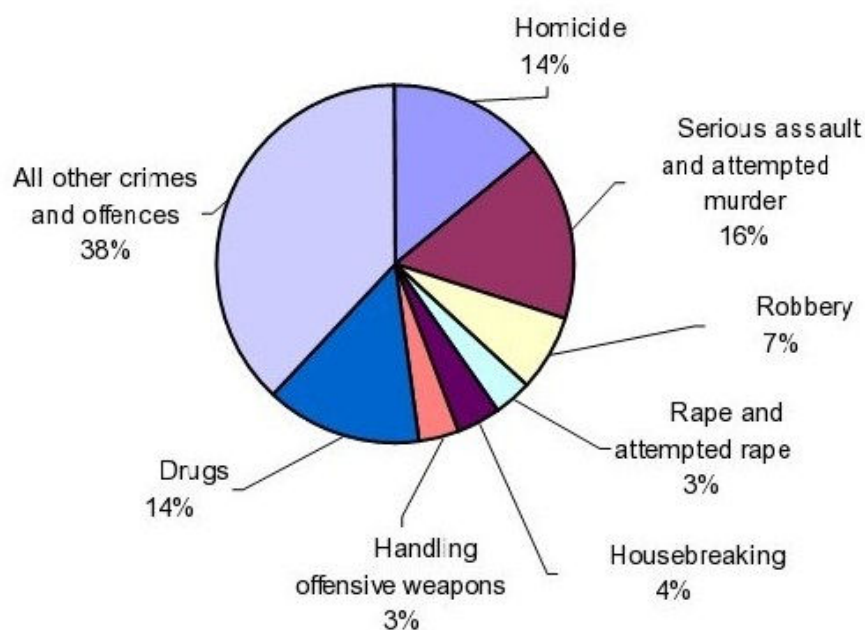
Figure 1.2: Sentenced prison population by selected main crime (30 June 2007)
Source: Scottish Government (2008)

1.1.2 Organisation structure[2]

I. Prison Board

The Prison Board is headed by the Chief Executive. In 2009, the Prison Board comprised a Director of Human Resource, Director of Prisons, Director of Health and Care, Director of Corporate Service, Director of Partnerships and Commissioning, Director of Finance and Business Services, and three Non-Executive Directors. This research focuses on the roles of Director of Prisons and Director of Partnerships and Commissioning as they link senior management at Headquarters with prison establishments through prison service agreements (see Chapter 5).

II. Headquarters

The SPS Headquarters is based in Edinburgh. The SPS website indicates that the Headquarters is home to the following directorates (SPS 2009a):

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[2] See Coyle (1986, 1991 and 1994) for more details of the organisational development and a brief history of the SPS.

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- *Corporate Services Directorate* is responsible for legal affairs and information system services.

- *Human Resources Directorate* deals with 'employee resourcing, employee relations, welfare, pay and associated matters, and advice on health and safety' as well as training.

- *Prisons Directorate* is responsible for 'the line management of public sector prisons, ensuring delivery against key performance indicators and prison performance contracts'.

- *Health and Care Directorate* takes responsibility 'to guide and ensure good quality care and highly professional caring staff meets the needs of prisoners and prisons'.

- *Finance and Business Services Directorate* 'consists of three key areas including Estate Development, Financial Services Policy, and Procurement'.

- *Partnership and Commissioning Directorate* is responsible for two agendas: Research and Development and Commissioning and Contract Management. Its function also involves working with partners in different areas. It 'co-ordinates the SPS contributions to the Management of Offenders Act 2005 in line with the National Strategy for the Management of Offenders, supports partnership arrangements for the Community Justice Authority (CJA) plans, and agrees national and local priorities. The core role of the Directorate is as Commissioning Client for custodial, correctional and inclusion services for all prisoners. This role involves moving the focus from "public sector prison policy making" to "all sector requirement setting" and these new arrangements have resulted in changes in activity, relationships with partners, behaviour and structures'.

III. Prison Establishments

Prison establishments are headed by prison governors. They are tied to the Headquarters through service agreements. The 15 prisons are located across Scotland and take custody of local prisoners in their jurisdictions[3].

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[3] See the SPS website for more information on each prison at http://www.sps.gov.uk/Prisons/prisons.aspx

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Figure 1.3: Map of Scottish prisons
Source: Scottish Prison Service (2009b)

1.2 Objectives

The main objectives of this research are to explore the influence of managerialism on prison management with reference to the experience of the SPS and to reveal the SPS's response to the reform of prison management in this context. The timeframe of this research was set to cover the SPS's development from the late 1980s to 2007. The late 1980s was chosen as the departure point of this study simply because of the fact that during this period the SPS had encountered series of crises including a number of serious hostage-taking incidents and chronic overcrowding in the main Scottish prisons[4] which required determined actions from management and the government (see SPS 1988, 1989, 1990a, 1990b). In this research, key policy papers launched immediately after the aforementioned problems were examined to explore the development of prison policy and management away from the traditional approach that focused on authority, security and order to one that emphasised effectiveness and efficiency.

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[4]For a summary of the incidents which occurred, see Scottish Prison Service (1989).

In addition, at the macro level, the 1980s witnessed the shift in the management of the public sector towards the use of market mechanisms as an integral part of the policy of the Thatcher Government (Mackie 2005:5). The SPS, as a public service provider, was no exception. The extent which these key market mechanisms were employed by the SPS for the management of its prisons during these 20 years is examined and revealed in this research.

On another dimension, from the 1980s, Scotland experienced a profound transformation in terms of population demography, labour market, education and politics (Paterson, Bechhofer and McCrone 2004:149-153). These are all factors that, as demonstrated by previous studies, have had an impact on penal policy (Garland 1985, 1990; McAra 1999; Newburn 1995, 2003). The present research, therefore, took these factors into account when analysing the effect of managerialism on the reform of the prison system in Scotland.

In summary, the primary objectives of this research are:

 1. To explore and understand the influence of managerialism on prison management in Scotland; and

 2. To examine and reveal the use of a 'business-like' approach in the management of the Scottish prisons.

1.3 Research Questions

According to the objectives of this research, the focus is on the development of the so-called *New Public Management or 'NPM'* in prison management with reference to the SPS's experience. NPM's growing influence in the prison service was examined through the shift in prison policies and operational practices towards the use of a 'business-like' approach, e.g. through contractual management and customer orientation, in the management of public prisons. This research applies insights revealed in the academic literature (e.g. Adler and Longhurst 1994; Flynn 1986, 2001; Hood 1991, 1995a, 1995b, 1996, 2000; Hughes, McLaughlin and Muncie

2002; Hughes 1998; Mackie 2005; Peters, 1996; Pollitt and Bouckaert 2000; Walsh 1995) over a 20-year period.

This research, therefore, attempts to find out the extent to which NPM and managerialist ideology have influenced prison management in Scotland during the last two decades. My original hypothesis was that the prison service, as a public organisation, has inevitably and significantly been affected by managerialism employed by the UK government to 'modernise' and improve the efficiency of the public sector. In order to examine this, three research questions were formulated and then refined in the later stage of this research (for more details, see Chapter 3).

In summary, research questions in this research are:

1. To what extent has managerialism had an influence on prison management?

2. What does the development of managerialism in the SPS look like?

3. How has the SPS approached NPM?

1.4 Outline of the thesis

This thesis comprises eight chapters. *Chapter 1 Introduction* provides some background to the research and a brief account of the organization of the SPS. The objectives of the research and the research questions that it addresses are also set out in this chapter.

Chapter 2 Prisons and the 'New Public Management' reviews the academic literature on the management of the public sector, the development of NPM and prison management in NPM era. Primary references are made to Hood (1991) on the NPM doctrine, Adler and Longhurst (1994) on prison discourse, and Walsh (1995) on market mechanisms.

Chapter 3 Research Design deals with research strategy and methodology used in this thesis. It also discusses research ethical issues and practical constraints on the research.

Chapter 4 Changing Policy Discourses discusses the changes and development in prison discourses during the last two decades. This thesis has adapted Adler and Longhurst's (1994) 'discourse matrix' as an analytical framework to analyse contemporary policy documents. The objective of this chapter is to demonstrate that there has been a shift in prison discourse to managerialism.

Chapter 5 Managing Prison with Market Mechanisms examines the use of 'business-like' approach in the management of Scottish prisons. Three key features are discussed: decentralisation, contract management and customer orientation. While *Chapter 4* examines changes in the policy dimension, this chapter focuses on the operational dimension. This sets out to demonstrate that, at the operational level, there has also been a movement towards managerialism.

Chapter 6 Private Prisons in Scotland examines the management of private prisons in Scotland. Currently, Kilmarnock and Addiewell are the only private prisons in the Scottish prison system. Private prisons are a product of NPM and reflect the influence of managerialism at the operational level.

Chapter 7 Ethics and Accountability outlines the accountability mechanisms that are encountered in the SPS. The focus of this chapter is on three principal accountability mechanisms, namely HM Inspectorate of Prisons for Scotland, the Scottish Prisons Complaints Commission and the Scottish Public Services Ombudsman.

Chapter 8 Conclusion summarises three key themes of this thesis: the background to the research and the research design (Chapter 2-3), the main findings from the research (Chapter 4-7) and the contribution of the research to the field of prison management.

CHAPTER 2

PRISONS AND THE 'NEW PUBLIC MANAGEMENT'

This chapter examines the concept of *New Public Management (NPM)* and its relationship with the management of prisons. The main aims of the chapter are to clarify the meaning of NPM and to illustrate its impact on prison policies and management during the past two decades with reference to previous studies. The academic literature examined in this chapter can be divided into two thematic clusters: the first deals with the background of NPM covering the brief history of NPM, key characteristics and criticisms of NPM; and the second deals with the management of prisons in the NPM era. To serve the purpose of this research, special attention is given to the emergence and the characteristics of NPM in the public sector. In particular, the classic work of Hood (1991) namely *A Public Management for All Seasons?*, which gave rise to debates about NPM and became the most cited reference on NPM, is discussed and used as a framework for examining the influence of NPM on the management of prisons in Scotland.

This chapter lays the foundation for my arguments in Chapter 4-6 where I demonstrate that the management of prisons has been influenced by a 'business-like approach'. In particular, Adler and Longhurst's (1994) analysis of changes in prison discourse in Scotland is discussed in this chapter and adapted as an analytic framework in Chapter 4 for examining the influence of managerialism on prison policy and discourse in Scotland. Hood's (1991) account of the characteristics of NPM is then used as a framework in Chapter 5 and 6 for demonstrating the adoption of a 'business-like' approach for managing Scottish prisons.

2.1 What is *New Public Management*?

Since the 1980s, there have been significant changes in public management in the UK. We have become familiar with such terms as *decentralisation*, *competition*, *privatisation*, *deregulation*, *and value for money*. If one switches on a television or reads a daily newspaper, one will surely find at least one of these terms in politicians' and high-ranking civil servants' discourse. Individuals employed by

public organisations have been reclassified into marketing-like categories i.e. *managers*, *producers*, *providers*, *bidders*, *tenderers*, *operators*, *users* and *customers*. In terms of management techniques, managers in public service have borrowed management tools like *contract management, performance-based management*, '*Total Quality Management'* (TQM) and *key performance indicators* (KPIs) from the private sector. If all these changes can be summed up in one term, it would be *New Public Management* (Hood 1991).

This *new* approach to public management has been examined by academics in various fields including political science, public administration, management, and economics. Different commentators provide different definitions for NPM (i.e. Aucoin 1990; Hood 1991; Lane 2000b; Toonen 2001). However, the work of Hood (1991) seems to be the most cited reference on NPM. According to Hood (1991), NPM is a loose administrative term used as "a shorthand name for the set of broadly similar administrative *doctrines* which dominated the bureaucratic reform agenda in many of the OECD[5] group of countries from the late 1970s" (ibid. 3). The seven doctrines that Hood summarises are the overlapping precepts that appear in most of the NPM literature. They are:

- 'Hands-on professional management' in the public sector;
- Explicit standards and measures of performance;
- Greater emphasis on output controls;
- Shift to disaggregation of units in the public sector;
- Shift to greater competition in the public sector;
- Stress on private-sector styles of management practice; and
- Stress on greater discipline and parsimony in resource use

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[5] OECD (Organisation for Economic Co-operation and Development) is an international organisation established in 1961 and currently comprises 30 member countries around the world (Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States). Its two main principles are democracy and the market economy. The organisation was originally established as Organisation for European Economic Co-operation (OEEC) in 1948 to administer the Marshall plan which was aimed at reforming Europe after World War II. In 1961, it was extended to include countries outside Europe. See OECD (2008) for more details.

'Hands-on professional management' (Hood also refers to it as a *free to manage* doctrine) is management in which the individual who is at the top of the organisation has *active*, *visible, and discretionary control* of the organisation.

Explicit standards and measures of performance refer to clear definitions of goals; targets; indicators of success and performance, *preferably* in quantitative terms.

Greater emphasis on output controls refers to a focus on resource allocation, performance-based rewards and decentralised personnel management.

Shift to disaggregation of units in the public sector means the 'break up of formerly 'monolithic' units, the unbundling of "U-form"[6] management systems into corporatised units around products, operating on decentralised 'one-line' budgets and dealing with one another on an "arms-length" basis (Hood 1991:5).

Shift to greater competition in public sector refers to a move towards contractual management and public tendering procedures.

Stress on private-sector styles of management practice means a move from a bureaucratic 'public service ethic' towards the use of private sector management techniques like flexible hiring and rewards, and public relations techniques.

Stress on greater discipline and parsimony in resource use implies a focus on 'cutting direct costs, raising labour discipline, resisting union demands and limiting "compliance costs" to business'.

The popularity of the NPM concept since its birth has been analysed by Hood as follows. First, NPM can be viewed as a 'whim of fashion' (ibid. 6). Second, NPM is accepted as a *'cargo-cult phenomenon'* (ibid. 7). Third, NPM is 'the synthesis of opposites' (ibid. 7) which are a state-led economy and a liberal economy. Fourth, the

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[6] Alfred Chandler, a business historian, argues that after the First World War, the management structure of business organisation shifted from a centralised (U-form) management to a multi-divisional (M-form), product-base management (see Chandler 1962).

rise of NPM is seen as 'a response to a set of special social conditions' (ibid. 7). This fourth observation according to Hood (1991) provides the most appropriate rationale for the popularity of NPM in the sense that it can explain why NPM emerged at a certain time and place (Hood's observation of the popularity of NPM is expanded in Section 2.2).

The arguments set out by Hood (1991) gave rise to a wide-ranging discussion over the real meaning of NPM. Ferlie, Ashburner, Fitzgerald and Pettigrew (1996) describe NPM using terms that represent NPM's principal goals and characteristics, which are *the efficiency drive, downsizing and decentralization, the search for excellence and a public service orientation*. Peters (1996) goes further by proposing four models of 'the future of governing' using the matrix as shown in Table 2.1. These four models comprise 'market government', 'participative government', 'flexible government' and 'deregulated government'. He suggests that, compared to traditional administration, each model presents a 'clear separation of roles between administration and politics, a hierarchal management style and pyramidal structures, (largely) permanent organisations and career civil servants, and accountability through political means' (p.111). However, from my initial exploration during the pilot project, it proved rather difficult to locate the management of prisons in terms of one particular governing model proposed by Peters (*ibid*). Despite the fact that prisons are public organisations, their unique characteristics, especially in terms of functions, 'customers' or 'clients', accountability and the relatively closed organisation require a mixed managerial approach which is not fully captured by one single model. At face value, for instance, the change in prison administration since the late 1980s seems to be described most accurately by the 'market government' model as a result of New Labour's 'privatisation' and 'decentralisation' policy. However, when considering the management of prisons at an operational level and daily regimes within prisons, variety of prison activities are still carried out in a 'hierarchical' fashion while internal communication is geared toward 'virtual organisation'. As for the policy-making process, Liebling (2004:41) suggests that special advisors have been brought in and advisory units or consultative bodies have been established replacing the monopoly of civil servants. The points that this thesis

attempts to address here are the extent which the SPS has been influenced by NPM and whether or not it can be explained by any of the models proposed by Peters (see Chapter 5).

	Market Government	Participative Government	Flexible Government	Deregulated Government
Principal diagnosis	Monopoly	Hierarchy	Permanence	Internal regulation
Structure	Decentralisation	Flatter organisations	"Virtual organisations"	No particular recommendation
Management	Pay for performance; other private-sector techniques	TQM; Team	Managing temporary personnel	Greater managerial freedom
Policy making	Internal markets; market incentives	Consultations; negotiation	Experimentation	Entrepreneurial government
Public interest	Low cost	Involvement; consultation	Low cost; coordination	Creativity; activism

Table 2.1: Four models of future governing proposed by Peters (1996)

In a broader sense, Walsh (1995) argues that NPM comprises two important strands: managerialism and indirect control (p.xiii-xiv). These two strands are quite distinct, as Walsh points out. He explains (p.xiv):

> The first, Taylorist, strand is based on the adoption of industrial production engineering techniques within the public sector. It is not a rejection of bureaucracy but its fulfilment. The second is based on the primacy of market-based coordination. This approach to management involves the creation of a core-periphery model of organisation, intended to enhance flexibility. At the core are the central strategists, while at the periphery are those who deliver services, frequently with a less permanently established position than they had in the traditional bureaucracy. This model is being pursued by a range of mechanisms from outsourcing to the creation of internal markets.

Walsh's (1995) argument on the use of market mechanisms in running the public services is expanded in Chapter 5, where his argument is compared with Hood's account of the characteristics of NPM and Peters' (1996) models to explore the extent to which Scottish prisons have adopted a 'business-like' approach.

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Lane (2000b) defines NPM as "a *theory* of the most recent paradigm change in how the public sector is to be governed" (p.3). Like Hood (1991), he argues that NPM represents an international trend in the sense that it is part of 'the managerial revolution that has gone around the world, affecting all countries, although to considerably different degrees' (p.3). To give a vivid distinction of the difference between traditional public administration and *new* public management, Lane (2000b) focuses on the basic tasks of the public sector which are (1) the allocation, or provision of goods and services (2) income maintenance, or the handling of transfers (3) regulation or the creation and monitoring of economic rules primarily for the private sector but increasingly commonly for the public sector. There are distinctions, he argues, between traditional public governance and modern public governance. For example, traditional governance takes on several roles in allocating goods and services, whereas modern governance separates these roles from each other (Table 2.2).

Traditional public governance	Modern public governance
Emphasis upon politics	Emphasis upon getting the job done
Use of public law mechanisms: (a) bureau; (b) public enterprise	Use of private law instruments: (a) contract; (b) tendering/bidding
Separation between public and private players	Leveling the playing field
Separation between allocation and regulation	Integration of allocation and regulation

Table 2.2: The differences between traditional public governance and modern public governance

Dawson and Dargie (2002), attempt to define NPM in three dimensions: as a movement; a subject for study and commentary by academics; and a set of practices. They argue that the emergence of NPM in the 1980s reflected the movement towards public service reform. The ideology for the reform of the public sector in the 1980s and 1990s was that public sector provision was *inefficient* and *ineffective*; that it led to cost and quality issues; that it affected the fair treatment of employees; and that it led to *declining* standards of public service (pp.34-35). Considering these issues

from the perspective that the public and the private sectors did not have to be different in terms of management, politicians and their advisors then sought advice from the private sector. This resulted in the public sector reform which aimed at 'cost containment', 'public support' and 'performance improvement'. They pointed out that this movement did not only occur in the UK but also occurred in New Zealand, Australia, Sweden and the US, where the public sector faced similar changes during the1980s and 1990s.

In order to gain a better understanding of NPM, the following subsections present a brief history of NPM with the chronology of the NPM movement in the UK, those characteristics that are relevant to this thesis and some of the major criticisms of NPM.

2.1.1 A brief history of NPM

Observers examine the origins of NPM in a number of ways from the adoption of the new management 'ideology' (managerialism) to the search for *means* to solve the problem of inefficiency in the public sector. As discussed earlier, those who have written about NPM regard managerialism as *the* key element and have tried to make sense of it. To understand the origins of NPM, it is important to look at how managerialism emerged in the public sector. Drawing on the academic literature, the discussions on managerialism in British public service began in 1970s when the book called *Management in Government* by Keeling (1972) was launched before many more works on managerialism and public sector reform came out in the 1980s including such key publications as *Managing Public Organisations: Lessons from Contemporary European Experience* by Kooiman and Elianssen (1987) and *Improving Public Management* by Les Metcalfe and Sue Richard (1987). In 1990s, Christopher Pollitt published *Managerialism and the Public Services: the Anglo American Experience* (1993a) and *Managerialism and the Public Services: Cuts or Cultural Change in the 1990s?* (1993b), which had a great impact on the study of public administration at the time. Pollitt (1993b:vi) argues that, since the 1970s, managerialism 'has grown enormously in salience' in the public service, not only in Great Britain but also in America. Pollitt (in Lynn 2006:115) sees managerialism as

'an ideology, a set of beliefs and values centered on the role management can play in promoting social progress'. He also points out that the emergence of managerialism in the public sector involved 'the transfer, during the last decade or two, of managerialism from private-sector corporations to welfare-state services, and represents the injection of an ideological "foreign body" into a sector previously characterised by quite different traditions of thought' (ibid. 11). The driving force behind this 'transfer', he argues, is to minimize the differences between the management of private business and public services (ibid. 27).

A year later came *A Public Management for All Seasons?* by Christopher Hood. Hood (1991:3) argues that the rise of NPM can be linked with four other administrative "megatrends" which are (1) 'attempts to *slow down or reverse government growth* in terms of overt public spending and staffing'; (2) 'the shift toward *privatisation and quasi-privatisation*'; (3) 'the development of *automation*, particularly in information technology, in the production and distribution of pubic services'; and (4) 'the development of a more *international agenda*, increasingly focused on general issues of public management, policy design, decision styles and intergovernmental cooperation, on top of the older tradition of individual country specialisms in public administration'.

Hood (1991) argues that NPM's origin can be viewed as a *marriage* between two different streams of ideas namely *new institutional economics (freedom to choose)* and *managerialism (freedom to manage)*. He explains that the first, which was built on the post World War II development of public choice theory, transaction cost theory, principal-agent theory and theory of bureaucracy 'helped to generate a set of administrative reform doctrines built on ideas of contestability, user choice, transparency, and close concentration on incentive structures. Such doctrines were very different from traditional military-bureaucratic ideas of "good administration", with their emphasis on orderly hierarchies and elimination of duplication or overlap' (ibid. 5). Meanwhile, the latter idea, which was imported into the public sector, 'helped to generate a set of administrative reform doctrines based on the ideas of professional management expertise as portable, paramount over technical expertise,

requiring high discretionary power to achieve results ('freedom to manage') and central and indispensable to better organisational performance, through the development of appropriate cultures and the active measurement and adjustment of organisational outputs' (ibid. 6).

According to Hood (ibid. 7), the conditions that may have precipitated NPM include (1) 'changes in income level and distribution' which underlay 'the conditions for a new tax-conscious winning electoral coalition'; (2) 'changes in the socio-technical system associated with the development of the lead technologies of the late twentieth-century' which remove 'the traditional barriers between the 'public service sector' and "private sector work"'; (3) '[a] shift towards "new machine politics", the advent of a new campaign technology geared towards making public policy by intensive opinion polling of key groups in the electorate, such that professional party strategists have greater clout in policy-making relative to the voice of experience from the bureaucracy'; (4) 'a shift to a more white collar, socially heterogeneous population that is less tolerant of "statist" and uniform approaches in public policy'. A relatively similar claim is made by Hughes (1998), who argues that the NPM model is based on economic and private management theories whereas the traditional public administration model is based on the theory of bureaucracy and the theory of the separation between politicians and administration (p.66).

In *Managerialism and the Public Services*, Pollitt (1993b) demonstrates that the emergence of managerialism in the UK, which is the main feature of NPM, began when the Conservatives were in power in the late 1970s. For the UK civil service, Pollitt presents the chronology of the main management changes from 1976-1989 (as summarised in Table 2.3). He argues that these historical events represent a strong emphasis on the control of civil service expenditure, decentralisation and 'neo-Taylorian' management philosophy which favours clear targets, performance indicators and the use of merit awards, promotion or other rewards for individual who get 'results' (Pollitt 1993b:55-56). This chronology is relevant to the present study because it demonstrates that the management of the public sector moved towards managerialism in the late 1970s and shifted dramatically in the middle and

late 1980s. This confirms that it is appropriate for this research to look at the influence of managerialism on the management of prisons from the 1980s onwards. Details are discussed in Chapter 3.

Year	Major management changes
1976	Introduction of Cash limits over most public expenditure
1979	Conservative government announced a 14 per cent cut in civil service numbers in the five years up to April 1984.
1979	An Efficiency Unit was set up to promote efficiency and eliminating waste.
1979	Management Information System for Ministers (MINIS) was introduced, comprising a systematic annual review of the objectives, achievements and resources used by every main division within the Department of the Environment.
1980	A 21-week strike occurred when government declined to implement the findings of Civil Service Pay Research Unit.
1981	Megaw Committee was set up to inquire into civil service pay. It recommended a new system which brought civil service pay more closely under ministerial control.
1981	Civil Service Department was abolished. Its pay and manpower functions were transferred to the Treasury. The efficiency recruitment and selection functions went to a new Management and Personnel Office (MPO) within the Cabinet Office.
1982	Financial Management Initiative (FMI) was announced to cover all departments.
1983	Central Policy Review Staff (CPRS or 'think tank') abolished.
1983	Further 6 per cent cuts in civil service numbers were announced.
1984	Government banned union membership at the Government Communications Headquarters.
1984-85	The annual staff appraisal system was modified so that personal objectives were set for each individual.
1985	Experiments with performance-bonuses for grades 2-7 were commenced.
1985	The Civil Service College introduced two new courses, Top Management Programme and Senior Management Development Programme.
1986	FMI was reviewed and extended.
1986	*Government* published review of opportunities for competitive tendering and contracting out within (formerly) civil service activities: *Using Private Enterprise in Government.*
1987	The Treasury concluded negotiations with the Institution of Professional Civil Servants (engineers, scientists and other 'specialists') providing for 'a radical change in civil service pay'.
1987	Management of Personnel Office (MPO) abolished, most of its functions transferred to the Treasury.

1987	The 1987 annual white paper on public expenditure contained 1,800 'performance indicators' of departments' work, representing a major growth in such indicators since the introduction of FMI in 1982.
1988	Improving management in government: 'the next steps' was published by the Efficiency Unit.
1989	Some departments begin to publish their own annual volumes of resource and planning information.

Table 2.3: Summary of Pollitt's chronology of major management changes

Pilkington (1999) has called these changes in public administration a '*managerial revolution*' which was driven by '*the three Es*': *economy*, *efficiency* and *effectiveness*. He suggests that the establishment of the Efficiency Unit, the Scrutiny Programme, and the Financial Management Initiative (FMI) constituted explicit evidence of the efforts of the Thatcher Government in the early 1980s to create a radical change in the quality of civil service management. Pilkington concludes that:

> The process by which the Efficiency Unit achieved these changes [creating real economies and improved efficiency and increasing the managerial skills of senior civil servants] progressed in three stages:
> 1. There was a hunt for 'value for money' (VFM) in terms of the three Es of economy, efficiency and effectiveness: mainly through a series of departmental scrutinies-a form of efficiency audit.
> 2. In 1982 the scrutiny programme was superseded by the Financial Management Initiative (FMI) which was intended to 'improve allocation, management and control of resources throughout central government'.
> 3. It was Rayner[7]'s successor, Sir Robin Ibbs, who instituted the third stage of the reform programme to coincide with Mrs. Thatcher's third term in government. The Next Steps programme introduced by Ibbs was designed to change the Civil Service for ever through separating the service's policy making functions from its executive role as a deliverer of services and it has to be said, now that the Next Steps programme has completed it initial stages, the intended change has indeed taken place (Pilkington 1999:69).

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[7] Besides Mrs. Thatcher as the head of the government, Sir Derek (later Lord) Rayner of Marks and Spencer and Sir Robin Ibbs were the two other figures who moved the management of the UK civil service into a new era. With a background as a successful businessman, Sir Derek Rayner, who was appointed as the first Head of an Efficiency Unit, introduced new managerial systems into the public sector arena.

The victory of John Major in the 1992 election, according to Pilkington (ibid.), underpinned the efforts to reform the civil service. The Office of Public Service and Science was established soon after the formation of the Major Government to take charge the Next Steps programme, the Citizen's Charter, and Market-Testing. While the Citizen's Charter aimed to increase public satisfaction with public services, market-testing was geared towards efficiency and economy. Pilkington (ibid. 79) points out that market-testing requires public departments and agencies to '*market-test* their activities to see whether those activities could be efficiently provided by outside organisations instead of continuing rather expensively in-house'. If these outside organisations could do it, it was 'a gain'. In addition, he added, 'even if it were decided to keep the activity in house, the act of considering it for tender would have involved the staff in a re-evaluation of the activity which in itself might lead to more effective execution of that activity' (ibid. 79).

The argument that NPM was intended to reform public management was strengthened by Pollitt and Bouckaert's (2000) study, *Public Management Reform: A comparative analysis*, which examines recent changes in public management in twelve countries[8] plus the European Union. Pollitt and Bouckaert (2000) comment that public management reforms are potentially a means to multiple ends, including savings, quality improvement, efficiency, effectiveness, politicians' control over the bureaucracy, freedom of public officials from bureaucratic constraints, and symbolic and legitimacy benefits (ibid. 6). In addition, they argue, 'public management reform consists of deliberate changes to the structures and processes of public sector organisations with the objective of getting them (in some sense) to perform better (ibid. 8)'. This comparative study demonstrates that the reform of public management primarily occurs in four main conventional areas: finance (budget, accounts, audits), personnel (recruitment, posting, remuneration, security of employment, etc.), organisation (specialisation, coordination, scale, [de]centralisation), and performance measurement system (content, organisation, use). However, the process of implementation varies from one country to another:

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[8] The twelve countries in Pollitt and Bouckaert's (2000) study are Australia, Belgium, Canada, Finland, France, Germany, Italy, Netherlands, New Zealand, Sweden, United Kingdom and United States of America.

from top-down/bottom-up, legal dimensions to task allocation (ibid. 67). When considering trajectories for public management reform, Pollitt and Bouckaert's (ibid. 24-38) model[9] of public management reform demonstrates the important roles of and the relationship between *socio-economic forces* (global economic forces, socio-demographic change and socio-economic policies), *the political system* (new management ideas, pressure from citizens and party political ideas), *elite decision making* and *the administrative system* (content of reform package, implementation process and results achieved).

Contributors to the contemporary literature on the management of the public sector agree that the political factor is one the most significant factors that gave rise to NPM. In addition to Pollitt and Bouckaert, Ferlie, Ashburner, Fitzgerald and Pettigrew (1996:1) also argue that top-down pressure was a 'sustained' influence on changes in the organisation and management in the UK public services in the 1980s. Meanwhile, Lane (2000b:178) explores the different NPM theories that were influential in public sector management in the twentieth century and concluded that 'new public management places a huge responsibility for public sector operations with politicians and managers, contracting between each other about the provision of goods and services'. In addition, Hughes (1998) points out that one of the common features of NPM from different theories is that senior staff in public organisations are 'politically committed to the government of the day rather than being non-partisan or neutral' (Hughes 1998:52). He also adds that 'political leaders are now more likely to select their heads of departments and require some sympathy with political goals' (ibid. 76).

In addition to political pressures, another significant pressure for NPM was socio-economic change. As mentioned above, an attempt to reduce public expenditure was among the main pressures for change (Flynn 1993:24). NPM, however, did not completely replace older frameworks but added a new approach to public sector governance, in particular contractualism (Lane 2000b:3). Market mechanisms are now widely used in the management of public services (Walsh, 1995). Lynn (2006)

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[9] Pollitt and Bouckaert's (2000) model was developed from the reform of politico-administrative regimes in those twelve countries. Chapter 2 of their book discusses the details of the model.

explains how the UK government has been an enthusiastic promoter of 'business-style managerialism' since Margaret Thatcher became Prime Minister in 1979. The drivers for her reform programme include her 'disdain' for the civil service, her enthusiasm for marketing ideology, and her determination to cut public expenditure. Lynn (in Heinrich and Lynn 2000) demonstrates that the reform programmes of the UK Government were carried out using a variety of means, including those promoted by the Efficiency Unit, Management Information System for Ministers, the Financial Management Initiative, Programme Analysis and Review and the Next Steps Programme. The Citizens' Charter in 1991 aimed to encourage 'a customer-and-quality orientation' in public service delivery and the *Competing for Quality* White Paper of 1991 promoted 'contracting out, followed by exercises on comparative costs known as market testing' (Heinrich and Lynn 2000:117-8). Lynn suggests that public management reform in Great Britain started at the managerial level 'with significant consequences for the constitutional and policy levels of governance' (ibid. 118). This observation is consistent with Hood (1991:6), who notes that the NPM revolution of the UK has been led from above rather than from below. In this research, as presented in Chapter 5, I have applied an analytical framework derived from Hood (1991) and Walsh (1995) to explore the use of a 'business-like' approach to the management of prisons in Scotland. The privatisation boom and the idea of competitiveness are also discussed in Chapter 6 with reference to the study by Mick Ryan and Tony Ward (1989) that provides a chronological account of prison privatisation in the UK, and the study by Tim Newburn (2002) that focuses on policy transfer between the UK and USA and suggests that private prisons were one of the products that were transferred across the Atlantic.

In summary, despite the fact that the development of public management in the UK seems to have moved in one direction towards the use of a 'business-like' approach to administration, the reform process can be divided into a number of stages. The work by Osborne and McLaughlin (2002) examines significant changes in the management of the public sector and suggests that there have been four stages of the reform, with the birth of NPM falling into the final phase which began in the late 1970s (Osborne and McLaughlin 2002:7). According to Osborne and McLaughlin

(ibid.), the first stage of the development was in the late nineteenth century when public services were carried out by the charitable sector or through private provision. This period is known as the period of *the minimal state*. The second stage was a period of *unequal partnership* between government and the charitable and private sectors, starting in the early twentieth century. During this period, basic minimum services were provided by the state while the extras were *extended* by the other two sectors. The third stage was the *welfare state* stage commencing from 1945 and lasting until the 1980s. This was 'the high point of the hegemony of public administration upon the provision of public services' (ibid. 8). Because of the belief that the other two sectors had failed to deliver public services, due to fragmentation and duplication, the government took responsibility for delivering all the public services. The fourth stage began in the late 1980s when the public sector management was reformed by the use business-like approach. This was when NPM emerged and impacted governmental agencies including the prison service. The present research adapted Osborne and McLaughlin's approach in analysing the development of prison management in Scotland by examining whether or not the management of Scottish prisons can be divided into a number of stages (Chapter 4).

2.1.2 NPM characteristics relevant to this research

Academics in public administration (i.e. Ferlie, Ashburner, Fitzgerald and Pettigrew 1996; Flynn 1993; Hood 2000; Hughes 1998; Lane 2000b); Pollitt and Bouckaert 2000; Toonen 2001) seem to agree on the key features of NPM which include *market* and *competition*, *contracting organisations*, *performance measurement*, *customer-oriented service*, *politicisation*, and *professionalism*. As mentioned earlier, this research focuses on Hood's doctrinal components of NPM with special emphasis on three characteristics that are relevant to the prison service, namely a 'customer' or 'client' oriented approach; contract management; and decentralisation.

I. A user-oriented service

One of the most significant characteristics of NPM is the focus on public service *clients* or *customers*, i.e. on *'users'*. Prior to the 1980s, public administration discourse had been mostly about 'staff' or 'the union'. Hughes (1998) suggests that

management of the public sector in the NPM era becomes more participative and flexible than was formerly the case (Hughes 1998:244-5). This implies that public sector managers recognise the importance of public participation for the delivery of public services. The public are now encouraged to become *active* users. Their feedback on the service delivered, for instance, is used as one of the key performance indicators for the service provider. A user-oriented service, therefore, is a service that has to be responsive to the people who use it (Flynn 1993). In designing a service, Flynn (1993) suggests, a service designer has to be clear about identifying *who* its users are or who the service is designed for. The public sector cannot just borrow this approach directly from the private sector because there is a 'fundamental difference' between a *customer* orientation in the private sector and a *user* orientation in public service.

> Companies' marketing efforts are directed at reaching the right number of right customers to buy their products or services, usually in competition with others. Often, in the public sector, this is not the case: the problem for the organisation may not be to attract people to the services, but rather to deter too many people from applying for them and to ensure that only those people whose needs are defined by the policy receive them. (ibid. 145)

Flynn (ibid. 145) identifies the elements of user-oriented service in the public sector since 1979 as follows:

- *a survey of users* e.g. users of GP surgeries in the health service to find out what users think;
- the identification of *core and peripheral* services to ensure that the core service meets users expectations without leaving the peripheral service behind;
- *customer co-production* to create 'pro-users' i.e. in education service (schools and parents) and in housing service (authorities and tenants);
- the match between 'the timing of demand and the availability of supply'. e.g. the extended opening hours of a housing authority to suit the tenants and the discounted tickets for a public bus to encourage the public to travel at particular time to match the capacity of the transport system;

- a *mutually beneficial exchange* between providers (staff) and the users;

- *the right sort of staff,* which means putting the right person on the right job;

- *physical aspects* from buildings, vehicles to forms and letters which are users-friendly; and

- *Packaging* which can reflect what the service does, "as seen from the users' point of view" i.e. a museum should be viewed as "an educational establishment" not just a "a convenient place to shelter from the rain".

These principal characteristics of NPM are expanded and discussed in Chapter 4 where I argue that SPS policy has gradually moved towards a user-oriented orientation. Also, at operational level, I demonstrate in Chapter 5 how the SPS treats prisoners as active users.

II. Market, competition and contractual relationships

A business-oriented approach to government is undoubtedly one of the key features of NPM. Dawson and Dargie (2002) point out that the construction of the 'quasi-market' is part of the NPM approach that has focused on creating institutional and organisational contexts that are similar to those in the private sector. Contracts, rather than hierarchies, became the dominant means of control.

> The word quasi-market is important, because although market mechanisms were introduced in order to control the provision of services, in most cases the created market could only operate within two major constraints which are rarely, if at all, found in the private sector. The first constraint on the market was that the available funds in the market were determined on an annual basis by government decree. Thus even the most successful supplier could not increase the size of the total market…The second constraint on the market was that the activities in which created organisations could engage were carefully circumscribed by statute. For example, although NHS trusts were created as providers of health care, they could not sell their services to private individual. (Dawson and Dargie 2002:35-36)

Their observation is quite similar to that of Hood (1991) who comments that contract is crucial to management under the NPM umbrella as it clarifies explicit standards and measures of performance. Among those who have examined the contractual relationships in the public sector, Lane (2000b) has produced one of the most thorough investigations of contractualism. He argues that NPM adds a long chain of contracts, transactional contracts as well as relational contracts to the old framework of traditional administration and that:

> using contracts as a coordination mechanism in the public sector is in principle nothing new. But what is extraordinary in NPM is the comprehensiveness of its employment. It is as if contracting in NPM has become more important than the traditional tools of government when coordinating the public sector, i.e. law, regulation and budgets. This raises a few interesting and perplexing questions about the distinction between private and public law, as public policy directing service delivery will be contained in contracts, enforceable in ordinary courts. The critical problem in NPM is whether contracting generally is such a powerful tool for government to reach its objectives (Lane 2000b: 147).

In contracting regimes, Lane points out that government plays a variety of roles, mainly as a contractual partner and an umpire, and that it 'cannot only be regarded as just another contractual partner, simply for the reason that the state is also the guarantor of all contracts, private or public, at the end of the day' (ibid. 161).

To examine the contractual management of the SPS, my analysis is based mainly on Lane's (ibid.) and Walsh's (1995) arguments discussed above. In particular, the type of contract, the content and the roles of the parties involved, especially Headquarters, the contractors and prison establishments, are analysed to demonstrate the change from traditional prison management to the use of a 'business-like' approach (see Chapter 5 and Chapter 6 below).

III. Downsizing and decentralisation

Hood (1991:5) has pointed out that, in the NPM era, the formerly 'monolithic' units of public sector organisation have been broken up into corporate units organised around products, operating on decentralised 'one-line' budgets and dealing with one

another on an 'arms-length' basis. Decision making has been decentralised to heads of units and the number of staff at headquarters has been reduced. The organisation tends to be smaller but has become more functional. These observations are consistent with Peters' (1996) models of governance (set out in Table 2.1 above) which indicate that *market government* does not monopolise the public services and that, in term of structure and policy making, it promotes decentralisation, the internal market and market incentives to enhance the efficiency of public service delivery.

Devolution of financial control and the establishment of internal agencies to operate as autonomous units are the two means commonly used in the public service organisations (Walsh 1995:165). The introduction of the Financial Management Initiative (FMI) scheme can be seen as an attempt to delegate financial 'power' to local managers

In this research, I examine the extent which the SPS delegated its decision making power from Headquarters to prison establishments. Moreover, in Chapter 5, I discuss how the relationship between Headquarters and prison establishments, the Board and governors, and management and staff changed as a result of decentralisation.

2.2 Critics of NPM

Why did NPM find favour? Dawson and Dargie (2002:37) explain that, since there has been no large scale of opposition to NPM, it has survived for decades. Hood (1991), as referred to above, provides four possible reasons why NPM *'caught on'*. He suggests that, 'for those who took a sceptical view of administrative reform as a series of evanescent fads and fashions, NPM's rise might be interpreted as a sudden and unpredictable product of "loquocentric[10]" success' (1991:6). However, this explanation does not really account for the 'endurance' of the seven doctrines mentioned above. Second, an explanation from the perspective that NPM is a 'cargo cult' phenomenon − the endless rebirth, in spite of repeated failures, of the idea that substantive (cargo) can be gained by the practice of particular kinds of (managerial)

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[10] This term is normally used in the field of political science and literally refers to the talk-oriented circumstance.

ritual (ibid. 7)'. But this, according to Hood, 'cannot tell us why the NPM variant of the recurring public management "cargo cult" appeared at the time that it did, rather than at any other' (ibid. 7). Third, the rise of NPM is explained in the light of the view that NPM is 'an epoch-making attraction of opposites' (ibid. 7). Hood argues that the opposites in this case are the two distinct approaches to the public administration – the German tradition of state-led economic development and utilitarianism. But, he argues, this explanation also does not tell us why those two distinct traditions of public administration should have united at this particular time rather than at any other. And fourth, it is claimed that NPM emerged 'as a response to a set of special social conditions developing in the long peace in the developed countries since WWII, and in unique periods of economic growth which accompanied it' (ibid: 7). As discussed earlier, the conditions which led to NPM included changes in income level; changes in the socio-technical system; a shift towards 'new machine politics'; and 'a shift to a more white-collar, socially heterogeneous population less tolerant of "statist" and uniform approaches in public policy' (ibid. 7).

Hood outlines four major criticisms of NPM. First and foremost, the claim that NPM is 'all hype and no substance'. This implies that the advent of the new managerialism has changed little, apart from the language in which senior public 'managers' speak in public. Underneath, all the old problems and weaknesses remain' (1991:9). Second, 'NPM has damaged the public service while being ineffective in its ability to deliver on its central claim that it lowers costs per unit of service' (ibid. 9). Third, 'NPM, in spite of its professed claims to promote the "public good" (of cheaper and better public services for all), is actually a vehicle for particularistic advantage' (ibid. 9). 'An elite group of *new managerialist"*, rather than operational staff and the public, benefits from NPM in terms of their career paths. Fourth, the focal interest of Hood's work is on this criticism − the attack on NPM's claim of universality. He explains that 'contrary to NPM's claim to be a public management for all seasons, these critics argue that different administrative values have different implications for fundamental aspects of administrative design-implications which go beyond altering the "settings" of the system' (ibid. 9).

When considering debates on NPM, it is clear that there has been a shift over these two decades-from arguments about its *managerialist* and *rational choice* ideology to debates on ethics, accountability, democracy, regulation, and the intrinsic nature of the public sector (Dawson and Dargie 2002:41). Hood and Jackson (1991) note that 'NPM does appear to contain several of the organisational ingredients which have been associated with socially-created disasters. At the worst, NPM could be a disaster waiting to happen'. Likewise, Rhodes (in Lynn 2006:148) argues that NPM is potentially a 'catastrophe' as it is 'the trends in the United Kingdom toward a smaller public sector with a reduced role in service delivery, a loss of function to the EU, and reductions in civil service discretion'. He refers to these developments as '*the bold new era of the hollow state'*, suggesting that they "risk institutional fragmentation, a loss of accountability, and a decline in the centre's ability to steer the system' (p. 127).

As for criticisms on ethical grounds, Lynn (2006) raises concerns expressed by well-known NPM scholars: Martin Minogue, and Carsten Greve and Peter Jesperson. Minogue (in Lynn 2006) fears that 'deregulation, contracting, and market testing in the United Kingdom will sacrifice important values such as equity, community, democracy, citizenship, and constitutional protection' (p.129) and argues that 'the traditional public service system, with its mix of political leadership and professionalism, is a careful balancing of interests, both internal and external' (p. 129). Likewise, Greve and Jesperson (in Lynn 2006) claim that traditional values like equity, due process and general public are threatened by the birth of NPM. 'The shift of public services to more autonomous forms excludes or minimises democratic forms of accountability, and efficiency may come at the expense of service to difficult clients, patients, and citizens' (p.129).

Lynn (ibid.) herself makes some pertinent comments on the conflict between delegation and accountability. She examines New Public Management in the light of the doctrines and practices of Old Public Management to demonstrate why

accountability has become an issue in the managerial era. For Old Public Management,

> public managers are governed by rules and hierarchy and by the public service values of reliability, consistency, predictability, and accountability to legislatures and courts in executing and maintaining the rule of law (constitutional, administrative, jurisprudential) or the principles of Rechtsstaat, all on behalf of the common good or the public interest…In contrast, public managers of NPM are 'assumed to be entrepreneurial "rational actors" who, in their pursuit of their interests, create public value much as actors in private markets do". The original assumption of NPM was that introducing relatively uniform, market-like incentives-competition and rewards, proportional to performance would produce more accountability than the rule-bound bureaucracies of the Old Public Management. (ibid. 142-143)

> The accountability issue raised by NPM is not so much delegation *per se* as the extensive sub-delegation of authority to lengthening chains of subordinate agents in both the public and the private sectors. These elongated 'chains of delegation' increase the distance between the sovereign authority of the people's name and financed by their resources, other. By increasing the power at the lower reaches of administration, NPM arguably strengthens centrifugal forces of democratic governance weakening the hold of traditional command-and-control and other integrative institutions, all of this with indeterminate consequences. (ibid. 143)

Criticisms of NPM are expanded in Chapter 7 where I discuss ethics and accountability mechanisms for the management of prisons in Scotland.

2.3 Prison management in the NPM era

Since the focus of this research is on the management of prisons in the period beginning in the late 1980s and ending in 2007, with particular reference to the SPS, special attention is given to research and studies which covered prison management during this period. In this section, I examine the impact of managerialism on prison management ideology, the management of prisons in the dynamic, managerial era, and prison privatisation.

2.3.1 Managerialism and Prison discourses

Among the academic literature, one work that had a significant influence on the present study in terms of its analytical approach is Michael Adler and Brian Longhurst's book *Discourse, Power and Justice: Towards a New Sociology of Imprisonment* (Adler and Longhurst 1994). This book focuses on the management of adult, male, long-term prisoners in Scotland and sought to provide a new perspective on the sociology of imprisonment. It is relevant to this research in many ways especially in identifying the key actors in the management of Scottish prisons, in the development of prisons policy and in changing policy discourses. In terms of key actors in the Scottish prison system, Adler and Longhurst (1994) classified them into five layers: (1) 'an inner core'; (2) 'an outer penumbra'; (3) 'a ring of political accountability'; (4) 'a ring of external influence'; and (5) 'an outer ring of legal accountability'. In each layer significant groups of actors are identified (see Table 2.4). Within the inner core of the system there were five significant groups of actors: civil servants at Headquarters; prison governors; prison officers; prison professionals; and prisoners. In this layer, as Adler and Longhurst (ibid. 7) put it, although prison governors and Headquarters staff were the most influential groups in administrative decision-making, one cannot deny the influence of other groups. Prison officers, for example, were central to daily management as they were also involved in a decision-making process via their reports and recommendations on a variety of issues i.e. prisoner classification and transfer.

The outer penumbra comprised the Prisons Inspectorate, Visiting Committees and Parole Board. These institutions, although 'technically' located outside the SPS, were established by statute and regarded as having a legitimate input into its working (ibid. 8). Next, the political accountability layer consisted of ministers and civil servants. They exerted influence over the management of Scottish prisons by formulating policy and proposing legislation (p.10). External influences included the Association of Scottish Prison Governors, the Scottish Prison Officers' Association, pressure groups, professional associations and political influences. The institutions in this layer represented people involved in the prison system i.e. prison staff, professionals, victims, prisoners' family, and political parties. However, according

to Adler and Longhurst, they did not have a great impact on penal policy in Scotland. 'It would seem that ministers and their civil servants are relatively free to determine prison policy. They are not likely to be seriously troubled by Parliament or its Committees' (ibid.12). The last layer in the model was legal accountability comprising Scottish criminal courts, the superior civil courts, the European Commission on Human Rights (ECHR) and the European Court, and the Parliament Commissioner for Administration (PCA). Adler and Longhurst point out that 'one could argue that the Government treats the criminal court (even for policy purposes) as if they were entirely external, belonging to the outer ring of legal accountability when they could be treated, at least in part, as internal to the policy-making process and as part of the outer penumbra of the prison system' (ibid. 13). Meanwhile, the other three institutions belonging to the outer circle had a minimal impact on the Scottish administrative procedures.

Scottish prison system	The inner core	The outer penumbra	Political Accountability	External Influence	Legal accountability
Main actors	Headquarters civil servants Prison governors* Prison officers* Groups of prison professionals	Prisons inspectorate Visiting Committees Parole Board*	Scottish Office Ministers Scottish Office civil servants	Association of Scottish Prison Governors Scottish Prison Officers' Association Pressure groups Professional associations Political influences	European Commission on Human Rights Criminal courts* Civil Courts* Parliamentary Commissioner for Adminis-tration

Note: * Actors/Institution deemed by Adler and Longhurst to have a significant and direct impact on administrative decision making.

Table 2.4: Adler and Longhurst's model of main actors in the Scottish prison system

Adler and Longhurst's model is used as an analytical framework in Chapter 5 and 7 when I analyse the relationship between key actors in the Scottish prison system in the managerialist era. To understand the roles of each actor and their relationships in the NPM period after Adler and Longhurst's study, I re-examine these actors, focusing on the SPS Board, Chief Executive, prison governors and staff, to see if there has been any change in terms of management, hierarchy and accountability when the SPS decided to adopt 'business-like' tools, in particular contractualism, in its approach to management. In Chapter 5, I argue that as a result of managerialism, the SPS treated prisoners more like *customers* and the services provided were increasingly designed to meet *customers' needs* with advice from specialists rather than to serve bureaucratic needs *per se*. The adoption of case management and 'risk and needs assessment' was among the most innovative examples of the so-called 'responsive services'. I also attempt to find the location for new actors in the Scottish prison system, e.g. private partners and the Community Justice Authority (CJA), which were not included in the original model. The point I wish to raise here is that these two actors are very likely to play influential roles, both directly and indirectly, in the prison system. The role of the former, for example, became particularly important when the SPS contracted out some of its main services (such as prisoner transportation and drugs programmes) to private partners in the 1990s. Perhaps the most significant event in the growth of private sector involvement was when the SPS opened the first private prison in Scotland (HMP Kilmarnock Prison) in 1999 (see Chapter 6). The latter, on the other hand, is likely to impact the SPS more on service delivery and resource management dimensions. As CJA comprises both public and private agencies relevant to the criminal justice system and the community which works together to achieve common goal of public safety, its roles inevitably influence how prisons are managed especially in the local or community context. SPS's policies in the areas of financial management, community involvement and public scrutiny might need certain degree of modification when this new actor becomes more functional (see Chapter 4 and Chapter 5).

The most relevant contribution of *Discourse, Power and Justice* to this study is its analysis of penal policy developments relating to the Scottish prison system. Adler

and Longhurst (ibid.) examine the movements of prison policy in Scotland during the period 1985-1992, when there were many significant pressures on the SPS, especially resulting from overcrowding and hostage-taking incidents in prisons across the country. They demonstrate that the power to determine prison policy in the Scottish prison system, which used to be driven by a combination of bureaucratic (civil servants at Headquarters) and professional (prison professionals) concerns, came to be shaped by an enterprising managerialism. They explain that:

> The strategies outlined in C&C [Custody and Care] and A&C [Assessment and Control] were clearly centralising ones, which reflected the power bases of their authors (civil servants at Headquarters). Since then, a new strategy has been developed which attempts to foster a common sense of ownership of the SPS. The policies outlined in O&R [Opportunity and Responsibility] implied an alliance between administrative civil servants and professional governors, while the latest thinking in ASE [A Shared Enterprise] and OFE [Organising for Excellence] takes this one stage further by proposing a new form of managerial fusion. Whether or not the power relations between the two existing groups of power-holders, i.e. between civil servants and prison governors, will allow this symbiosis to take place is another matter…
>
> The discursive site of this fusion between the two existing groups of power-holders is a specific form of managerial discourse which is heavily influenced by the enterprise culture and can be described as enterprise discourse… (ibid. 236-7)

The present study takes forward Adler and Longhurst's interest in prison discourse. While Adler and Longhurst focus on prison discourse between the mid 1980s and the early 1990s, this study deals with the developments in penal policy over a longer time-frame, from the late 1980s until 2007. Their work is now discussed at some length in order to understand how their 'discourse matrix' was developed and to demonstrate how this matrix was adapted in this study and used as a framework for the analysis of prison policies in NPM era.

The 'discourse matrix' proposed by Adler and Longhurst (ibid.) was the product of their analysis of prison policy between the mid 1980s to the early 1990s. Indeed, the matrix was aimed at characterising those prison discourses which dominated the management of prisons in Scotland at the time. These discourses were broken down

into two principal categories: the *ends discourse and the means discourse*. The former refers to discourses concerned with '*what prisons are for*'. The latter, on the other hand, refers to discourses concerned with '*how prisons should be run*'. Their analysis demonstrated that the *ends discourses* at the time were *rehabilitation*, *normalisation* and *control*. The characteristics of each ends discourse are set out in Table 2.5. For example, while the focus of *rehabilitation* discourse was on the *deviant* individual, those of normalisation and control were on the *normal* individual and the *disruptive* individual respectively. According to Adler and Longhurst, the dominance of one particular form of discourse and the emergence of policies that embodied it reflected the dominant position occupied by those who promoted it.

Discourse	Rehabilitation	Normalisation	Control
Source of legitimacy	Improving the individual	Prevention of negative effects of prison; treating prisoners like individuals in the community	Control of disruption; 'smooth functioning'
Focus	'deviant' individual	'normal' individual	'disruptive' individual
Dominant concerns	Socialising the individual back into society through the provision of training and treatment	Minimum security; contact between the prisoner and his or her family; improved living conditions	Good order and discipline; protection of prison staff

Table 2.5: Characteristics of 'end' discourses

As for the *means discourse* implying how prisons should be run, Adler and Longhurst (ibid.) argue that, during the mid 1980s and the early 1990s, there were in three competing forms: *bureaucracy*, *professionalism*, and *legality* (see Table 2.6). Their source of legitimacy, focus, dominant concerns and accountability were simply different from each other. For example, traditional prison management (*bureaucracy*) tended to focus on the system rather than on establishments or on individual prisoners and staff, and emphasised uniformity, consistency and conformity with rules. *Professionalism*, on the other hand, put the spotlight on each

establishment and emphasised leadership, experience, discretion and decision-making as well as institutional ethos. In contrast to these two means discourses, *legality* focused on individual prisoners and sought to promote their rights. Adler and Longhurst suggest that these *means discourse*, similar to the *end discourses* reflected ideologies promoted by key actors who had power at the time.

Discourse	Bureaucracy	Professionalism	Legality
Source of legitimacy	Fairness, impartiality	Inmate knowledge	Rule of law
Focus	On the system	On establishments	On individual prisoners
Dominant concerns	Uniformity, consistency, fidelity to the rules	Leadership, experience, judgement, enhancing the institutional ethos	Respect for prisoners' rights
Accountability for decisions	Internal	Negotiated	External

Table 2.6: Characteristics of 'means' discourse

Combining Table 2.5 and Table 2.6 produces a 3x3 *discourse matrix* (referred to by Adler and Longhurst as the *'old discourse matrix'*) which reflects combinations of means (columns) and ends discourses (rows). They are associated with particular actors and institutions. Policy documents can be located on the matrix, and one can chart changes in policy and practice in terms of moves between the cells of the matrix which reflect shifts in power between actors and institutions associated with those cells.

The analysis approach in this research was adapted from Adler and Longhurst's (ibid.) study (see Chapter 3). Essentially, each policy document was analysed in order to identify dominant discourses and highlight the power holders. Adler and Longhurst (ibid.) argue that the developments in penal policy in the Scottish prison system were evolving towards enterprising managerialism. Notable evidence in support of this claim was the development from the publication of *Opportunity and Responsibility* in 1990 to the publication of *A Shared Enterprise* and *Organising for*

Excellence soon after that. At the time that *Opportunity and Responsibility* was launched, *bureaucracy* and *professionalism* were the influential *'means discourses'* and the document reflected *rehabilitation* and *normalisation* as dominant *'end discourses'* which were driven by the key actors located at Headquarters. A few years later, however, witnessed a shift in prison discourse how prison should be run. The launch of *A Shared Enterprise* and *Organising for Excellence* signalled the move toward managerialism. Both documents set out the need to develop a unified workforce comprising prison staff and prison professionals as well as Headquarters staff. Adler and Longhurst argue that 'the discursive site of this fusion between the two existing groups or power-holders is a specific form of the managerial discourse which is heavily influenced by the enterprise culture and can be described as enterprise discourse' (ibid. 237). As a result, Adler and Longhurst decided to adjust the *"old discourse matrix"* by replacing the rows representing bureaucracy and professionalism with a single row representing *managerialism* (Table 2.7). Although the *end discourses* remained unchanged, the *means discourses* had shifted towards the use of a 'business-like' approach. As Adler and Longhurst put it, this development 'reflects the pervasive impact of the ideology of managerialism on policy-making in Government' (ibid. 238).

Discourse	Rehabilitation	Normalization	Control
Managerialism	A Shared Enterprise/ Organising for Excellence	A Shared Enterprise/ Organising for Excellence	A Shared Enterprise/ Organising for Excellence
Legality	-	-	-

Table 2.7: Policy documents in 'new' discourse matrix

In this study, I decided to examine the most important policy documents, i.e. those which were defined by the SPS as 'key' policy documents on its website and which were available to the public, namely *Framework Document* (SPS 1993), *Vision for Correctional Excellence* (SPS 2000b), *Intervention and Integration for a Safer Society* (SPS 2000a), *Inclusion Policy* (SPS 2002a), *ACT 2 Care* (2005a), and *Health Care Standards* (2006b). These documents are significant in terms of their impact on prison regimes, prison staff, and prisoner management. With reference to Adler

and Longhurst (1994)'s framework, I attempt to examine the extent in which these policy documents were influenced by managerialist ideology. The analysis of these documents is presented in Chapter 4.

2.3.2 Prison management in the time of change

Research on the influence of managerialism on prison management are relatively limited (for example, Adler and Longhurst 1994; DiIulio 1991; Liebling 2004; Sparks, Bottoms and Hay, 1996), particularly so for the management of Scottish prisons. The books by Andrew Coyle namely *Inside: Rethinking Scotland's Prisons* (1991) *and The Prisons We Deserve* (1994) were among the first publications that comprehensively documented the management of prisons in Scotland in modern times. His later book, *Managing Prisons in a Time of Change* (2002), also makes important references to Scotland's experience. One of the strengths of this book is that it portrays the changes in prison management in Europe, USA, Latin America, Asian and developing countries. In the early chapters of this book, Coyle describes the changing context of prison management, referring to political and legal change, the influence of international organisations and legislation, and academic knowledge of imprisonment. The prison itself, he argues, is a dynamic institution.

> Organisational change, sometimes of radical nature, is a fact of life in all institutions. In respect of prison systems this has implications for the work which staff are expected to undertake and for the type of staff which the organisation wishes to employ. In respect of the staff themselves, it is likely to imply a change in the way they approach their daily work and their attitude to prisoners (Coyle 2002:12-13)

> It is possible to develop appropriate response strategies provided it is accepted that prison systems are no longer static hierarchical organisations but are dynamic institutions, subject to continuous change and development. If staff at all levels can be encouraged to recognise this fact, they can be given the opportunity to direct and drive change rather than merely to respond when things go wrong (ibid. 13).

When examining the countries in Western Europe, points out:

> In some countries in recent years, for example, there has been an increasing political expectation that prisons can make an important

contribution to crime reduction strategies by requiring individual prisoners to undertake specific programmes and courses while in prison in the expectation that this will lead them to break away from criminal activities after they are released. In the United Kingdom, for example, the government has been especially demanding about predictions of recidivism when considering prisoners for early release on parole or license (ibid. 31).

This issue of risk and prediction is also reflected by Sparks (2007) in his recent article on the politics of imprisonment. When discussing changes in the 'mode of calculation' for imprisonment, he argues:

> Here we encounter debates about risk and prediction, and the use of cost-benefit arithmetic to argue the utility of particular penal strategies. One important possibility is that the current prominence of incapacitation as a rationale for imprisonment in the advanced liberal societies (and for more intensive forms of non-custodial supervision) stems rather directly from the invention of new techniques for calculating the frequency and prevalence of offending. The implication is that the penal system is entirely a regulatory instrument-a kind of social sluice gate whose optimal rate of flow can in principle be rationally determined. This perspective has certainly had its influential intellectual proponents in recent years. (Sparks 2007:79)

The impact of managerialism on the management of prisons in this NPM era is systematically captured in *Prisons and Their Moral Performance: A study of Values, Quality, and Prison Life* by Liebling (2004). Although it is not a primary concern of her study, this book demonstrates how prison management has been affected by a managerialist ideology by referring to the experience of English prisons. The term *'late modern' prisons* used in her study reflects the fact that prisons are now managed in a different era. It is, I argue, the NPM era. Liebling (2004) explains that the term 'highlights the rapidly changing social context in which the prison currently exists − a context which shapes the prison but in which certain important features persist' (p. 3). What is potentially relevant to the present study is her argument about the changes of prison values and management and the relationship between key actors in the current prison system. Liebling's analytical framework and the results from her interviews with prison managers are also referred to in Chapter 5 when I examine the use of a 'business-like' approach in the management of prisons.

When examining the management of public service agencies including the prison service in the era of NPM, one of the major concerns has been that of ethics and accountability especially when privatisation of public organisations is concerned. To ensure the transparency and integrity of the service, accountability mechanisms were put in place so that service delivery could be closely monitored. Coyle (2002) points out that public accountability comes in different shapes. It ranges from internal accountability, where the prison is responsible to the administration for letting the public know what happens behind the walls and fences, the utilisation of formal mechanisms e.g. independent prison inspections and informal mechanisms, like encouraging non-governmental organisations and other groups of public citizens to visit prisons and engaging them in prison activities. Adler and Longhurst (1994) also examined the role of various mechanisms for holding the prison system in Scotland to account (pp.137-181), in particular the use of petitions to Secretary of State and the role of the Prison Inspectorate. These mechanisms are re-examined in this research to see whether they are still significant in the managerialist era. Chapter 7 discusses in detail the mechanisms that are currently used in the Scottish prison system, referring to Harding's (1997) book on the public accountability of private prisons and Kolthoff's (2007) research which studies the relations between NPM and ethics in the Dutch police system.

CHAPTER 3

RESEARCH DESIGN

This chapter deals with the research design adopted in the thesis. The focus is on how the research was developed, what methods were used and how the data were analysed and presented. Limitations and ethical aspects of the methodology used are discussed at the end of the chapter.

3.1 Objectives and research questions

As indicated in Chapter I, the objectives of this research were:

1. *To describe and understand the influence of managerialism on prison management in Scotland.*

2. *To describe the SPS's response to the reform of prison management.*

And this research was aimed to answer the following principal questions:

1. *To what extent has managerialism had an influence on prison management?;*

2. *What does managerialism in the SPS look like?; and*

3. *How has the SPS approached 'New Public Management' (NPM)?*

3.2 Research strategy

This research builds on a pilot project that was carried out during 2005-2006. It employed the principles of field research suggested by previous scholars (Burgess 1991; Van Maanen 1988, 1995). The aims of the pilot project were to obtain an overview of prison management and prison privatisation issues in England and Scotland (partly inspired by Parry 1990, 2005; Shaw 1990; Shichor 1995); and to explore the possibility of data collection from the SPS and from private prisons; and, most importantly, to inform the research. The pilot project started in November 2005 after reviewing the relevant academic literatures (in particular, Adler and Longhurst 1994; Coyle 1991; Liebling 2004) and after consulting my supervisors. Initial

interview questions[11] were established with reference to the academic literature and my personal interests, and were used as a guideline during the field study.

I began my journey with a visit to the Serco Group. The visiting programme was arranged with Serco's contact person, who I had met during the annual conference of the International Corrections and Prisons Association (ICPA) in Edinburgh earlier that year. The coordination process took approximately 2 months before the schedule was finalised in January 2006. For this pilot project, Serco invited me to visit the *Serco Institute* and three of the prisons under its management: HMP&YOI Doncaster, HMP&YOI Ashfield and HMP Kilmarnock.

At the *Serco Institute*, an informal interview was conducted with the Executive Director. The Serco Institute was established in 1994. Its main missions involve research in various areas corresponding to Serco's business ranging from defence, transportation, education and health to prisons. The Serco Institute also serves as a member of the Public Services Strategy Board of the Confederation of British Industry (CBI)[12]. The establishment this institute by Serco reflects an increasing involvement in research by the private sector. Research studies have been carried out to produce 'evidence' that undoubtedly aimed to support its business, reflecting the assertive role that private companies have come to play in increasing their influence in the market and responding to the British government's evidence-based policy regime.

Later, visits to HMP&YOI Doncaster, HMP&YOI Ashfield and HMP Kilmarnock provided a more vivid picture of how private prisons in the UK are managed. At the time of my visits, Serco was the only private company to have won contracts to manage prisons in both England and Scotland. Based on my prison tours and those

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[11] Initial interview questions were general questions used as a guideline for the interviews with prison administrators, staff and civil servants of the SPS as well as the staff of the Serco Group plc. The questions covered issues concerned with prison management, private prisons, prison privatisation, prisoner programmes, prison staff and prison policy. Interview materials from these initial interviews were not transcribed in full but rather summarized and used to categorize the issues needed to be examined in the main research.

[12] Board membership provides 'liaison across the UK public services sector, with particular focus on policy developments affecting the delivery of public services' (Serco 2008b).

initial interviews with prison administrators and staff, I found that the management of private prisons in the two jurisdictions differed as a result of many factors including penal policy and the size of the prison population. Serco's management and staff suggested that the relationship between the Home Office and private providers in England was more contractually based and one member of staff referred to it as a *demanding-detecting* relationship. In Scotland, where private prisons were relatively new, the contractual relationship was more consensual, due in part to the fact that the private company and the SPS were still at the stage of *getting to know each other*. From this point, I asked a further question of what the contractual management in Scotland actually looked like, what type of contracts were used and how the management of prisons was changed by contractualism. In Chapter 5 and 6 of this thesis, I examine and discuss different dimensions of the prison contracts, in particular their content and influence, and the identity of key actors, for contract management.

Another issue that I found interesting was that the staff in private prisons did not seem to differ in terms of work ethic and accountability from their counterparts in public establishments. From my observations and, judging from the answers they gave me during informal conversations, staff of the private prisons were just as *enthusiastic* as those in public prisons. They knew what they were supposed to do. They were not just going through routines in order to make profits for their company as claimed by some critics of private prisons. This may have resulted from the fact that their performance was being closely monitored, not only by the prison service but also by the public and the media. Administrators and staff attributed this to the Key Performance Indicators (KPI) scheme that was being used as a mechanism for assessing goal attainment, and to teamwork orientation and bottom-up management. In public prisons, however, these managerial techniques were relatively new. Some of the questions raised during the interviews, e.g. *(1) to what extent has the 'business-like' approach been used for the management of public prisons? (2) which business strategies were employed? and (3) did they bring improvement to prison management?* were taken on board and later became the main research questions for this study.

After my visits to the *Serco Institute* and the three prisons under Serco's management, I came back to Scotland and conducted preliminary interviews with SPS administrators and staff. As these were only exploratory interviews, they were not recorded and transcribed in full. The interviewees were drawn from different units and the interviews covered a range of topics including the development of prison management in Scotland, contracts with private providers, contracts with establishments, contract management, prisoner programme contracts, personnel management, and political influences on prison management. The interviewees were also asked to comment on challenges and opportunities raised by the issues discussed. Data from these interviews with SPS staff were then used to shape my research questions.

The common issues raised by the interviewees in Scotland were the development of managerialism and the extent it had affected their daily work. For instance, a member of the operational staff mentioned that '*the principle of KPI is good. However, it makes the work of prison staff more difficult. We have not only to concentrate on our job description but also on managerial work.*'[13] The administrators, on the other hand, took the view that managerialism would create a more systematic operation and enhance the management of prisons at the macro level. A middle manager from Headquarters commented that '*the development of prison policy and operations gradually move toward managerialism. It is the trend and the policy from the government which aim to improve the quality of prison service.*'[14] These different perspectives of the SPS members were among issues used to establish the themes for the data collection process of the main research (discussed below).

The above findings from the pilot project were then integrated with arguments from the literature to develop the research questions as mentioned earlier and to determine the research approach to be used for the present study. Taking all into consideration, a deductive approach was adopted as the key strategy for the examination of the

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[13,14] From the pilot project's interview note.

research questions. That is, we know for the fact that the management of the UK's public services in general has been influenced by the managerialist approach launched by the Thatcher Government in the 1980s and that prison service management in Scotland has changed a great deal since the late 1980s especially in terms of internal prison policy and daily operations (as presented in Chapter 2). This thesis, therefore, attempts to demonstrate that the management of prisons in Scotland, as part of the public service management, has shifted from a traditional bureaucratic approach to a managerialist approach. The research method used in this thesis is presented below.

3.2.1 Case Study

After conducting the pilot project, my research interest expanded beyond the management of private prisons. It shifted to the macro level of prison service management. As suggested by the exploratory interviews during the past two decades the management of prisons in the UK has changed a great deal as a result of the reform of public services management. Private prisons were merely one of the managerial *alternatives* that the government used as a means of improving the quality of the prison service. I, therefore, decided to study the management of both *public* and *private* prisons, in order to obtain a more comprehensive understanding of how the prison service as an organisation has changed overtime. Other 'business-like' managerial approaches in addition to privatisation, e.g. 'customer-oriented' management and contract management, were therefore also examined.

Despite the fact that my initial intention had been to compare Scotland with England and Wales, I did not pursue a comparative approach in my main study because of time constraints and my limited budget. Collecting data in two jurisdictions would have demanded substantially more time and cost considerably more money. Besides, the size of the prison service of Scotland was much smaller than that of England and Wales. Also, differences in prison regimes and in prison culture as well as management challenges (Garland 1985, 1990; SPS 2005b) would also have made such a comparative study much more difficult. Equally important, as mentioned earlier, since the research approach used in this research is a deductive one that aims

to examine whether changes in the management of SPS followed the general trend, a case study approach certainly suited the purpose of this research more than other alternatives including a comparative study.

A case study was therefore selected as the principal method for this research. The primary advantage of a case study is the potential for generating in-depth data. As suggested by Gerring (2007:20), "the fewer cases there are, the more intensively they are studied, the more work merits the appellation *'case study'*". Since this study attempts to examine in detail the influence of managerialism on the SPS and the extent to which the SPS has employed a 'business-like' approach to running its prisons, a case study enabled me to concentrate on collecting in-depth data about the SPS and to produce comprehensive evidence to support my arguments. These strengths of a case study approach compensated the generalisation problem for which it has always been attacked. As suggested by previous scholars, the benefits of case study can overcome its flaws depending on the research purpose (Bryman and Burgess 1999):

> 'Over the years, the case study has been controversial. The bulk of the controversy surrounding it has been concerned with the question of generalisation: how can the study of a single case (or even two or three cases) be representative of other cases so that it is possible to generalise findings to those other cases? The answer, of course, is that it cannot. What the case study can provide is the opportunity to develop rich contextual data from which *generalisation to theory* becomes possible'. (p. XIV)

Why was the SPS selected as a case study in this research? First and foremost, although the period from late 1980s to the present witnessed the emergence of managerialism and dramatic developments in prison management in Scotland, research on managerialism in the Scottish prison system has been relatively limited. We know for a fact that, from the late 1980s, there was a shift in the management of prisons including the reorganisation of the SPS in 1991, the reassignment of its status when it became an *Executive Agency* in 1993, the establishment of the first private prison in Scotland in 1997 and the more political scrutiny after devolution in 1999. Despite these changes, very few studies have focused on this issue. Accordingly, the

present study attempts to fill this gap by exploring those changes and demonstrating that they were driven by managerialist ideology.

Convenience also made the SPS an appropriate case study in particular in terms of access to the agency's documents and prison establishments. With my background as a civil servant of the Department of Corrections of Thailand, I could refer to my experience in my contacts with the SPS staff both at Headquarters and in prison establishments. In addition, before coming to pursue my degree in Scotland, I had visited SPS Headquarters and some of its prisons in 2002. This was on an official visit organised by the SPS. The delegation from Thailand comprised high-level prison administrators, prison governors and civil servants from Headquarters. The persons whom I met during that visit had been promoted to a higher level by the time the data collection process was conducted and some of them were invited to participate in the research.

My connection with the SPS was strengthened during the course of this research when I volunteered to help the SPS in organising the annual conferences of the ICPA (for which the SPS provides the secretariat) on two occasions. In addition, in 2007 I was invited by the SPS research team to assist with its annual prison survey. This gave me an opportunity to visit and observe various prisons in Scotland and also to interview prisoners who were asked to comment on the services provided by SPS. My experience during the survey helped increase the validity and reliability of my research, especially in terms of analysing the 'customer-oriented' policy of the SPS.

When looking at the timeframe of this research, I chose to focus on the influence of managerialism from the late 1980s to 2007 (until the 2007 general election). During these 20 years, the SPS has undergone a number of significant changes, especially in its agency status, mission, organisational structure and management. These changes resulted from both *internal* factors (i.e. security incidents and the problem of overcrowding) and *external* pressures (i.e. privatisation policy, social and economic change, and local and national political pressures). To assist with data collection and analysis approach in the present study, the timeframe of this research was initially

divided into three phases: (1) from the late 1980s to the early 1990s; (2) from early 1990s to 1997 (from its designation as an *Executive Agency* to devolution); and (3) from 1997 to 2007 (from devolution to the present)[15].

What made the late 1980s an appropriate starting-point was the fact that there were, at the time, a range of unprecedented security incidents; significant changes in prison policies and management were proposed, and that there was a privatisation boom that led to major changes in public sector management (see James, Bottomley, Liebling and Clare 1997). The security incidents in Scottish prisons in the late 1980s obviously called for attention from all the parties involved ranging from policy makers and operational staff, and ultimately led to significant changes in prison management in Scotland. A series of important policy papers, *Custody and Care* (1988), *Assessment and Control* (1989) and *Opportunity and Responsibility* (1990a), were the product of these incidents. These policy papers, along with the *SPS Framework Document* (1993), produced a basis for the reorganisation of SPS in 1990s. Adler and Longhurst (1994) analysed these policies in detail and produced a 'discourse matrix' out of these policy papers (as presented in Chapter 2). However, there were some areas that Adler and Longhurst did not cover in their book, for instance, the use of 'business-like' techniques as a result of the changing prison policy and the management of private prison contracts. Chapter 4 and Chapter 5 of this research discuss these issues with reference to Adler and Longhurst's arguments on the aforementioned policy papers.

In any event, evidence showed that, prior to the late 1980s, penal policy in Scotland focused on traditional objectives like welfare, rehabilitation, normalisation and control (Adler and Longhurst 1994; Duff and Hutton 1999; McAra 1999, 2005; Muncie and Sparks 1991). In May 1990 the Scottish Prison Service published *Opportunity and Responsibility: Developing New Approaches to the Management of the Long Term Prison System in Scotland.* In this document, Malcolm Rifkind,

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[15] The interviewees were asked to reflect on this timeframe and whether the development of managerialism in the SPS could be divided into three periods or was continuous.

Secretary of State for Scotland at the time, addressed the need to change prison policy based on the two earlier documents. In his statement, he commented:

> It is clear that the old objectives of 'treatment and training' are outmoded. A new approach is required, which will recognise the mutual responsibilities of the prisoner and the prison authorities and ensure that the long term prisoner is encouraged to address his offending behaviour and offered an appropriate range of opportunities to use his time in prison responsibly for personal development…'.
> (SPS 1990a)

When considering the UK context, the 1980s witnessed major changes in many public sector organisations. Ferlie, Ashburner, Fitzgerald and Pettigrew (1996) suggest that the key changes included the introduction of a large-scale privatisation programme in the sphere of economic activity; the subjection of many social policy functions to the processes of managerialisation and marketisation (i.e. the creation of devolved and quasi-autonomous agencies (the so-called 'Next-Step' agencies); an emphasis on the ethos of 'doing more with less'; and the move from maintenance management to the management of change. In 1988, when *Next Steps* was launched by the UK government, its aims were to 'create durable improvements in management in government and to deliver services more efficiently and effectively within available resources for the benefit of customers, taxpayers and staff' (Greer 1994). In due course, it led to the changes in prison management in Scotland.

From 1990 to 1999 there were many significant changes in the political realm in Scotland and these, of course, affected the development of Scottish prison management. These ranged from conferring Executive Agency status on the SPS by the Scottish Office in 1993 to the reorganisation resulting from devolution in 1997. During this decade, another significant development in SPS was the establishment of the first private prison in Scotland. The opening of HMP Kilmarnock in 1997 received considerable attention from politicians and the public, and from prison staff and administrators. Expectations of this new private prison were high. Politicians anticipated that competition between private and public prisons would ultimately lead to a better service for the public. Administrators expected a more efficient service while the public and interest groups called for a punitive but humane

approach to the treatment of prisoners. The present study attempts to argue that private prisons in Scotland should be viewed as both a product of and as a catalyst for managerialism (see Chapters 5 and 6).

The period from devolution in 1997 to 2007 witnessed a major development of managerialism in SPS. Contractual management become the principal means for enabling SPS to achieve its mission. In the *Forward* to its Annual Report and Accounts 2005-2006, the SPS Chief Executive spent paragraph after paragraph describing its business plan, vision, Policy Framework, Key Performance Indicators (KPI), agreements with Ministers, and contract (SPS 2006a). These reflect the gradual growth of managerialism in prison policy discourse.

An alternative research method for this research would have involved a survey and/or the use of focus groups. A survey would have enabled a large number of informants to be included in the study and standardised questionnaires would have made generalisation possible. In addition, focus groups would have helped to elucidate what survey questions could not capture. However, this approach was rejected because it was not flexible enough to suit the objectives of this research. The in-depth data which this research required could not have been produced through the use of questionnaires. Questions could not have been modified since survey research requires that the original research design remains unchanged until the data collection process is finished (Maxfield and Babbie 2005). Moreover, even though the use of focus groups might have helped to solve the flexibility problem, it would have been very difficult and costly to arrange focus groups for the informants of this study as they were 'high profile' politicians, civil servants and academics who were (a) very busy people and (b) lived far apart from one another.

3.3 Data sources
Both primary and secondary data were used in this research. Primary data were mainly drawn from the interviews while secondary data were obtained from the

analysis of publicly-available documents[16]. With few exceptions, the data used in this research were qualitative.

3.3.1 Primary data

The research technique used to obtain primary data for this thesis was the interview. Semi-structured interviews were conducted with informants at locations convenient for them, ranging from their office, the School of Law of the University of Edinburgh to the National Library of Scotland. Purposive sampling, which is a non-probability sampling procedure, was used to draw up an initial list of potential informants. Maxfield and Babbie (2005) state that

> 'Occasionally, it may be appropriate to select a sample on the basis of our own knowledge of the population, its elements, and the nature of our research aims in short, based on our judgment and the purpose of the study. Such a sample called a purposive sample.' (p.238)

> Purposive sampling is used when researchers wish to select specific elements of a population. This may be because the elements are believed to be representative, extreme cases or because they represent the range of variation expected in a population' (p. 243).

In this study, considering that the prison service in Scotland is relatively small and that it was not very difficult to identify those who were actively involved in prison management and could act as expert informants, purposive sampling was a reasonable choice.

The process of identifying potential informants was simple but effective. A list of prospective interviewees was drawn up after reviewing relevant policy documents, for example, SPS annual reports, policy papers, parliamentary reports, and previous research. The main selection criteria were that informants had to have knowledge and/or experience of prison management in Scotland between the late 1980s and 2007. In order to ensure that the key informants, who could enhance the validity of this research, were selected, I brought this list to the attention of Dr. Jim Carnie, Research Manager of the SPS, and asked him to comment on the initial list. After

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[16] At the SPS headquarters, I had access to some unpublished documents. However, for confidentiality reason, I decided not to include these documents in the research.

this consultation, a 'revised' version of the interviewee list was drawn up. In addition, after the interview process had started, a *snowball* technique was used to make sure that this study included as many key informants as possible. I applied this technique by asking each informant if there was anyone else who could comment of this particular issue. When the informants suggested the name of another potential informant, I took note of their names and discussed it with my supervisors and with Dr. Carnie to determine whether the suggested individual should be included in the study.

Who did ultimately participate in the interviews? The 'revised' list of informants comprised 38 individuals. They were categorised into three broad groups: politicians (11); civil servants (21); and academics and others (6). The definitions of each category were as follows:

> *Politicians* referred to individuals who were Members of Parliament (MP) and Members of Scottish Parliament (MSP) and whose professional responsibility involved prison policies and prison management in Scotland.

> *Civil servants* were those who were still working (*non-retired*) at the time of the interviews and those who used to work (*retired*) for the Scottish government or the SPS. It should be noted that those who were retired civil servants and later became academics were classified as *retired civil servants* not as *academics*.

> *Academics* referred to individuals working as academics and/or researchers at universities or similar institutions. *Others* included individuals who worked for independent agencies, for private providers or for the Trade Union Side, and whose professional responsibilities involved the SPS.

After thirty eight invitations were sent out, I received twenty four responses of whom twenty one agreed to participate in the research (Table 3.1). Acceptance rates among *non-retired and retired civil servants* and among *academics and others* were very

high indeed. However, the acceptance rate among *politicians* was disappointingly low (less than 10%). The political situation at the time of the interview might help to explain this low participation rate. It was unfortunate that the data collection process for this research started in 2007, the same year as elections for the Scottish Parliament were held. Many politicians seemed to be pre-occupied with campaigning. More importantly, professional politicians did not always retain a strong interest in their former fields of responsibility once they had moved on to other tasks, or had retired from active political work. They may not have felt that they had anything to contribute, and/or they may not have been all that interested. Out of eleven invitations to *politicians*, only four responses were received. All four refused to be interviewed and provided the same reason; that is, in their current position they were no longer involved with the SPS and their knowledge of Scottish prisons was not up-to-date. Two of them, however, suggested alternatives. Luckily, both the alternatives (one was an SPS staff member and the other was an MP) agreed to participate in this research. While the SPS staff member agreed to a face-to-face interview, the MP requested a postal interview. Nevertheless, in order to compensate for the low participation rate of politicians that might have affected the validity of this research, I used the SPS annual reports and policy papers − which contain comments from politicians, for instance, from the Secretary of State for Scotland, the First Minister, other Ministers, MPs and MSPs − as substitutes.

Samples	Politicians	Civil Servants		Academics/ Others	Total
		Non-retired	Retired		
Number of invitations sent	11	10	10	7	38
Number of actual participants	1	8	6	6	21

Table 3.1: Summary of samples used in this research

It should be noted that one of the main problems which is likely to occur in research involving interviews is the problem of validity. Informants may tell the researcher

what they think now rather than what they thought at the time and may be motivated by a desire to present themselves in a positive light. To avoid this danger, interview data was crosschecked with contemporaneous documentary data to assess whether they supported or conflicted with each other.

3.3.2 Secondary data

Secondary data, such as historical facts, statistics and policy documents, were just as important as primary data in this study because they also provide empirical evidence that could be used to support my argument. With few exceptions, the secondary used in this research were qualitative. The main advantage of secondary data was that they were convenient to obtain, saving both time and expense.

The use of secondary data in this research was twofold. First, they were used independently as the sources of information to support my arguments. Inferences, however, were drawn with care as suggested by others (e.g. Altheide 1996; Platt 1981) because they were not originally produced to serve the purpose of the present study. Secondly, I used secondary data to check the reliability of interview data. I found during the interviews that some informants were not certain about historical facts and statistics and that they sometimes made claims that could not be true. In these circumstances, the data from documents such as annual reports and policy statements were used to verify what the informants had said.

3.4 Data collection methods

As mentioned above, two types of data were used in this study: primary data and secondary data. To obtain the primary data, face-to-face, semi-structured interviews were used (except for one case where a postal interview was conducted). The interview process started when the research proposal received ethics clearance from the School of Law. In total, it took approximately 12 months to complete the 21 interviews. On the other hand, the documentary research was a continuous process involving a review of relevant academic literature, a summary and a categorisation of data into the identified themes. Having said that, the analysis of the policy papers

and the prison records alone took approximately 18 months. Details are discussed below.

3.4.1 The interviews

The interviewing process started in March 2007 when invitation letters (see Appendix One) were sent out to prospective informants (as discussed in section 3.3.1 above). Prospective informants were informed of the background of the study, their roles in the research, the nature of the interview, the issue of confidentiality and the benefits that would arise from their participation. It was made clear that their participation was voluntary and that their decisions would be respected. In total twenty-one informants agreed to be interviewed − nineteen of whom were from the 'revised' list of prospective interviewees and two were from snowball sampling.

All prospective informants except the *non-retired civil servants* in the SPS were directly approached by the aforementioned letters. For the *non-retired civil servants*, seven were from the SPS and one was working for a former Director at the SPS Headquarters. Before the interview with these civil servants started, access was negotiated through the Research and Development Unit at the SPS Headquarters. I was asked to fill out the SPS research ethics form and then submit it to the Research and Development Unit along with the research proposal, tentative interview questions and invitation letters for approval. When the proposal was approved, the invitation letters were then distributed by the Research and Development Unit on my behalf to each prospective civil servant. This process took approximately two weeks. The final list of interviewees is presented in Appendix Four.

Since the interviews were semi-structured, the questions were relatively flexible and could be altered to suit particular informants. Skeleton interview questions (see Appendix Two) were drawn from the main research questions and used as general guidance. Some of these questions aim to explore the issues that emerged during the pilot project and literature review stage, for instance, the challenges in managing prisons in Scotland from the 1980s to 2007 (Ferrant 1997; Garland and Young 1992; Garland 2001a, 2001b; Girling, Loader and Sparks 2000; Hope and Sparks 2000;

Hughes 1998; Hughes, McLaughlin and Muncie 2002; Johnson and Scholes 2001; Young 1997), the emergence of private prisons (Jones and Newburn 1998; Matthews 1989), the role of politics and politicians (Goldstein 1999; Hudson 1993; Hutchison 2001; Ryan 1978; Ryan, Savage and Wall 2001; Sarabi and Bender 2000) and the effect of the devolution on prison management in the late 1990s (Curtice 2002; McAra 2005).

Most face-to-face interviews were carried out at the informants' place of work. One of the benefits of this was that I was able to observe their working environment and practices. I found this very helpful for the validity and reliability of this research when the researcher can crosscheck between what the interviewees had commented and what actually took place at work. In fact, some of the interview questions arose after I had entered the premises and observed the interactions between informants and their colleagues. These were spontaneous questions that would not have been asked if the interviews were carried out somewhere else. For the postal interview, the list of questions was sent to the informant by post. A hand-written letter was sent back along with the answers to the questions asked.

I started each face-to-face interview with an introduction to the research, its aims and methodology. Informants were given an opportunity to ask any question they wished regarding the research. Some asked about my personal background and work experience. Others asked me to say something about my work at the Department of Corrections in Thailand. During this introductory stage, interviewees were also informed that they could withdraw from the research at any time. Fortunately, no one withdrew. I made sure that they had no further questions before giving them the consent form to sign. All but one informant agreed to the use of their name in this research. Two requested I should consult them before using any quotes. In any event, I took the liberty of presenting the quotes by using the interviewees' recent position(s) relevant to the SPS instead of giving their full names. Once the informed consent form was signed, the process of asking questions began. All interviews were noted and digitally recorded. The average length of each interview was one hour. At the end of each interview, I requested an opportunity to make further contact with the

informant if clarification of any issue discussed during the interview was needed. All informants agreed to this. There were two informants who I subsequently contacted for additional information. In addition, each informant was asked to suggest other potential informants for the research. The snowball technique enabled me to add two additional informants.

For the management of interview data, the initial themes established in advance were used to organise interview questions and comments from the interviewees. These themes were based on findings from the pilot project and informed by the literature review. They comprised:

NPM (N)

N1   Definition

N2   Characteristics

N3   Pros and con

Prison management in Scotland (PM)

PM1   Historical events from the 1980s

PM2   The emergence of NPM

PM3   Prison policy development

PM4   Changes in prison management in NPM era

Prison discourse (PD)

PD1   Rehabilitation

PD2   Normalisation

PD3   Managerialism

PD4   Bureaucratic

PD5   Professionalism

PD6   Control

PD7   Legality

PD8   Others

Private prisons in Scotland (PP)

PP1   Private prison policy

PP2   Private providers

PP3   HMP Kilmarnock

PP4   HMP Addiewell

The process is known as *open coding* (Strauss 1987) which is a process of 'breaking down, examining, comparing, conceptualising and categorising data' (Strauss and Corbin 1990:61). According to Bryman and Burgess (1994), 'coding (or indexing) is seen as a key process since it serves to organise the copious notes, transcripts or documents that have been collected and it also represents the first step in the conceptualisation of the data' (p.218). In addition, the flexible nature of coding in qualitative research allowed new categories to emerge after the data collection had started. In this research, emerging categories developed at the later stage were:

Leadership (L)

L1   Roles of Chief Executive

L2   Roles of Governors

L3   Relationship between headquarters and prison establishments

Ethics and accountability (EA)

EA1   Internal accountability

EA2   External accountability

Contractual management (CM)

CM1   Internal contracts (contracts between headquarters and establishments)

CM2   External contracts (contacts between the SPS and private providers)

CM3   Issues

Business-like mechanisms (BM)

BM1   Decentralisation

BM2   Customer-oriented service

BM3   Privatisation

BM4   Others

Challenges (C)

C1   Challenges of prison management in NPM era

3.4.2 Documentary research

Documentary research was the technique used to obtain secondary data. The main data sources for this research were academic literature and research, institutional reports and statistics, contracts and agreements, policy papers, minutes of the meetings and newspapers. With a few exceptions[17], these documents were published and publicly available.

The process of the aforementioned *open coding* was also used with secondary data and the categories were similar to those used in the analysis of primary data. The collection of secondary data took from late 2006 and lasted until early 2008, with some of the data obtained during the pilot project. As mentioned earlier, most of the secondary data could be retrieved online, from the university's library and the SPS's library.

3.5 Data analysis

Data analysis in this research was similar to other qualitative studies that were based on identifying themes and categorising patterns of data collected from interviews and documentary sources (Gulland 2007). Furthermore, triangulation was used as a means of checking internal consistency among informants and between interview data as well as the various documentary sources to guarantee the validity and reliability of the research.

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[17] Some of unpublished documents were provided by informants during the interviews.

3.5.1 Interview materials

After each interview, the audio record was transcribed. However, it was not done in full as discussions during the interviews were developed beyond the scope of the present research. In addition, I took the liberty of improving the grammar of the transcriptions. Nevertheless, although the interview data were grammatically edited, I did my utmost not to alter the meaning of what I was told. I also referred to my interview notes during the transcription process and the analysis.

Data from the transcriptions were then coded and sorted into relevant categories as described above. Although this was a manual process, the coding of the interview data (and the documentary material) for the analysis was undertaken in the same fashion as by the computer software programme NVivo[18]. For example, responses to *Interview Question 4*, *'As a policy maker/board member/civil servant, how do you proactively deal with these challenges* (of the SPS)*? What are the consequences?'*, were categorised into four indices:

L2   Roles of Governors

'*There was resistance from some staff but I made it very clear to the staff that they could be part of it'*. (Interview, Former SPS Governor and Director, 12 December 2007)

BM1   Decentralisation

'*Staffing structure review was one which we started at the end of my first year in the prison service*'. (Interview, Former SPS Director, 18 April 2007)

PM3   Prison policy development

'*Our response as an organization was to produce a number of documents which make us rethink prison policies in Scotland'*. (Interview, Current SPS Director, 3 July 2007)

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[18] NVivo is a software programme that helps researchers to systematically organise a wide range of data, including word documents, PDFs, audio files and pictures. It is launched by QSR International and is commonly used for the management of information in qualitative research (QSR International 2007).

C1 Challenges in NPM era

'We had real difficulty getting prison staff out of armours and back into normal uniform'. (Interview, Former SPS Chief Executive of SPS, 4 June 2007)

Similarly, the interviewees' comments on *Interview Question 29*, *'how do you perceive the current prison service in term of management style?'*, were categorised into at least three indices:

BM1 Decentralisation

'What we tried to do was to allow governors more discretion over how to spend the money'. (Interview, Former SPS Director, 13 December 2007)

BM2 Customer-oriented service

'We have seen the development of the arrangement to be more responsive to prisoners' complaints and concerns; the introduction of prisons to the Complaint Commissioner; and the development of the complaints procedures'. (Interview, Former SPS Director, 15 May 2007)

C1 Challenges in NPM era

'If you wish to change anything in any organisation, you have to involve the staff, which has not been the tradition of the prison service'. (Interview, Former SPS Director, 18 April 2007)

The analysis of interview data was done using the same method as other qualitative researches do. For instance, to analyse *business-like mechanisms* used by the SPS to run its prisons, I attempted to find out *what options the SPS had*, *why the particular option was selected*, and *how it changed the prison management*. Based on comments from the interviewees (linked with findings from documentary research),

three significant market mechanisms employed by the SPS were identified: decentralisation, customer-oriented service and contractual management. Each approach was then discussed in detail based on the aforementioned questions and supported by relevant empirical evidence (Chapter 5).

The second example was the analysis of the development of private prisons in Scotland. The questions asked during the interviews included '*has the prison privatisation scheme affected the prison service in Scotland? Why/Why not? How?*'; '*Can private prison be viewed as a pressure for change?*' and '*Is there any lesson learned from the private company in term of prison management?*' Interviewees were asked to reflect on these questions. After the transcription of the audio records, their comments were coded into four main themes: *private prison policy*; *private providers*; *HMP Kilmarnock*; and *HMP Addiewell*. Following are the examples of comments provided:

> PP1 Private prison policy
> '*According to the Estate Review, we need three new prisons and they should be private prisons*'. (Interview, Current SPS Director, 3 July 2007)

> PP3 HMP Kilmarnock
> '*Challenges for Kilmarnock are coming on budget; managing the new legislative changes within a tight budget is not easy. In addition, managing the increasing turn-over of prisoners as of an increase in short-term remand population has a torrent effect within prisons*'. (Interview, Senior Manager of Kilmarnock, 1 May 2007)

3.5.2 Documentary materials

The analysis of data from documentary sources was conducted in the same way as interview data. That is, the same indices and themes were used for the analysis. However, the focus of the documentary analysis was on the development of prison

policy and discourse. I attempted to identify empirical evidence to support my argument that prison discourse had shifted towards managerialist ideology and that prison operations tended to be run by the use of 'business-like' techniques. The example was the analysis of *Custody and Care*. The publication of *Custody and Care* in the late 1980s was aimed at setting out appropriate measures for dealing with prison management in general and for solving the problem of prison disorder at the same time. Given the themes introduced earlier, I asked questions such as *what was the focus of such policy paper means or ends discourses?*; *who were the key actors and target groups?*; *why was such a policy launched?*; and *how did the policy paper affect the management of prisons as a whole?* These questions were used as a guide to sort data into appropriate categories as discussed above. For *Custody and Care*, the analysis revealed its *ends discourse* covers *rehabilitation*, *normalisation* and *control* while its *means discourse* emphasised the role of bureaucracy.

Another example was the analysis of *Inclusion Policy*. The focus of this paper was on 'customers' who were short-term prisoners. Again, by asking the above questions, I found that the paper was aimed at the *normalisation* and *rehabilitation* (*ends discourse*s) of short-term prisoners by providing them with appropriate intervention and under the management of specialists (*means discourse*). Compared to *Custody and Care*, however, *Inclusion Policy* put a greater focus on *'means discourse'* or *'how to'* than *'ends discourse'*.

It should be noted that when analysing the documentary data, I tended to integrate the comments of the interviewees with my interview notes to see whether the two were consistent. In addition, with reference to the main research questions, the results of the analysis (of both interviews and documents) could be presented in three main themes: changes in prison policy (Chapter 4), the use of a business-like approaches in managing prisons (Chapter 5 and 6), and ethical and accountability issues (Chapter 7).

3.6 Ethical Issues

3.6.1 Informed Consent and confidentiality

Confidentiality and anonymity are at heart of this research. As mentioned earlier, before the interviews, invitation letters were sent out to prospective informants providing them with information about the study. Those who agreed to participate were given a consent form to read and sign before the interview was conducted. As shown in Appendix Three, the informants were made aware that they had an opportunity to raise any questions related to this study until they were satisfied. They were also informed that all the information they provided would be used only for this research and treated confidentially and that they had the right to withdraw from the research at any time. In addition, they were assured that their name would appear in the research and/or publications to come from this research only with their permission.

After the interviews were conducted, all notes and audio records were kept in the study room at my flat where only I had access to. Notes that were taken during the interviews were kept in a file along with the signed consent forms. Original audio records were stored in my computer which required a password for access. Each audio record was copied to a compact disc for transcribing purposes. Given time limitation, two assistants were hired to help transcribe these audio records. They were made aware of the need to treat interview material with confidentiality and not to make any copy of audio records. Each assistant was given two records and had to return both once they finished. An electronic version of each transcription was stored in my computer and the paper version was kept in the secured file. No other person but me had access to the data once the transcriptions were done.

3.6.2 Data Protection

For those who refused to be identified, the data were treated anonymously. Accordingly, to assure them that I would be faithful to the information given and that I would conform to ethical research principles, interviewees were given an opportunity to review a draft copy of material in which they were involved.

In this research, I took full responsibility for data protection and made sure that the treatment of data was compliant with the University Data Protection procedure. All personal details of informants were kept in electronic format and were printed out only when necessary. All printed documents were kept in secure files and stored in the study room at my flat. This was to ensure that all personal data of informants were treated with care and security.

3.6.3 Moral issues

To the best of my knowledge, this research did not cause any personal and/or institutional conflicts of interest for any individual and/or agency. Data from the research were treated without prejudice. They were analysed and reported as they were. In addition, this was a small research project with no financial or non-financial benefit for any particular person or agency. There was no reason to compromise research objectivity.

Because of the nature of this research, there was no potential physical or psychological harm, discomfort or stress for the individuals who participated in it. Before the interviews, informants could choose whether they wanted to be identified in this research. They were also informed that if they felt uneasy about participating in this research, they could withdraw at any time. During the interviews, informants were asked to provide facts and opinions in response to the questions asked. They were not forced in any way to answer questions that caused them discomfort. Fortunately, at the end of this research, no one had withdrawn.

3.7 Limitations
3.7.1 Generalisation

In adopting a case study approach in the research, I was aware of its limitations. Generalisability was among the most prominent. According to their critics, 'case studies are difficult to generalise because of their inherent subjectivity and because they are based on qualitative subjective data, generalisable only to a particular context' (Becker et al 2005). According to Yin (1989:21-2), there are three major criticisms of case studies compared to quantitative methods. First, it is claimed that

case studies are subjective and only produce biased findings. Second, it is argued that it is not possible to generalise from a single case or even from a number of cases because each case has it own unique features. Lastly, by comparing case studies with such methods of data collection as participant observation and ethnography, critics claim that case studies consume a great deal of time and produce unmanageable amount of data.

However, case study research also has many strengths that can cancel out its limitations. According to Becker et al (2005), the case study is a relatively flexible research method. In addition, case study research can provide in-depth data.

> The looser format of case studies allows researchers to begin with broad questions and narrow their focus as their experiment progresses rather than attempt to predict every possible outcome before the experiment is conducted.
>
> Case studies produce much more detailed information than what is available through a statistical analysis. Advocates will also hold that while statistical methods might be able to deal with situations where behaviour is homogeneous and routine, case studies are needed to deal with creativity, innovation, and context. (Becker et al 2005)

Moreover, according to Yin (2003), case studies can be used to make generalisations but not in a statistical sense. Yin argued that 'analytic generalisation' is what case studies offer.

> Case studies, like experiments, are generalisable to theoretical propositions and not to populations or universes. In this sense, the case study, like the experiment, does not represent a "sample," and the investigator's goal is to expand and generalise theories (analytic generalisation) and not to enumerate frequencies (statistical generalisation). (Yin 2003:10)

3.7.2 Language problems

Difference in language and culture made this research difficult for me to conduct. Since English is not my first language, I found it hard to undertake research involving interviews. A great deal of effort was put into capturing what the informants said and what they really meant. For instance, when jargon and slang

were used during the interview, to make sure that my understanding was correct, informants were asked to clarify what they had said when they had finished answering the question. This may have delayed the interview but it guaranteed that misinterpretation did not occur. Further, at some interviews, informants spoke so fast that I could not catch up what they were saying. To ask them to repeat what had been just said was sometimes a bit awkward for me. This is because, in my culture asking too many questions, or making too many requests, are considered impolite. However, I found the use of an audio recorder really helped me to overcome the problem. With an audio recording, I could replay it and take note of what I had missed during the interviews.

At the writing-up stage it was not easy for use to tell a story in another language. When I started writing up this research, at times I sometimes spent hours just to find a right word or sentence that fitted what I was trying to describe or explain. In Thailand, people do not say things in a straightforward way and they tend to be modest when presenting their ideas to the public. This became a problem for me when I began writing up. At first, the concerns that I might offend someone or be judgmental with people or scenarios held me back. Once the writing progressed, this problem was overcome with support from my supervisors and university resources. I regained my confidence in presenting my work and learnt that a researcher had to be honest with audiences by presenting them with actual findings from the research. To improve my writing skills, I attended an academic writing course and kept on writing. Also, proofreaders who are native speakers of English were asked to help edit my writing. At the end of writing-up stage I was very satisfied that I had overcome these problems.

CHAPTER 4
CHANGING POLICY DISCOURSES

This chapter seeks to demonstrate the impact of NPM on the SPS's internal policies. My main argument is that, during the last two decades, prison policies have been influenced by managerialist ideology which has shifted the focus of prison policies from traditional concepts like control, deterrence and rehabilitation to managerial ones, such as standards of service, effectiveness, efficiency and value for money.

As presented in Chapter 3, the principal sources of data for the analysis of prison discourses were the SPS policy documents[19] available to the public. The analytical approach taken to these documents involved: identifying the key focus of such policy statements; determining whether it reflected a *means* or an *end* discourse or *both*; revealing its key stakeholders; and finally, assigning it to the *discourse matrix* adapted from the model developed by Adler and Longhurst (1994). In addition, the method of documentary analysis was similar to that used in analysing the interviews (as discussed in Chapter 3, in particular, sections 3.4.1 and 3.4.2). That is, the themes and the categories were set out in advance and were used to allocate each policy paper. For example, the *prison discourse* was among original themes developed after the pilot project as I attempted to explore the extent which NPM influenced prison policy, as suggested by informants in the pilot project. With reference to the discourse matrix proposed by Adler and Longhurst, I then assigned *prison discourse*s to one of the eight categories comprising rehabilitation, normalisation, managerialism, bureaucracy, professionalism, control, legality and others. The 'others' category was developed in case there was a policy paper which suggested prison *means* or *ends* beyond what had already been indicated. It should be noted that during the documentary analysis, data from the policy papers were integrated and contrasted with the interview data and my research notes to ensure the validity and reliability of this research.

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[19] The policy documents included in this research were the documents that the SPS defined on its website as 'key' documents and also those that had significant impacts on the prison management and regimes.

For the classification of the policy papers used in the analysis, I categorised them into three groups with reference to the period in which they were published (Table 4.1). The first category consists of documents published prior to 1990 which I termed 'the initial phase'. The documents in this period, I argue, demonstrate the SPS's early attempt to manage prisons with professional and managerial knowledge. The policy documents provided informative evidence to support the reform of prison management so that the SPS could effectively cope with the prisons crisis. They also laid the foundation for SPS to move in the direction it moved later on. The second category consists of policy documents published from 1991 until 1999. I classified these documents together because they reflected a 'trial and error' stage for the SPS. It was the period when the SPS started to bring in a 'business-like' approach for the management of its prisons. The decision to establish Kilmarnock as a private prison, for example, was a significant move for the SPS, due to the controversial nature of private prisons and criticisms of many politicians. Why did the SPS make this decision? What was the key driver of change? Who were key stakeholders? These were examples of the questions asked during documentary analysis. The last category consists of policy documents launched between 1999 and 2007. My observation here is that the change of language used in policy papers after Scottish devolution demonstrated strong support for a managerialist ideology and for the extensive use of 'business-like' mechanisms in the management of Scottish prisons. I, therefore, attempted to discuss this change in light of *discourse matrix* and to demonstrate the development of prison discourse after devolution.

Initial phase	'Trial and error' phase	Post-devolution phase
Custody and Care	Framework Document	Vision for correctional Excellence
Assessment and Control	Health Promoting Prison and Health Care Standards	Intervention and Integration for a Safer Society
Opportunity and responsibility	ACT&Care and ACT2Care	Inclusion Policy
Shared enterprise		
Organising for Excellence		

Table 4.1: Policy documents classification

The organisation of this chapter begins by outlining the key features of each policy document[20]. This should help those who are not familiar with these papers to have a better understanding of their content. It should be noted that the content of the policy papers in the initial phase and some in the trial-and-error phase are not presented in full here as they were examined in detail by Adler and Longhurst (1994:215-137). Rather, I opted to use them as foundation stones to demonstrate the development of prison policies from the late 1980s onwards. The new policy papers published after the period covered by Adler and Longhurst's study, on the other hand, are described in more detail. The aim is to reveal how far the SPS had come in terms of policy change. After describing the relevant policy documents (some of which were informed by comments of the interviewees), I then attempted to identify the 'means discourse' and 'ends discourse' of each document by using an analytical framework adapted from the study of Adler and Longhurst. Finally, I allocated all the policy papers in the 'discourse matrix' developed for the prison management policy during the last twenty years. Findings and arguments from this chapter are developed further in Chapter 5 where I argue that NPM not only influenced policy discourse but also prison operations.

4.1 The initial phase

The publications of *Custody and Care* in 1988 and *Assessment and Control* in 1989 immediately followed by *Opportunity and Responsibility*, *A Shared Enterprise*, and *Organising for Excellence* in 1990 brought significant changes to the SPS in terms of prisoner regimes and management. These policy documents moved the SPS towards a more 'professional' management of prisoners that no longer relied solely on staff experience but depended heavily on professional knowledge and managerial skills. Goals, targets and missions were set by Headquarters for prison governors and staff to carry out. My main argument here is that these five policy documents constitute the foundation for shifting prison management in Scotland from focusing on traditional ideologies, e.g. control, normalisation and rehabilitation to emphasising a managerialist agenda.

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[20] Details of each policy paper can be found on the SPS website: www.sps.gov.uk

4.1.1 Custody and Care

With reference to Figure 1.1 in Chapter 1, the number of the daily inmate population in Scotland had been increased over time. A significant increase was in 1985 (5,273 prisoners) and 1986 (5,588 prisoners). Even though there was a slight decrease in 1987 (5,446 prisoners), the daily inmate population has not been below 5,000 since 1985. This created a problem of overcrowding for almost every establishment. During the same period, moreover, the prison situation became worse due to the unprecedented chaos in several prisons across Scotland[21] resulting from hostage-taking incidents and demonstrations. These two significant crises prompted the Government to take urgent action. One of the significant developments in tackling the situation that the SPS was confronting was what Adler and Longhurst (1994:216) call the 'iteration of the task' of the SPS by the Secretary of State in October 1985 which was re-emphasised in a speech given to representatives of the SPS in January 1988 (SPS 1989a).

Two months after the policy statement was announced, Custody and Care (CC hereafter) launched in March 1988. CC, in a way, was a tangible evidence of a top-down policy deployment aimed at solving the crises and keeping prison in order. According to CC, the tasks of SPS which were 'reiterated' by the management were as follows (para. 2.4):

1. to keep in custody untried or unsentenced prisoners, and to ensure that they are available to be presented to court for trial or sentence;
2. to keep in custody, with such degree of security as is appropriate, having regard to the nature of the individual prisoner and his offence, sentenced prisoners for the duration of their sentence or for such shorter time as the Secretary of State may determine in cases where he has discretion;
3. to provide for prisoners as full a life as is consistent with the facts of custody, in particular making available the physical necessities of life; care for physical and mental health; advice and help with

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[21] For more details, see SPS (1989), *Assessment and Control: the Management of Violent and Disruptive Prisoners*. It summarises prison chaos from 1984-87 which were one of the significant challenges that the SPS had to deal with at the late 1980s. Also, Wozniak (1989) summarised critical issues in the Scottish prisons at the late 1980s in *Current issues in Scottish prisons: systems of accountability and regimes for difficult prisoners;* Proceedings of a Conference held at Stirling University 8th and 9th June 1988 and supported by the Criminology and Law Research Group and Scottish Prison Service (Central Research Unit papers; Edinburgh: Central Research Unit, Scottish Office, 133p.)

personal problems; work, education, skill training, physical exercise and recreation; and opportunity to practice their religion;

4. to promote and preserve the self-respect of prisoners;
5. to enable prisoners to retain links with family and community; and
6. to encourage them to respond and contribute positively to society on discharge.

The clarification of the SPS's tasks was a key feature of CC. The point here was that when staff recognised what prisons were for and what they were supposed to do to serve these ends, they would work towards them and prevent future prison disorder. The 'ends' discourse presented in CC was mainly *control* and *normalisation* (i.e. the aforementioned SPS's tasks which focused on 'such degree of security as is appropriate' and at the same time normalised them through 'physical and mental health', consultation, 'work, education, skill training, physical exercise and recreation') which require dedication and supports from prison staff and also civil servants at the headquarters (*bureaucratic*).

Dealing with several challenges at the same time required a coherent corporate philosophy to guide the regimes and management of individual penal establishments. As indicated in the Foreword of CC, running prisons at the time was not easy and a great deal was expected from the SPS, in particular an effective and efficient management. The Minister for Home Affairs and the Environment in the Scottish Office stated that:

> High standards of integrity, humanity and consistency are essential. This demands professionalism and skills of high order and we have announced important measures to improve the condition of service, training and organisation of staff to make this possible (SPS 1988:Foreword).

The former SPS Chief Executive described the development of prison management during this period as an attempt to change the 'culture' of the SPS. He commented that

> 'Prison management changed in 1989. My predecessor started it by reviewing and implementing policies as well as trying to change 'the culture of the prison service' in which prisoners were managed. However, he left prematurely for another job and I took over at that

point. A number of policies had been launched and basically I think we were going in the right direction. However, the organisation suffered from quite a lot of stress because of the change that was involved in that'. (Interview, Former SPS Chief Executive, 4 June 2007)

The publication of CC, therefore, was an immediate response of the SPS to the challenges which it was confronting at the time. It set out a framework of aims and objectives for the future management of penal establishments in Scotland. CC is divided into five sections. *The Task and Responsibilities of the SPS* deals with imprisonment and penal policy (as indicated above). *Policies and Priorities for Inmates* focuses on the placement of prisoners to appropriate locations, sets out general principles on the opportunities and restrictions for inmates in custody, and deals with sentence planning and preparation for release. *Planning for Individual Establishments* sets out regimes for each establishment and category of inmates, management structures and the use of specialists, and co-operation and parity between establishments. Finally, *Training and Development of Staff* deals with the organisation and content of training programmes and sets out the roles of Governors, prison officers and other staff.

4.1.2 Assessment and Control: the Management of Violent and Disruptive Prisoners

Seven months after CC was published, the SPS published another policy paper, *Assessment and Control* (AC hereafter) which was primarily aimed at improving the management of 'difficult' prisoners. AC was the product of the commitment in CC to produce a further document that would set out the SPS's approach to violent and disruptive prisoners. The document recognised *assessment* and *control* as two key features for a better management of difficult and long-term prisoners.

AC comprised three main parts. The first part of the document dealt with the rationale for improving the management of 'difficult' prisoners, starting with a discussion of the causes of the spate of major incidents in Scottish prisons at the time, the extent of the problem of disruptive behaviour and the need to improve the assessment of control and security risk. The second part focused on measures and

plans for dealing with 'difficult' prisoners, in particular the development of control risk profiles and the use of specialised units. The last part, in addition, dealt briefly with the management of long-term prisoners that was laid out in CC.

Prior to the publication of AC, the assessment processes focused primarily on *security* classification; that is, the potential risk to the public if the individual were to escape (para. 4.2). AC, on the other hand, expressed a need to improve the processes of assessing inmates by paying attention to assessing control risk; that is the degree of *dangerousness* that the individual inmate presents. Paragraph 4.13 of AC emphasised the need to focus on the *present* state of an individual (based on previous criminal history, current conviction and sentence, security categorisation, intelligence, record and response in custody) rather than the behaviour that he/she might display in the future. Moreover, the role of prison officers was recognised as critical for achieving a better process of assessing inmates. It suggested that 'when preparing profiles, however, staff must be encouraged to observe the individual objectively and seek to discuss or communicate with him about practical problems.'

For the *control* dimension, AC reviewed the use of small units in the Scottish prison system to deal with the problem of persistently difficult and disruptive prisoners. The small units in use at the time were the Barlinnie Special Unit[22], the Inverness Segregation Unit and the Peterhead 10-cell Unit. AC proposed to proceed with plans for the provision of a new maximum security unit of 60 places (at Shotts) to complement the existing small units (para. 8.3). The key factors affecting this proposal were (para. 8.4):

> 1. Firstly, it would be better if the concentration of risk in one establishment were to be diminished in some way, without more serious risk to the mainstream. This points to the conclusion that one establishment in one location may not be sufficient for the longer term.
> 2. Secondly, the scale of provision should be the minimum necessary for those who cannot cope in the mainstream but for whom longer-term small units would be unnecessarily costly or restrictive. The eventual planning requirement would appear to be for places for about 120

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[22] Barlinnie Special Unit was examined in Bottomley, Liebling and Sparks (1994). See more details on an assessment of small units within the SPS in Reid Howie Associates (2002).

prisoners requiring the most stringent conditions of security and control.

3. Thirdly, it is important to test and assess new concepts and layout, design, regime and management of maximum security accommodation before there is an irrevocable commitment to one particular type of unit. Experience of the design of prison suggests that there has to be close integration of all the elements and that while it can take many years to eliminate avoidable problems or errors, it is all too easy to replicate mistakes.

At the end of AC, an initial assessment and continuous sentence-planning of long-term prisoners was presented. AC recognised options for allocation, sentence-planning, opportunities in closed conditions, semi-open and open conditions, and opportunities for outside activities and home leave. Improving these opportunities for long-term prisoners would provide a better balance and provide worthwhile incentives for exemplary conduct (para. 11.15)

4.1.3 Opportunity and Responsibility: Developing New Approaches to the Management of the Long Term Prison System in Scotland

After the publication of CC and AC in 1988 and 1989 respectively, an open discussion of these two consultation documents was invited. The SPS promised that comments on CC and AC would be taken into consideration in the development of its strategies. *Opportunity and Responsibility* (OR hereafter) was the product of this process, expressing the SPS's ambition to develop a new approach ('*end discourse*') within the Scottish prison system. It was called 'a remarkable document' by Adler and Longhurst (1994) perhaps because OR provided an in-depth theoretical basis for imprisonment (Coyle 1995).

OR was built on the foundations laid out in CC and AC. The main assertions in this document were that the use of a rehabilitation model for long term prisoners was 'outmoded' and that a new approach which recognised the mutual responsibilities of the prisoner and the authorities was required. The former SPS Chief Executive explained that

'Basically my board and I built on the policies that had begun in 1989-1990. There were several documents that had been published and

> *Opportunity and Responsibility* was the key document. The concept was to move away from rehabilitation to the notion that you would make prisoners take responsibility by giving them some responsibility and letting them make choices. If they wanted to take advantage of opportunities to address offending behaviour, drug addiction or whatever, they could progress through the system by getting their security classification lowered and they could move to an open prison and then be released. This is the theoretical context'. (Interview, Former SPS Chief Executive, 4 June 2007)

The document consisted of two parts. The first part (Chapters 2-4) focused on the purpose of imprisonment and the second part (Chapters 5-9) dealt with the development of the long-term prisoner system by reacting to comments on AC. As for the first part, it reviews the aims of imprisonment and the statement of the Secretary of State that was mentioned in CC. It then set out a new approach which recognised the mutual responsibilities of the prisoner and the SPS as discussed above. The document then moved on to discuss 'the pressures for change' which contributed to prison disorder confronted by the SPS in the late 1980s. These pressures included overcrowding; Grand Design[23], differential progress to liberalise regimes, drugs and deterrent sentencing which increased a number of long term prisoners and changes in parole policy which caused considerable anxiety among long term prisoners. By the end of the first part, the document reviewed significant prison developments from 1986-1990 which included a decrease in the prison population in 1986, the re-establishment of control and order as a result of restricted regimes, the reduced role of Peterhead in holding prisoners who presented management problems, and improvements in classification, assessment and sentence planning as well as staff training.

On the other hand, the second part of OR set out how the SPS intended to approach the new penal philosophy. It addressed the need to encourage a sense of personal responsibility in long-term prisoners and promoted sentence planning to enable long term prisoners to make decisions about how they would spend their prison sentence. Also, it recognised a need for the SPS to provide responsive opportunities so that the

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[23] Grand Design was among the measures to cope with the problem of overcrowding which involved a reallocation of prisoners across Scotland. It turned out to create tremendous tension for several prisons, staff and prisoners who were transferred under protest.

prisoners could use their time in prison responsibly for personal development. The term 'responsive' was officially mentioned and *tailor-made* programmes were to be developed for specific group of prisoners. This reflected a 'customer-oriented' approach employed by the SPS to enhance the life of each prisoner. The second part also discussed the 'normalisation' principle which allows prisoners to live as normal lives as possible. It proposed that prison regimes should enable prisoners to retain links with family and community and also assist them to successfully manage their lives upon discharge.

It then moved on to address the balance between security, order and regime. OR notes that 'an establishment with an overemphasis on opportunities, will find security and control under pressure' (para 7.5). This implied the need for clarification of the ends and means of prisons and for securing a balance between the two. Coyle (1991: 177) suggests that 'incompatibility of goals presents a particular difficulty for prison officers.' This issue was raised in OR because it was obviously a big concern of the management at the time. The former SPS Chief Executive reflected that

> 'Another big concern, of course, was taking forward this reform without making security less tight because there cannot be a trade-off. If you let prisoners progress too quickly and if you don't pay close attention to what I call 'basic custody requirements', you can have problems. In a situation in which you try to reform a system and encourage more engagement between prison officers and prisoners, the management has to be careful not to send a signal to prison staff that somehow they are more important than security. Security is still basic. One of the concerns that my colleagues and I had was to get the 'right balance'. (Interview, Former SPS Chief Executive, 4 June 2007)

OR moves toward the end by proposing the use of specialised units for prisoners who continue to have difficulty in adjusting themselves in prison. However, a greater number of small units within the mainstream would be used instead of the initial proposal to establish a 60-cell maximum security complex at Shotts. It emphasises that these small units should be regarded as a part of the whole prison system, not as somewhere to expel 'difficult' prisoners.

4.1.4 Shared Enterprise

Shared Enterprise (SE hereafter) was published in 1990 as an 'outline corporate strategy' (SPS 1990c). It, therefore, was more about 'how prisons should be run' than about 'what prisons are for'. SE focused on managerial strategies especially in terms of corporate mission which covered the following (para. 2):

- To keep in custody those committed by the courts;
- To maintain good order in each prison;
- To care for prisoners with humanity and;
- To provide all possible opportunities to help prisoners to lead law-abiding and useful lives after release.

The SWOT (Strengths, Weakness, Opportunities and Threats) technique was used to analyse the SPS as an organisation. Findings from the analysis were then used to outline the strategic priorities which addressed a wide range of managerial tools, for instance values and principles, quality of service, staff relations, staff development, organisational structure and management style[24].

4.1.5 Organising for Excellence: Review of the Organisation of the Scottish Prison Service

The publication of Organising for Excellence (OE hereafter) in December 1990 reflected the desire of the SPS to create a management structure which promoted cooperation and teamwork. Also, the managerial structure of the organisation was established to ensure internal accountability (Coyle 1995). The structure at the time comprised seven Headquarters divisions, each headed by a Deputy Director who was responsible to the Director for a defined area of activity. The Directors were responsible to the Chief Executive who was the head of the SPS. The seven Headquarters divisions were: Administration, Operations, Personnel, Regime

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[24] The strategic priorities of the SPS stated in SE were:
- To define, assert and give effect to the values and principles by which the SPS will operate;
- To improve the quality of service to prisoners, so as to provide them with as full, active and constructive a life as possible;
- To foster good staff relations, and to help staff develop their skills and abilities in support of the aims and mission of the SPS; and
- To develop the appropriate organisational structure and management style to deliver the service as efficiently, effectively and economically as possible. (para. 7.2)

Services and Supplies, Planning and Development, Estates and Training and Organisation Development Support. The SPS recognised the limitations of the structure at the time that did not integrate strategic planning and operational activities effectively. There were centralisation issues; a lack of coherent line management structure with clear accountability and limited delegation of financial budgets (para. ii)[25].

OE proposed that the Chief Executive, as the head of the SPS, should be accountable for four major directorates: Strategy and Planning, Human Resources, Prisons, Finance and Information Systems (para. v). Each Directorate would be headed by a Director, with the Director of Prisons being the Deputy Chief Executive. A new Prison Board, made up by the above posts, the four Directors and two non-executive members appointed by the Secretary of State, would be established. The document also addressed key elements of the new strategic vision that addressed value for money; responsiveness to the needs of prisoners, staff and the community; improvement of service quality; devolution of accountability to staff; and promotion of public interest and awareness (para. iii).

With reference to the organisational vision mentioned above, a new set of the objectives and principles were developed[26]. This restructuring process was not only

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[25] In terms of the management problem which the SPS encountered at the time, OE recognised that "the organisational culture of SPS currently reflects centralised control of senior management in the field. Prison Governors tend to feel constrained and disenfranchised by administrators who often place greater value on adherence to procedures and guidelines than on making decisions appropriate to local circumstances on the basis of a framework of clearly defined policies." (para. ii)

[26] The new set of objectives and principles of the SPS were as follows:
"1. Delineate between strategic and operational management.
2. Devolve greater authority and managerial accountability to establishment level.
3. Establish financial control and MIS systems which support devolution of authority to establishments, whilst ensuring prison management can be held accountable to the Director and top management.
4. Create the basis for building a unified service in which headquarters and prison staff share a common culture value system and career opportunities.
5. Maintain Ministerial accountability for overall direction and control of SPS.
6. Establishment and maintain a coherent line management structure with a clear chain of command between the Director and Governor-in-Charge.
7. Support the development of a Service which sets and achieves key strategic objectives rather than reacts to events.
8. Deliver higher standards of service and improved value for money."

aimed at improving the organisation but also preparing the SPS in a way for the change of its bureaucratic status to the *executive agency* which was announced in 1993.

4.2 The 'trial and error' phrase

From 1991 to 1999, there were many significant changes in Scottish politics especially devolution which had a considerable impact on the management of the public sector (Audit Scotland 2002, 2004; Bovaird and Loffler 2003; Brown, McCrone and Paterson 1998; Coxall, Robin and Leach 2003; Dorey 2005; Hassan and Warhurst 1999, 2000, 2002a, 2002b; Hazell 2003; Hutton and Duff 1999; Keating 2005; Klein 2001; Lynch 2001; Mackie 2004; Massey and Pyper 2005; McFadden and Lazarowicz 2003; Mooney and Scott 2005; Painter 1999; Paterson 2001; Pollitt 2001; Stolz 2002; Trench 2001, 2004, 2005). As for the SPS, this period witnessed a number of major reforms in terms of management starting from the change of its status to that of an executive agency in 1993 which made the SPS more independent and autonomous, the renovation of its internal structure and staff management to the establishment of the first private prison in Scotland which ultimately led to the use of contractual management for public prisons a few years later and the opening of the second private prison in 2008. The following policy documents reflected the aforementioned reforms and policy development during this period.

4.2.1 The first Framework Document

The first Framework Document (FD hereafter) was published in 1993 when the SPS became an executive agency. This document set out 'the policy and resources framework within which the Agency will operate and constitutes the main authority for the Chief Executive to conduct the operations of the Scottish Prison Service' (SPS 1993:5). My observation here is that the FD was in a way an extended document complementing SPS's first Business Plan 1989-1992 and OE and that it *officially* introduced NPM to the SPS.

FD was divided into eight sections: Status, Aims and Objectives, Organisation, Accountability to Parliament, Financial Regime, Corporate Planning, Human Resources and Support Services. It laid the foundation for the SPS to move forward as an executive agency on 1st April 1993. It was also part of the modernisation process of the SPS as suggested in OE. The Secretary of State for Scotland at the time commented on its significance as follows:

> Agency Status is a logical step in the process of change towards an ever higher quality of service on which the Service has embarked. Agency status is about specifying clearly and publicly the tasks and responsibilities of the Scottish Prison Service and the levels of service which must be delivered. It will assist the Service in fulfilling the principles of the Citizen's Charter in all aspects of its operation, and in meeting the commitments set out in the Justice Charter for Scotland. (SPS 1993:3)

The document introduced the revised version of the objectives[27] which addressed the significance of safe and secure service; responsive operation; service quality and value for money; prisoners' opportunities; and the fulfilment of Citizen's Charter[28].

In terms of the organisational structure, FD revealed the progress of the managerial restructuring process proposed in OE. That is, the Chief Executive formally became head of SPS and answerable to the Secretary of State for Scotland. The Chief Executive had the authority to make changes in the organisation and management structure to achieve SPS's aims, and was supported by the a Prisons Board comprising the Deputy Chief Executive (also acted as Director of Prisons), the Director of Strategy and Corporate Affairs, the Director of Human Resources, the

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[27] The objectives of the SPS stated in the FD was revised and narrowed down based on the original version proposed in OE. They were:
      " 1. To operate a safe and secure service;
      2. To be responsive to the needs of those it serves;
      3. To deliver quality of service and value for money within available resources;
      4. To present prisoners with a range of opportunities to allow them to use their time in prison responsibly; and
      5. To strive to fulfil the Citizen's Charter principles in all aspects of its operations."

[28] The Citizen's Charter was initiated by the John Major Government in 1991 as part of the improvement and modernisation of the public service. Its focuses were on public accountability; transparency; information access; motivation for civil service; stakeholder approach and time efficiency. A 'Charter Mark' (now 'Customer Service Excellence') award was granted as an incentive for an agency which achieves the *national standard for excellence in customer service*.

Director of Finance and Information Systems and two non-Executive Directors appointed by the Secretary of State for Scotland.

In terms of corporate planning, the Framework specified that, by April of each year, the Chief Executive would prepare and submit for the approval to the Secretary of State, a combined corporate and business plan covering the three forward years of the forthcoming Public Expenditure Survey (PES) period (para 6.3). One of the most important features of this document was the key performance measures that were referred to for the first time. The eight initial key performance indicators were (1) the number of prisoners, (2) the number of significant incidents, (3) the number of serious assaults on staff and prisoners, (4) quality of life for prisoners, (5) opportunities for prisoner's self development, (6) time of out cell for unconvicted prisoners, (7) average annual cost per prisoner place and (8) the level of absence through staff sickness (stated in Annex B of FD).

4.2.2 The Health Promoting Prison: A framework for promoting health in the Scottish Prison Service

In 2002, in cooperation with the Scottish Executive Health Department, the Health Education Board for Scotland and NHS Boards, the SPS launched the Health Promoting Prison (HPP hereafter) campaign to ensure that health promotion and disease prevention were carried forward in Scotland's prisons. This framework was developed from the 1998 Standards of Health Care for Prisoners with principal goals to prevent illness, promote health and enable prisoners to make reasoned choices regarding the adoption of a healthy lifestyle. The Rehabilitation and Care Directorate was responsible for the managerial works including the creation and dissemination of the HPP campaign, the provision of guidance and the audit of outcomes across the service. At an operational level, each establishment was responsible for local ownership, implementation and internal monitoring, with supports from local Health Promotion Departments and other relevant local agencies.

In order to achieve the goals of HPP, four basic principles were addressed. They were empowerment, equity, sustainability and partnership (p.4). When considering

the priorities, HPP focused on four main areas: addictions, offending behaviour, health care, services for specific prisoners such as females and young offenders and the strategic direction of the SPS. It also identified four core health agendas which SPS aimed to succeed which were eating for health; active living; tobacco use and mental health well-being (p.6). A guide to achieving these four areas is provided in Framework for Promoting Health in the Scottish Prison Service. One of key success factors for HPP was the cooperation with all stakeholders and the involvement of each individual establishment.

The development of HPP policy subsequently led to the publication the Health Care Standards (HCS hereafter) in 2006 after the review of the existing health care standards by a sub-group of the SPS Prison Nurses Forum. HCS was aimed to reflect the changing needs of prisoners and to match the prisons' health services with those available to the public. In addition, it provided a healthcare framework for all key stakeholders with particular attention paid to four groups of key actors: governors, healthcare staff, prisoners, and external partners and stakeholders[29].

HCS covered 13 main areas: (1) Health Assessment on reception into prison from the community; (2) Primary Care Services; (3) Mental Health Services; (4) Stepped Up Services and supporting guidance; (5) Health Care on Transfer or Liberation; (6) Clinical and Related Services for Promoting Health; (7) Blood Borne Virus Services; (8) Management of Medicines; (9) Dental Services; (10) Prescribing for Clinical Management of Drug and Alcohol Dependency and supporting guidance; (11) Health Care Facilities; (12) Principle of Preventing Health Care Associated Infection; and (13) Health Care Records. In order to make sure that these standards were carried out appropriately, a self-assessment process was established as an accountability mechanism and was annually carried out by the healthcare managers in each local

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[29] HCS describes the role of its key stakeholders that: "*Governors* provides evidence of measurable outcomes on the delivery of healthcare across all establishments and allows delivery within their own establishment to be benchmarked with the service overall; *Healthcare staff* who are given guidance on the expectations the organisation has of them in respect of the standard of care they are required to deliver; *Prisoners* who are given a framework that demonstrates the level of service they can expect to receive; and *External partners and stakeholder* who are provided with a guide to the level of care delivered to our patient population" (SPS 2006b).

establishment. Such assessment tools as *Baseline Audit and Evidence Template*[30], *Corrective Action Plans*[31], *Corrective Action Plans Progress Report*[32], *and Performance Summary*[33] were developed and used for specific purposes.

4.2.3 Suicide Risk Management Strategy

ACT&Care Suicide Risk Management Strategy was an original programme launched by the SPS in 1998 that aimed at the effective management of prisoners who were at risk of suicide (SPS 1998). The programme was carried out in Scottish prisons and monitored by an external team. Findings from the first evaluation demonstrated that the programme had a positive impact on prisoners and the management of suicidal prisoners in general (Power, Swanson, Luke, Jackson and Biggam 2003). As part of the internal monitoring, a seminar with the Scottish Executive was held in 2003 and the recommendation came out from the seminar was that ACT&Care should be integrated with *Choose Life*, the Scotland-wide Strategy for Suicide Prevention (SPS 2005a). This integration concept was recognised as key success factor for the suicide prevention management. It was classified into two categories: internal and external. The former referred to the integration between the Positive Mental Health programme that was used inside prisons across the country and the strategies proposed by ACT&Care. The latter, on the other hand, was the integration between ACT&Care strategies and the aforementioned *Choose Life* and the National Programme for Improving Mental Health and Well-Being.

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[30] 'The baseline audit and evidence template allows for each Standard to be measured against clearly defined statements. The evidence template is a useful guide as to the information or documentation that is likely to be required for the Establishment to demonstrate that it meets compliance with the Standard.' (SPS 2006b)

[31] 'After the local audit has been completed, the Health Care Manager/Clinical Manager in Charge is required to develop a correctional action plan to address any identified gaps in compliance'. (SPS 2006b)

[32] 'To ensure actions are actually put in place to overcome the shortfall from the standard, a progress report will be completed and agreed with the GIC before being submitted to the Nursing Services Manager. This information will be used in part to inform the secondary assurance process'. (SPS 2006b)

[33] 'The performance summary is a process to quickly identify compliance through a simple scoring mechanism against the clearly defined Standard statements'. (SPS 2006b)

In 2005, ACT&Care was officially revised and replaced with *ACT2Care*. Though the key principles were unchanged, the revised strategies were more comprehensive and responsive to each individual prisoner or what the document called 'an improved person catered care approach' (p.2). In fact, the initial aims[34] emphasised in ACT&Care (which focussed on 'shared responsibility' between all stakeholders, teamwork and integration and identification of an individual's needs) were complemented by additional essential concepts recommended in ACT2Care focusing on 'assessment', 'context', 'care' and 'teamwork'. They were other concepts raised by the ACT2Care, which are relevant to the effective management of prisoners who are at risk, i.e. 'effective multidisciplinary networks', integration between residential team and specialists, information sharing, group decision, case conferences, care plans and family involvement (see SPS 2005a:2).

ACT2Care was a vivid example which demonstrated that the 'managerial' dimension of the policy was just as essential as the 'content'. The document dealt mostly with the 'how'. Managerial language, for instance teamwork, consultation, team decision-making, audit and reviews, accountability, plans and staff competency, was used throughout the document. In particular, at the end of the document, it concluded that 'care will be delivered by multi-disciplinary teams, working together through the case conferencing process to help and support prisoners' address their problems. Needs will be addressed on an individual basis. Clear and effective communication with any parties, within or outwith, the prison environment, will be maintained, with enhanced family contact and involvement, wherever that is possible' (p.9).

4.3 The post-devolution phase

It goes without saying that devolution in 1998 brought significant changes, especially in terms of management policy and accountability, to the public services in Scotland including SPS. Several policy documents in this period were prone to address the future of SPS (after devolution), new visions and strategies for prisoner management

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[34] The original key aims of ACT&Care which remain valid today were 'to assume a shared responsibility for the care of those 'at risk' of self-harm or suicide; to work together to provide a caring environment where prisoners who are in distress can ask for help to avert a crisis; and to identify needs and offer assistance in advance, during and after a crisis.' (SPS 2005a)

and the focus of the organisation. In this section, three key documents are examined: Vision for Correctional Excellence, Intervention and Integration for a Safer Society and Inclusion Policy.

4.3.1 Vision for Correctional Excellence

In response to the devolution and the new government, the SPS published *Vision for Correctional Excellence* (VCE hereafter) in 2000. The vision was set as a guideline for the development of SPS as an organisation, concentrating on ambitions to be recognised as the leader in correctional service and also to provide prison services that would protect the public and reduce re-offending. It covers five key themes which remain valid today: 'leadership in correctional service', 'the prison estate that is fit for the future', 'highest standard of service', 'respect for our staff' and 'value for money for the taxpayer'.

All these key themes, I argue, indicate that SPS acknowledged the need to reform its organisation based on 'managerial' approaches and techniques. In this case, for example, 'leadership in correctional service' was linked with *competitiveness* in private business. On the other hand, *efficiency* was reflected in the SPS's goal to provide 'highest standard of service' and enhance 'value for money for the taxpayer'. The language used here went beyond traditional 'end discourses' which focused on either control or rehabilitation. In addition, the vision of improving prison establishments and making them fit for the future also reflected *efficiency* and *value for money* concepts. One of the outstanding outputs of this vision was the publication of *SPS Estates Review* in 2002, which recommended managerial options for effectively managing prison spaces, solving prison overcrowding issues and ending the 'slopping out' problem.

In addition, in order to achieve correctional excellence in terms of responsive service with a highest standard, the SPS committed itself to the development of prisoner programmes[35] as well as to seeking new partnerships to ensure that prisoners under its supervision were less likely to re-offend after release. New management

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[35] Inventory of SPS prisoner programme and activities can be found in Wilson (2000).

techniques and monitoring systems as well as the application of best practices from other jurisdictions were among managerial choices the SPS opted for to ensure quality of service and value for money for the public.

VCE has been a strong pillar for prison management in Scotland until today. With reference to the key themes presented above, the organisation's ambitions were revised. For instance, the SPS recognised the need to open its prisons to the public for transparency reasons and also for an acknowledgement of the significance of prison services. It announced that 'over the next three years we intend actively to promote the work of the Service to the people of Scotland and do all that we can to ensure that our work is valued by society' (SPS 2008a).

In addition, the aim of correctional excellence did not necessarily mean that the SPS would totally alter what had been set out as key tasks of the organisation by CC and AC. In fact, those tasks were reviewed and reaffirmed in the SPS Business Plan 2006-08. This recent business plan emphasised the key missions[36] of the SPS with the focus on four significant principles comprising *custody*, *order*, *care* and *opportunity*. These principles known as COCO are central to the current management of Scottish prisons. The top management of SPS recalled that

> 'We had a mission statement and I thought it was a very good one-custody, order, care and opportunity. It has been modified a little bit since then. But secure custody has been the first thing and good order the second thing. The third thing has been to provide decent care. The last one is opportunity because if you did not get the first two right, you could not stick it on to the next two. It was a good mission because it explained exactly what the prison service has to do'. (Interview, Former SPS Chief Executive, 4 June 2007)

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[36] The Mission Statement indicated that the SPS were:
1. to keep in **Custody** those committed by the courts;
2. to maintaining good **Order** in each prison;
3. to **Care** for prisoners with humanity;
4. to provide prisoners with a range of **Opportunity** to exercise personal responsibility and to prepare for release; and
5. to play a full role in the integration of offender management services.

Nevertheless, what made the current statement different from the original tasks indicated in CC and AC was the introduction of a managerial concept, in this case 'integration'.

VCE recognised the significance of partnerships between the SPS and related agencies for making the community safer. This implies that the SPS should no longer be regarded as a closed institution that functions behind the high walls. Instead, it needs to take what the public demands into account and provide a more responsive and proactive service. VCE stated that:

> The expectations of the public about what kind of service we should provide for them have changed over the years. As well as responding to those expectations we have to try to influence and shape them by informing the public about the good quality of the work we are doing and the real differences we are making in reducing offending, so that our service is something the Scottish public is prepared to pay for. (SPS 2000b)

4.3.2 Intervention and Integration for a Safer Society

After the publication of OR in 1990, there was no policy paper that dealt specifically with the question of 'what prisons are for'. The launch of *Intervention and Integration for a Safer Society* (IISS hereafter) in 2000 was, therefore, one of the significant developments of SPS (SPS 2000a). IISS was regarded by SPS as key policy framework set out for the new era of the Scottish prisons as it was the first policy paper which came out after devolution[37]. Similar to OR, it recognised the concept of the 'responsible prisoner'. However, while OR focused on long-term prisoners, IISS dealt particularly with prisoners with special needs, namely short-term prisoners, remand prisoners[38], young offenders, female offenders, mentally disordered and disturbed prisoners, sexual offenders and older prisoners. The rationales for IISS stemmed from a sharp increase in the number of prisoners, increased drug abuse and larger numbers of difficult and vulnerable prisoners inside prisons across the country (para. 4).

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[37] The work of Normand reflects the need for integration of aims, objectives and targets in the Scottish criminal justice system which includes the role of the Prison Service as part of the system. See more details in Normand (2003).

[38] See more details on the custody of remand prisoners in Loucks and Knox (2001).

IISS was divided into three main parts. The first part (Chapter 1-2) reviewed the development of opportunities for prisoners' self development since 1990 and demonstrated how the delivery of the SPS service has changed over time. The second part (Chapter 3) identified groups of prisoners with particular needs and addressed the principles for dealing with them. Lastly, the third part (Chapter 4-10) focused on the SPS's plans for each category of prisoners with particular challenges.

IISS is based on two foundation concepts: intervention and integration. For an effective management of prisoners who present special challenges, IISS suggested that appropriate intervention be developed by taking into account prisoners' special risks and needs. It stated that 'the Service must provide a workable system to assess risks and needs rigorously, to challenge prisoners, to devise incentives for them to participate fully in activities designed to address their offending behaviour; and to improve their prospects of employment on release' (para. 5). In terms of integration, IISS pointed out that although imprisonment requires the removal of an individual from the society, it should not isolate them from community supports. The process of integrating a prisoner into society should be promoted. According to its strategy, 'SPS will work with external agencies to ensure a continuity of care in the management of prisoners and to enhance the likelihood of their successful reintegration to the community in due course. Importantly, although the present document describes the active interventionist position now adopted by the Service, it should not be seen to lessen the Service's emphasis on the *'responsible prisoner''* (para. 6). Indeed, the principles of IISS are to assist prisoners to overcome their social and psychological deficits by identifying their need for personal development and provide them with appropriate interventions (para. 7-11).

4.3.3 Inclusion Policy

The second prominent policy paper coming out after devolution was *Inclusion Policy* (IP hereafter). The paper was published in 2002 and dealt with short-term prisoners serving prison sentence of less than four years (almost ten years after the publication of OR which dealt with the management of long-term prisoners). IP has been

recognised as one of the key policies that has had a great impact on prisoner treatment. Its key principles cover evidence-based assessment of prisoners' needs; meaningful and appropriate interventions; effective transition from prison to community; and information sharing between partners.

The most significant initiative resulting from IP was the introduction of the concept of inclusion. Its main strategy was to include supports from the community in prisoner programmes, interventions and activities. IP proposed that 'the primary aim of inclusion is to strategically integrate a range of opportunities that research has suggested should have the greatest impact on the lives of released offenders (SPS 2002a:5). In addition, it identified a number of short-term prisoners' issues before classifying them into 'three discrete, yet inter-related policy areas', which were learning, skills and employability; addictions; and social care (Figure 4.1). These areas, IP suggested, should be seriously taken into account when designing and planning programmes for short-term prisons.
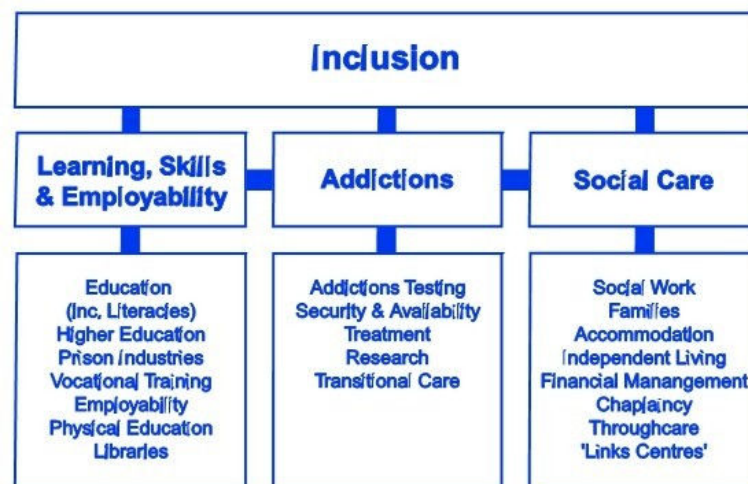
Figure 4.1: Three Clusters of policy areas addressed in IP
Source: Scottish Prison Service (2002a)

The most significant output of IP was the 'Core Plus' initiative that was introduced in 2004 as a framework for developing a sentence plan for each short-term prisoner. The 'Core' or fundamental programme for prisoners comprised 18 activities that each prisoner had to attend. These core activities take 0-30 days to complete. The 'Core' programme is suitable for remand and convicted prisoners with a prison

sentence of less than two months. For those serving a prison sentence of between two months and two years, the 'Core+A' programme was applied. Prisoners can take 31 days to a year to complete it. In addition, prisoners with sentences of two to four years would be provided with a 'Core+A, B' programme which requires one to two years. Lastly, prisoners with sentences of more than four years would be offered the 'Core+A,B,C' which takes two years or more to complete. The flexible nature of the 'Core Plus' was expected to meet the needs of short-term prisoners. The SPS, however, revealed in its report prepared for the Auditor General for Scotland in 2005 that the results of 'Core Plus' still varied from one prison to another. It pointed out that 'prisons are inconsistent in the way they plan and manage the opportunities offered to individual prisoners. Our examination of 150 short-term prisoners' files showed that completion of the forms was variable, and we were unable to asses whether opportunities appropriate for short-term prisoners were being delivered' (p.1).

4.4 Key themes of SPS policy papers

As suggested above, the analysis of policy documents aimed to describe the development of prison discourses during the last twenty years. In preparation for further analysis, this section summarises the dominant concerns, foci and accountability mechanisms of each policy document in one table (Table 4.2). What I wish to argue here is that when taking into account these three themes, each policy document demonstrates, to some extent, the characteristics of a managerialist ideology. That is, although there were some differences in terms of content, what these documents had in common was an attempt to use managerialist principles and tools to improve the quality of prison service.

Table 4.2 shows that while the principal concern and focus of CC, AC, OR, ACT&C, ACT2C, IISS, HPP, HCS and IP was on the prisoner *as an individual* and on the prison regime, SE, OE, FD and CE dealt with the enhancement of organisation structure and management. In addition, although the 'means discourse' and the 'ends discourse' of some documents did not explicitly refer to managerialism, the policy language used reflected many aspects of an NPM ethos including 'efficiency', 'value

for money', 'standards', 'responsibility' and 'accountability'. Further discussion and analysis of these policy documents is presented in the next section.

Policy documents	Dominant concern	Focus	Accountability
Initial Phase			
CC	A framework for future management of penal establishments	Task and responsibilities of SPS; prison regimes; policy for prisoners	Internal/ external
AC	Improving assessment of control and security risk and the management of violent and disruptive prisoners	Control Risk Profiles; the concept of small units; 'difficult' prisoners	Internal
OR	A new approach for dealing with long-term prisoners which involve prisoners in the decision-making process	A shared responsibilities between prisoners and prison officers	Internal
SE	The strategies of how prison should be run	A corporate strategy	Internal
OE	A new organisation structure which creates a more unified service culture	Organisation structure	Internal
Trail and error period			
FD	The management of the Scottish prison system at the macro level	Scottish prison system	Internal/ external
HPP/HCS	A healthcare service of which equivalent to that available outside prisons	Healthcare standard; healthy prison	Internal/ self-audit
ACT&C/ ACT2C	A shared responsibility for the care of those who are 'at-risk' of self-harm or suicide based on their assessed need	Prisoners who are 'at-risk' of self-harm or suicide	Internal/ external
Post-devolution period			
VCE	The management of prison system in the	Key aims of the SPS; Standard of the	Internal/ external

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Policy documents	Dominant concern	Focus	Accountability
	twenty first century	service; value for money; respect for staff	
IISS	The diversity of prisoners in Scottish prisons who have particular needs	Prisoners in each category/diversity of prisoners	Internal
IP	Interventions for short-term prisoners in 3 inter-related policy areas: learning, skills and employability; addictions; and social care	Short-term prisoners	Internal/ negotiated

Table 4.2: Summary of characteristics of the SPS's policy documents

4.5 'Discourse matrix' of the SPS in the NPM era

The above sections reveal the content of the policy documents published between the late 1980s and 2007. The language used in each document is evidence of managerialism in the SPS and indicates that the management of prisoners and prison establishments in Scotland was driven in this direction. Traditional bureaucratic hierarchies, top-down communication and a centralised organisation that relied heavily on civil servants became less significant and were gradually replaced by a private-like approach, characterised, for example, by decentralisation, a 'flat' organisation and a mix of top-down and bottom-up communications.

This section goes further by adapting the 'end discourse' and 'means discourse' framework of Adler and Longhurst (1994) as explained in Chapter 2 and Chapter 3 to assign the aforementioned documents to cells in the 'discourse matrix'. The assignment began with identifying the principal 'end discourses' and/or 'means discourses' of each policy. This was not a simple task because the 'end' and 'means' discourses were not always straightforwardly addressed in the documents. To avoid the ambiguity and misinterpretation of the policy papers, I used the interview materials to interpret those documents that did not send out a clear message. For example, many policy papers were found to address more than one 'ends and means

discourse'. In such case, I needed to review my transcription and my research notes relevant to that particular policy.   After the 'discourse' was identified, I systematically assigned each document to those cells in the matrix which reflected its key characteristics. These policy documents could be assigned to more than one cell in the matrix if they were found to address more than one 'ends or means discourse'.

After digesting the policy papers included in this thesis, evidence showed that the 'ends discourses' of the SPS from the mid 1990s to 2007 (the period after Adler and Longhurst's (1994) study) were 'rehabilitation', 'normalisation', 'control' and 'managerialism'. The first three were similar to Adler and Longhurst's study while the last one was the finding which confirmed what Adler and Longhurst (ibid.) had anticipated at the end of their work (pp.236-238). What this study moved further was the argument that 'managerialism' was referred to as both a 'means' and 'end' of the SPS especially in the policy papers which came out after devolution. In fact, the line between the 'means discourse' and 'end discourse' was no longer clear. For example, SE, OE and VCE addressed the 'what' question with a focus on value for money and efficiency rather than traditional aims and in the meantime they suggested the method of achieving those goals was by a 'business-like' approach. These documents were, therefore, allocated in the discourse matrix 'managerialism x managerialism' as presented in Table 4.3.

Discourse	Rehabilitation	Normalisation	Control	Managerialism
Bureaucracy	OR, HPP, HCS, ACT&C, ACT2C,IISS,IP	CC, AC, HPP, HCS, ACT&C, ACT2C,IISS,IP	CC, AC, ACT& C, ACT2C	FD
Professionalism	OR, HPP, HCS, ACT&C, ACT2C, IISS,IP	OR, HPP, HCS, ACT&C, ACT2C, IISS,IP	OR, ACT& C, ACT2C	
Managerialism	SE, OE, IP	SE, OE, IP	SE, OE	SE, OE, VCE
Legality	-	-	-	-

Table 4.3: The 'discourse matrix' of the SPS in the NPM era

In Table 4.3, I reveal the results of the policy document analysis. It demonstrates that the assignment of each document to a cell in the 'discourse matrix' is justified by

an analysis of the aims and the approach it advocated. In general, findings from the analysis indicate that, during the last two decades, the management of prisons in Scotland had not been dominated by one specific ideology and that prison administrators did not rely on one particular model. Despite the fact that rehabilitation was still in play, it was in a more voluntary form. Rather, recent policy documents reflected the mixture between traditional ideologies and managerialism, with an inclination towards the latter. That is why one policy document was allocated in several boxes in the 'discourse matrix'. For example, ACT&C and ACT2C were aimed at 'rehabilitation', 'normalisation' and 'control' and were managed by the headquarters ('bureaucracy') and by 'professionals' at prison establishments.

4.5.1 'Initial phase' documents

In the 'initial phase' (from the late 1980s to the early 1990s), the publication of CC, AC, OR, SE and OE reflected the SPS's attempts to sort out a new management approach to deal with dynamic circumstances of the prison service at the time, especially the problem of overcrowding and prison disorder. As pointed out by Adler and Longhurst (1994), the dominant 'end discourses' during this period were rehabilitation, normalisation and control. What I wish to suggest here is that the SPS succeeded in taking control of the crisis by developing its strategies step by step. First, CC was published with the aim of setting out a coherent corporate philosophy for the SPS and was intended to guide the regimes and the management of individual establishments, 'to make possible a better quality of life for inmates' as well as 'to enable prisoners to retain links with family and community'. This reflects a well-planned strategy to gain 'control' over the management of prison establishments, 'normalise' prisoners and treat them like individuals. Staff at the headquarters were the key actors in achieving these goals[39]. In addition, the use of bureaucratic means to fulfil those goals was stated in Section A of the document and re-emphasised throughout the document. For instance, Section A addressed that 'This statement or

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[39] There have been significant changes in the personnel at 'Headquarters'. Before the granting of agency status, 'Headquarters' was located in the Scottish Office and staffed by civil servants (bureaucrats). After the granting of agency status, it was staffed by a mixture of (seconded) civil servants and former governors (professions) and, with the passage of time, it became hard to recognise any differences between them.

regime plan will be discussed and agreed between the Governor and the headquarters. Thereafter, it will be the joint responsibility of the establishment and the headquarters to pursue the agreed aims, objectives and targets within the framework of the regime plan' (para. 10.1). This justified why it was assigned to the 'normalisation x bureaucracy' and 'control x bureaucracy' cells in the matrix.

In AC, as its name suggests, control was the dominant ideology. The similarity between AC and CC was the fact that both emphasised the use of a bureaucratic means to dealing with the challenges the SPS was facing at the time. The roles of Headquarters were highly significant in both documents. However, AC went further by analysing the causes of the incidents and then proposing the development of Control Risk Profiles as well as the use of small units for persistently 'difficult' prisoners. These were obvious evidence of control and normalisation discourse and explain why AC was assigned to the same cells in the matrix as CC.

Following CC and AC, the publication of OR aimed to address the need to concentrate on the concepts of opportunity and responsibility as discussed above. Responsibility represented a new form of rehabilitation in that prisoners shared certain responsibilities in taking control of their lives, making choices and facing the consequences of their decisions (presented in its Chapter 5). Prison staff, on the other hand, were responsible for providing appropriate opportunities for prisoners and acting as facilitators. OR was a very broad policy document for dealing with long-term prisoners. In addition, the aims to normalise and control prisoners were also addressed in OR (presented in Chapter 6 and 7 of OR). Paragraph 6.3 of the document reflects the fact that normalisation in 'the SPS fully accepts the responsibility to provide regimes which allow prisoners the opportunity to live as normal lives as possible, and as may be consistent with the requirements of security and order'. On the other hand, control was reemphasised in Paragraph 7.1 which stated that 'the first objective of the SPS is the secure the custody of the prisoners, whether convicted or on remand'.

OR differed from CC and AC in terms of its 'means discourses'. It did not rely solely on civil servants at Headquarters. Rather, it addressed the professionalism of prison staff who needed to act as facilitators, encouraging prisoners to see themselves as responsible individuals and helping them make sound decisions. 'The role of the prison officer was being enhanced in this way through existing training programmes and through the Personal Officer Schemes that had been recently introduced into a number of establishments' (para. 6.3). Accordingly, OR was allocated to the 'rehabilitation x bureaucracy', 'rehabilitation x professionalism', 'control x professionalism' and 'normalisation x professionalism' cells in the matrix.

The two documents in the 'initial phase' following OR were SE and OE. Both reflected the *official* move towards NPM. While SE set out a corporate strategy based on the results of the 'SWOT' analysis (strengths, weakness, opportunities and threats) of the organisation, OE focussed specifically on analysing the organisational structure and the development of the new one, preparing the SPS for the Executive Agency status. Adler and Longhurst commented that neither SE nor OE dealt with *what prisons are for* and suggested that they rather focused on how prisons should be run (1994:235). In other words, they both concentrated on the *'means discourses'*. Adler and Longhurst, therefore, located SE and OE in their 'new discourse matrix' (see Table 2.7 in Chapter 2) in which the first two 'means' rows (bureaucracy and professionalism) were replaced by the new single row of managerialism and the 'legality' row remained empty as there was no significant prison policy addressing the issue. As for the *'end discourses'*, SE and OE were put in all three 'ends' columns ('rehabilitation', 'control' and 'normalisation'). What I wish to add to Adler and Longhurst's findings is that managerialism should be viewed not only as a 'means' but also as an 'end'. Consequently, there should be another 'ends' column for this newly emerging *'end discourse'* which was hidden in these two documents. My argument here is based on the fact that, when considering the messages sent out by SE and OE carefully, both simply implied that prisons were no longer run for rehabilitation, control or normalisation *per se*. In fact, SE and OE suggest that the management of prisons should also aim for 'excellence', 'efficiency', 'effectiveness' and 'value for money', the concepts which were stated throughout the both

documents as presented in Section 4.1 above. In other words, I argue that the line between the *'end discourses'* and *'means discourses'* in the NPM era was no longer clear because 'managerialism' was referred to as both a 'means' and an 'end'. In Table 4.2, I have therefore added a 'managerialism' column to the original matrix and assigned both SE and OE in this new 'managerialism x managerialism' cell.

4.5.2 'Trial and error phase' documents

During the 'trial and error' phrase, FD was published to provide a managerial framework for the SPS as an Executive Agency to run its prisons effectively. Relatively similar to SE and OE, FD focused on the 'how'. Meanwhile, it also reemphasised the aims and objectives of the prison service and addressed the management approach for the organisation, financial arrangement, corporate planning and human resources. Key actors identified in FD were the Chief Executive and Headquarters. The roles of both actors were clearly identified in FD as presented above. What I wish to highlight here is that, despite the move towards the use of managerial means, the role of bureaucracy was not totally deserted. In any event, SPS was still the public organisation in which public employees including civil servants and professional staff played key roles in the delivery of prison services. This is why I have added the 'bureaucracy' row back to the discourse matrix (while Adler and Longhurst combined 'bureaucracy' with 'professionalism' and replaced them with 'managerialism').

Following the publication of FD, the launch of HPP, HCS, ACT&C and ACT2C showed that the development of prison discourse was not linear one. That is, the SPS did not necessarily address only managerialist ideology. There were times that the SPS reemphasised the need to concentrate on traditional aims of prisons management, for instance control (as reflected in HPP, HCS, ACT&C and ACT2C), normalisation (as in ACT&C and ACT2C), and rehabilitation (as in HPP, HCS, ACT&C and ACT2C). In most policy documents, bureaucratic and professional approaches returned as dominant 'means discourses' while the Headquarters, civil servants, local staff and specialists were considered key actors. For instance, as indicated in ACT2C, 'all staff are responsible for suicide risk management although

those who interact with prisoners are clearly in the best position to identify any risk. If staff consider someone to be 'at risk', they should commence the ACT2C process by providing a safe environment and discussing this with their line manager' (p.5).

4.5.3 'Post-devolution phase' documents

After devolution, the first significant movement in terms of prison policy was the announcement of the *Vision for Correctional Excellence* (VCE) to be used as a guide for the management of prisons in the twenty first century. Similar to SE, OE and FD, VCE concentrated on the 'what' question. The key messages of the VCE, in particular 'leadership in correctional service', a 'prison estate that is fit for the future', 'highest standards of service', 'respect for our staff' and 'value for money for the taxpayer', obviously represented managerialism. Moreover, the principal approach which was suggested to achieve these aims was the use of 'business-like' tools, such as standards, benchmarking and a 'customer' survey. VCE confirms my argument that managerialism deserved a place in the 'discourse matrix' as one of the key the 'ends discourses'. At the same time, it was still regarded as one of the dominant 'means' for the management of prisons in this NPM era. Accordingly, VCE was allocated in the 'managerialism x managerialism' cell in the matrix along with SE and OE.

Last but not least, IISS and IP differed from VCE as both dealt mainly with traditional aims (the 'what') of prisons. These documents, therefore, support my argument that the development of prison policy did not only focus on managerialism, although it did move in that direction. IISS and IP brought the SPS back to think again about the roles of rehabilitation and normalisation in prisons. IISS addressed the need to treat certain types of prisoners with certain interventions according to their risk and need profiles. It recommended that appropriate programmes and activities be developed and managed through cooperation between prison staff and specialists. This justified its location in the 'rehabilitation x bureaucracy', 'rehabilitation x professionalism', 'normalisation x bureaucracy', and 'normalisation x professionalism' cells of the matrix.

IP, on the other hand, focused on the treatment of short-term prisoners. Bureaucratic and professional approaches were put in place to create the 'Core Plus' regime which provided short-term prisoners with flexible programmes responsive to the length of their sentence. What made IP different from IISS was the fact that IP addressed the managerialist approach through information sharing, and management was added to develop more meaningful and appropriate interventions for short-term prisoners. IP was, therefore, assigned to the same cell as IISS and to the 'rehabilitation x managerialism' and 'normalisation x managerialism' cells of the matrix.

In summary, the analysis of prison policy documents between 1980s and 2007 revealed that the management of prison in Scotland during the past twenty years was not dominated by one single ideology; that managerialism became one of the key 'ends discourses; that the development of prison policy was not limited to 'managerialism' as there were times when traditional aims of prisons were restated; and that managerialist means did not totally replace bureaucracy and professionalism. Obviously, the impact of managerialism on prison policy in general was significant. It was the new ideology adopted by prison management as part of the public sector reform in the UK. In the next chapter, its influence on prison operational dimension is demonstrated.

CHAPTER 5

MANAGING PRISONS WITH MARKET MECHANISMS

As noted in Chapter 2, Hood (1991) points out that one of the key features of NPM is the use of market mechanisms to run a public organisation or what Walsh (1995) calls 'the marketisation of the public service'. Much has been written about market mechanisms in areas such as health and education (e.g. Dawson and Dargie 2002; Flynn 1993; Lane 2000a, 2000b; Mackie 2005; Walsh 1995). In the prison system, however, little has been written on this issue (Armstrong 2007). In this chapter, I therefore attempt to unpack the market mechanisms used in the Scottish prison system over the past twenty years and examine them from a policy-oriented perspective.[40] The argument I advance in this chapter is that the management of the prison system is no longer confined to the traditional bureaucratic approach. This is because it has been exposed to a variety of managerial choices that the private sector has presented. With reference to the findings in Chapter 4, which indicate that a managerialist ideology has had a significant impact on the SPS at the policy level, I wish to demonstrate in this chapter its influence at an operational level.

The discussion in this chapter builds on the NPM literature reviewed in Chapter 2 and the interview material. In Chapter 2, I discussed the concept of market mechanisms as suggested by previous scholars. Before taking this discussion further, I wish to briefly clarify my use of the term 'market mechanism'. It is not my intention to use this term in the way in which it is deployed in the marketing or business administration fields. Rather, the meaning of 'market mechanism' refers to the broad interplay between 'sellers', 'buyers', 'products' and 'price' within the prison system. To serve the main purpose of this chapter, which seeks to demonstrate the extent to which the management of prisons in Scotland has become more like that of the private sector, it is used interchangeably with the terms 'business-like approach' and 'business-like tools'

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[40] Armstrong (2007) suggests that the analysis of markets in punishment is at two levels: moral and policy-oriented ones. 'For the latter, they are empirical phenomena, whereas the former analyses them theoretically and idealistically' (p.13).

The key market mechanisms or business-like approaches that are examined in the chapter are decentralisation, contract management and a customer-oriented approach. *Why these three?* According to most NPM scholars, particularly Hood (1991), these three mechanisms are central features of NPM and best describe the development and impact of managerialism on the management of the public services (see Chapter 2). What I wish to argue in this chapter is that the SPS, as a public organisation, has embraced these mechanisms to ensure the quality of service delivery and the management of its organisation under internal and external pressures and challenges, for instance for dealing with 'slopping out' issues, the overcrowding problem, political scrutiny and public accountability. In addition, they were used to increase the competitive ability of the SPS not only compared to other public organisations but also to private companies in the prison 'business'.

The presentation of each mechanism in this chapter is based on documentary analysis and the interview material, the latter being used to complement and/or contrast with the former. In order to achieve a better understanding of the use of business-like approaches in the prison service, I start with a brief discussion of the context of public sector reform which is drawn from a combination of relevant policy papers, academic literature and the interview material.

I then move on to discuss the first mechanism − decentralisation. Evidence of decentralised management confirms that the SPS shifted in the direction set out by the government policy to reform the management of the public sector. Based on prison discourse at the time (see Chapter 4), decentralisation was among the key strategies that administrators opted for. Delegation of decision power to prison governors and the new financial administration in local establishments are the two best examples of decentralisation in the SPS.

The second mechanism that is discussed is contract management. The discussion of contractualism in this chapter lays the foundation for the examination of private prisons in Scotland in Chapter 6. Here I explore the development of contract management, types of contract, the contracting process and monitoring mechanisms.

Although the SPS had contracts with a wide range of partners, my main focus is on the contracts it had with private companies for the delivery of its core service, namely the private prison contracts. In general, private prison contracts have always been a controversial matter among both academics and practitioners. For Scotland, however, there was a relatively minimal resistance. *What was written into the contracts for Kilmarnock and Addiewell (the latest private prison in Scotland)? How were the contracts managed? Did they affect the management of prisons in general?* These are the issues that are developed in the analysis of contract management in this chapter and are elaborated in Chapter 6.

Lastly, I argue that NPM encouraged the reform of SPS from a closed, 'military-like' institution to one which promoted the use 'business-like' approaches. Considering the policy documents discussed in Chapter 4, prisoners who were formerly sent to prisons for punishment and compulsory reform became the centre of attention in the NPM era and were treated as key 'customers' or 'clients' of the prison service. This chapter reveals the extent to which the SPS adopted a customer-oriented strategy from the private sector in the management of its prisoners. Evidence shows that, for example, a range of communication channels were developed for prisoners. The Prisoner Survey is a good example. The use of it was twofold. On the one hand, it provided feedback from the service's recipient to the SPS. Results from the survey were used by SPS management to develop appropriate prison policies and strategies i.e. the improvement of healthcare standard as indicated in HPP and HCS; the provision of programmes for prisoners who had special needs by the launch of IISS; and the launch of IP to meet the needs of short-term prisoners (see Chapter 4). On the other hand, the survey was used by policy makers and administrators to assess the performance of SPS.

5.1 Marketisation of the public sector in political context

In Chapter 4, I described changes in prison policies during the 'initial', 'trial and error' and 'post devolution' periods (from the late 1980s to 2007). In this chapter, I wish to emphasise the influence of the marketisation policy, which was a political initiative, on the public sector including the prison service. The introduction of

market mechanisms was one of the key strategies for changing the management of public services that sought to move beyond organisational restructuring or work process changes. Government policy clearly addressed the need for a fundamental change which involved changing the governing norms, values and beliefs of public sector organisations. As argued by Walsh (1995), this reform, which started in the late 1980s, introduced 'new values of entrepreneurial managerialism'. He explains that:

> The ideological basis of the development of market approaches to public service management lies in the ideas of the New Right theorists…The New Right sees the market not only as a mechanism for ensuring efficient production and distribution, but also as a moral necessity in preventing the exploitation by the individual of another. The primary role of the state in a market-oriented system is then to guarantee the conditions of freedom, within which individuals can pursue their own interests without interference. The role of the state is a neutral one for enabling people to pursue their own idea of the good, rather than the forwarding of any particular form of social organisation. (Walsh 1995:58)

Walsh points out that theorists agree that, in order to operate effectively, organisations need to deal effectively with key issues such as information, incentives, trust, quality and risk but the traditional approach for dealing with these issues seemed to concentrate only on professionalism, hierarchy, self-sufficiency, incremental patterns of planning and budgeting, and a departmental pattern of organisation. Therefore, when the total reform is expected, the organisation can no longer rely on conventional techniques and tools. Rather, it needs to be more innovative in terms of strategies as 'the culture of markets and contracts requires a different set of institutions' (ibid. 47).

Considering the UK context, as discussed in Chapter 2, the managerialist ideology and the introduction of marketisation into the public sector *officially* began when the Thatcher Government came to power in 1979. Efficiency was the key aim of this reform in accordance with the principle that civil service had to be smaller but more active. In addition, a range of policies was launched to promote the involvement of the private sector in the delivery of public services (Ascher 1987; Bowman, Hakim and Seidenstat 1993; Brown and Sparks 1989). As part of the reform, the early

1980s witnessed the fact that more and more public sector organisations were forced into 'market-testing'. Governmental departments were disaggregated into smaller and autonomous agencies that were still responsible to a minister.

In 1988, *Improving Management in Government: The 'Next Steps', a* report produced by the Prime Minister's Efficiency Unit, was adopted by the government as a political initiative to drive the transformation of the civil service. It key features included the use of a commercial approach to run public agencies and the development of Framework Documents, which set up goals, missions, objectives and accountability mechanisms for each agency. It is clear that the ultimate goal of 'Next Steps' was the privatisation of public services. The late 1980s witnessed the expansion of contract and competition with the passage of the Local Government Act 1988. Walsh (1995) points out that the Act 'required local authorities to subject a range of manual services to competitive tender. If the local authority won the right to provide the services then it had to do so on a quasi-contractual basis, operating an internal trading account, which could not be cross-subsidised, and had to meet stated targets that were set by central government' (p.120).

Public Private Partnerships (PPPs) and the privatisation policies of the Thatcher Government were sustained and actually strengthened when the Conservative Party won the general election in 1992 and John Major became the Prime Minister. This was the fourth consecutive victory of the Conservative Party and later that year the Major Government announced the Public Finance Initiative (PFI)[41]. One of the SPS senior managers commented on this change in public services, saying that 'as I recall, 1990-91 was the first time we had a mixed economy, if you like, in terms of what traditionally had been in-house activities' (Interview, Current SPS Director, 3 July 2007). In terms of its organisational status, the SPS, like many other civil service departments, became an executive agency in 1993. The impact of this development on the SPS was described by the former Director and Board Member of SPS as follows:

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[41] A research paper by Grahame Allen (01/117, House of Commons, 2001) entitled *Public Finance Initiative (PFI)* provides official details of PFI and is available online at http://www.parliament.uk/ commons/lib/research/rp2001/rp01-117.pdf

'So for example we had responsibility and authority to decide on the way in which we recruited, paid, graded and managed our staff rather than having to stick to a formula which we either inherited or which was decided for us from elsewhere. In 1993 we did a very big review of our staffing structure. We changed the roles and responsibility of prison officers which divided prison officer into two categories one of which was remarkably less than the other [in terms of number]. We reduced the number of managers and supervisors and we changed the ranks and roles of the most senior staff. So obviously making changes like that creates difficulties and produces resistance. Of course, it does'. (Interview, Former SPS Director, 18 April 2007)

In the 1997 general election, the Conservatives were defeated by the Labour Party. Yet the reform of public services remained one the key agendas of the new government. The Labour Government's programme to 'modernise'[42] the public services reflected the move towards increased marketisation. The main focus was on 'value for money' rather than on a reduction of public debt which was the original purpose of the reform. In *modernising* the governance, two significant, yet contradictory, concepts were in play in the Labour Government's discourses-*partnership* and *principal and agents* (Newman 2001:84-85; Walsh 1995:110-136). The former involved an attempt by the government to include its staff in the management of public services from the policy level to the operational level. Staff involvement was recognised as one of key determinants of success. The latter concept, however, referred to the contractual relationship between central government and local managers. *Agents* were required to deliver services against the goals and targets set by the *principal*.

Prior to devolution, Scottish legislation was passed by the UK Parliament. The Scottish Office and the Secretary of State for Scotland, who was an MP from the ruling party, were responsible for formulating legislative proposals and for all administrative matters involving Scotland as well as for making policies and lobbying for Scotland at the centre (Keating 2005:6). Unlike education, where there

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[42] Newman argues that the term *modernisation* serves to legitimate the changes in public services. For more details, see *Chapter 3* of her book *Modernising Governance* (2001).

was a long history of Scottish particularism, Scottish penal policy[43] conformed to the UK thrust. Legislation was dependent on central government as Scottish politicians chose *access* (a strong Scottish presence at Westminster and material benefits for their constituents) over *autonomy* (Keating 2005:5). Although England and Scotland were tied in terms of legislation and penal policy, through the UK Government, when it came to prison management what happened in England was not necessarily applied to Scotland. One of the civil servants who used to serve as an SPS Board Member described:

> 'It's always been the case that we are slower and do not reorganise so quickly. We don't have the same resources. I think it is quite beneficial actually not to reorganise. But England has gone through lots of crises and dramatic changes…We watch what happens in England but we definitely don't copy it'. (Interview, Former SPS Director, 15 May 2007)

After devolution, the management of prisons in Scotland shifted again. Undoubtedly, the SPS experienced more political influence and there was more parliamentary scrutiny of penal policy and prison practice. One of the senior managers of the SPS described that 'the proximity of the ministerial interest is greater than it was because we have a Scottish Parliament. Clearly, there is more interest. We have our own Justice Minister' (Interview, Current SPS Director, 3 July 2007).

At a macro level, during the late 1990s the SPS also faced another challenge when the UK Government published its White Paper, *Modernising Government* in March 1999. The Scottish Executive (now the Scottish Government) took this policy agenda forward by producing its own *'Modernising Government' Programme* in February 2000. *Modernising Government* set up a wide-ranging, long-term programme to reform public services of the UK with the three main aims of 'ensuring that policy making is joined up and strategic; making sure that public service users, not providers, are the focus by matching the services more closely to people's lives; [and] delivering services that are high quality and efficient' (Cabinet

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[43] An informative analysis of the present policy process can be found in Michael Hill's book, *The Policy Process in Modern State* (1997)

Office 1999). The influence of this programme on the management of Scottish prisons was monumental as shown in the following sections.

Another significant change in the late 1990s was the so-called *cash crisis* which contributed to a change in human resource management and in service delivery by encouraging the involvement of private sector. The cash crisis started in the summer of 1999 when the government decided to cut the budget that would have been allocated to the SPS. This not only resulted in a substantial reduction in resources for the SPS but also introduced considerable tension into the organisation. The SPS decided to resolve the crisis by closing some prisons and reducing the number of prison officers, which clearly affected the management of prisons as a whole. The philosophy behind these solutions was explained by the senior manager of SPS as follows:

> 'So I had immediately to deal with the fact that, in the following year we would have 13 million pounds less money than we had planned to spend. And two thirds of that money was going on staff salaries. We had too many people. So instead of closing small places or cutting everybody by a small amount, which gives a very negative feeling to the whole service, I decided that we should shut some prisons completely and walk away from them because you'd save everything not just staff but the electricity and everything. And you could maybe sell the site that the prison was on.
>
> Interestingly the Prison Service Board which I chaired decided which prisons to close and the First Minister knew of it when we first told him what we intended to do. They were not happy about it but they wanted the money. That's the point. And I said if you want the money, you can have it but we have to reduce the number of prison officers. And they accepted it because they had to have the money. But I can imagine that, in other circumstances, they would want to cut everything by a little bit'. (Interview, Former SPS Chief Executive, 13 December 2007)

The decision to close unsuitable prisons and the need to find 2,200 additional spaces were later officially discussed in the SPS Estates Review which was published in 2002. The Review aimed to identify potential pressures on the SPS prison estate in the long term and to find appropriate options for responding to them. Three new prisons were proposed to accommodate 2,200 extra inmates. One would be operated

as a public prison as the SPS could not afford to open more than one new prison at a time. Another two would follow the PPPs approach: one would be privately built and publicly operated and the other would be privately built and privately operated. For efficiency reasons, Peterhead[44] and Low Moss were to be closed and Barlinnie refurbished with a new houseblock. The policy on human resource management, however, was slightly altered from its original formulation. That is, the SPS did not actually go for a lay-off policy. Instead, staff who wished to continue working with the SPS would be transferred to work in other establishments. Nevertheless, at the end of the day, there would be a total reduction of 670 staff as a result of the proposed approach.

The proposal to close Low Moss, one of the 'three worst prisons' especially in terms of prisoners' living conditions, had been a controversial issue in Parliament. The SNP, the opposition at that time, claimed that this decision would create chaos for the SPS. Kenny MacAskill, the SNP Justice Spokesman (the Justice Minister) commented to the BBC News Online on 22 February 2007 that 'having less cells when we have ever more convicted criminals is a dangerous situation that threatens prison security. The Labour and Lib Dem government's prison policy was in turmoil but it's now in chaos. Inadequate as Low Moss may be, closing it puts further pressure on an already overcrowded prison system which is already bursting at the seams' (BBC 2007).

What I wish to highlight here is that the *Modernising Government White Paper*, which led to significant prison reform policy including the Estate Review, transformed the SPS into a state in which a business-like approach was significantly favoured[45]. In fact, one of the most significant features of the White Paper which

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[44] The plan to close Peterhead Prison was ultimately terminated because it was opposed by campaigners from local community who claimed that the closure would impact the economy of the community. Moreover, the opposition parties at the time were also against this proposal. Alex Salmond, the local Scottish National Party MP, commented that it would be a disaster to close Peterhead and it is a 'jewel in the crown' of the prison service because of its reputation for the treatment of sex offenders (BBC News Online, 21 March 2002).

[45] The White Paper aims at improving the public sector and the public service at least to the level which can compete with the private sector. It states that (March 1999):

affected the SPS most was the regulation of professional work. Prior to this, the SPS had enjoyed a certain degree of autonomy especially in terms of its professional knowledge and practice. Formerly, what happened behind the prison walls had been largely, if not solely, controlled by SPS itself and was not subject to much scrutiny. The White Paper introduced a new ideology and new mechanisms for public service delivery and these created tensions in many public agencies, including the SPS, which were accustomed to traditional forms of bureaucratic management. The SPS had to adjust itself to a wide range of new managerial mechanisms[46] introduced by the new policy i.e. financial management and Public Service Agreements (see Section 5.3 below). Besides, the White Paper attempted to create and control the *outputs* and *processes* of professional work (Newman 2001). 'The former is represented in the expansion of targets, league tables and performance indicators; the latter in the tightening of regulation of the labour process itself (the pedagogic practices of teachers, the clinical practice of doctors, or the nature of the interaction between probation officers and young offenders)' (2001:87).

As far as prisons are concerned, the most significant effect of the White Paper on the SPS was that it led to the creation of the National Strategy for the Management of Offenders (NSMO) which came into force in September 2007. Under NSMO,

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This Government believes in the public service and public servants. But that does not mean the public service at any price. The British public has grown accustomed to consumer choice and competition in the private sector. If our public service is to survive and thrive, it must match the best in its ability to innovate, to share good ideas and to control costs. Above all, the public service must deliver efficiently and effectively the policies, programmes and services of government. Some of our public services achieve this now. But others do not. We intend to bring them up to the level of the best, and make the best even better, by modernising the controls under which they operate, by encouraging new ways of working and wherever practicable by giving the public the right to choose.

[46] *Modernising Government* states that the new mechanisms for managing delivery include:
1. 'Comprehensive Spending Review, setting out for the first time a co-ordinated set of objectives covering all public spending.
2. Public Service Agreements, setting out for the first time firm targets for improving services over the next three years. Shifting the focus decisively from inputs to the outcomes that matter.
3. New Cabinet Committee (PSX) monitoring progress on a regular basis with relevant Secretaries of State.
4. New Public Service Productivity Panel bringing together public and private sector expertise to help Departments achieve the improvements necessary.
5. Annual Report summarising progress for Parliament and the public.'

Community Justice Authorities (CJAs) were to be established as a mechanism for bringing together all stakeholders in criminal justice, including the SPS, local authorities and key partners, to deliver effective offender management, protect society and reduce re-offending. NSMO was an excellent example of the government's attempt to control both the 'outputs' and 'process' of its agents as pointed out above. It laid out *what* was expected from the SPS and also provided recommendations on *how* to do it. For instance, in the period of September 2007 to April 2008, SPS was required to 'provide each CJA with early briefing on SPS activity relevant to CJA; contribute to the production of each area plan; reconsider its investment in rehabilitative activities in the light of this strategy and CJA area plans; and agree priorities and align services to deliver area plan' (NSMO 2006:13).

NSMO also reflected the significance of the partnership concept which was deemed a key success factor for the responsive and effective management of prisoners. It was actually one of the key strategies of the Labour Government for the reform of the public sector. This approach was highlighted by Cathy Jamieson, the then Minister of Justice with responsibility for the SPS, in the Ministerial Foreword of NSMO (Scottish Executive 2006) as follows:

> This, our first national offender management strategy, lays the ground for deep-rooted partnerships able to reduce re-offending and protect public safety. Such partnerships are built upon commitment and shared purpose. But, above all, they are built upon the people who work within them. We have an opportunity and an obligation to break down the barriers that hold back our staff from working ever more closely together. Prison officers and criminal justice social workers, alongside partners from across criminal justice and beyond, must be able to exchange experience and skills, to learn from each other and to bring their joint efforts to bear to reduce reoffending. I expect everyone involved in the management of offenders, aided by the National Advisory Body, to work together to remove those barriers and to embrace joint working in spirit and reality.

After the second general election of Scotland in May 2003, partnership discourse was still in play as there was no significant change in terms of political power in the Scottish Parliament and the Scottish Executive (now the Scottish Government). The Labour Party and the Scottish Liberal Democrats formed a coalition government.

Soon after, the leaders of the two parties, Jack McConnell and Jim Wallace signed a joint partnership agreement, *A Partnership for a Better Scotland (2003)*, which set out the principles for jointly developing and implementing policies and a commitment to improve the public services for Scotland. The PPP approach, a legacy of the UK government, remained a practical option for Scotland, according to this agreement, that would guarantee 'value for money' in the delivery of public services, including the prison service.

The new wave of change in penal policy began when the SNP won the general election in 2007. The most obvious change, which created a great deal of controversy, was the fact that SNP was not in favour of private prisons. This resulted in the cancellation and retendering of Bishopbriggs Prison, which was to have been run as private prison. The Justice Secretary (Kenny MacAskill) attempted to justify, at some length, the government's policy to stop private prisons in Scotland in a news release on the Scottish Government's website on 23 August 2007, saying that:

> If I had allowed the private sector contract for Bishopbriggs to progress we would have had around a quarter of prisoners in Scotland in private sector jails − some five times the level of private sector involvement in the United States.
>
> A modern prison environment must be one where staff can work with high risk offenders to tackle reoffending − enhancing public protection in the process. Public safety must be paramount, not private profit. We want to rebuild a Scottish Prison Service that is exactly that − a public service not a management agency.
>
> That's why I am proud that we are delivering on our manifesto so that the replacement prison at Bishopbriggs will be run in the public sector, for the public good, and not for private profit.
>
> We are drawing a clear line in the sand in terms of future policy with the decision to stop and restart procurement of a replacement prison at Bishopbriggs. Prisons focused on protecting the public from serious and dangerous offenders should be publicly-run by dedicated professional public servants. (Scottish Government 2007)

Putting prison management into a political context over a period of twenty years, SPS encountered a radical shift from the promotion of business-like approaches and privatisation of the Thatcher Government to the anti-privatisation policy of the SNP Government. The impact of the SNP government's policy on SPS and the management of private prisons are beyond the timeline of this research. But, it will be interesting for future study to examine this issue in light of the changing political context. Under the SNP, the fate of the existing private prison, Kilmarnock, and the newly established Addiewell Prison will clearly be worth exploring, particularly if prison privatisation is no longer the favoured option.

5.2 Decentralisation

As suggested by Hood (1991), one notable feature of NPM is the disaggregation of units in the public sector. He points out that disaggregation means the 'break up of formerly 'monolithic' units, unbundling of a 'U-form' management system [centralised management] into corporatised units around products, operating on decentralised 'one-line' budgets and dealing with one another on an 'arms' length basis' (1991:5). The justification for this doctrine was 'to create 'manageable' units, separate provision and production interests, gain efficiency advantages through the use of contract or franchise arrangements inside as well as outside the public sector' (ibid. 5). Decentralisation, in addition, creates a new relationship among individuals working in the organisation. The concepts of *principal* and *agent* as discussed above were clearly reflected in the public management policy of the Blair Government when the government (the principal) focused on the control measures designed to ensure that local governmental units (the agents) delivered services as required by central government (Newman 2001:86). The impact of this policy on public agencies, especially in terms of their organisation structure and the delegation of power, was clearly paramount. Taking SPS as an example, decentralisation policy altered the relationship between Headquarters and prison establishments and this led to the restructuring of staff grades and salary bands (this issue is elaborated in section 5.2.1).

At this point I wish to clarify the meaning given to decentralisation in this study before presenting my empirical findings in the prison context. First of all, decentralisation did not simply mean a change of organisational structure. Rather, it was a change that also covered governing values, norms, and beliefs of the agency concerned. As Walsh (1995) put it, 'it is not easy to change institutions, because any change will be resisted by those who benefit from the existing institutional pattern, and because institutions exist not only as external systems of constraints, but also as internal patterns of interests and values' (p.31).

Analysts have given a variety of meanings to organisational change. Tushman and Romanelli (1985) pointed out that organisational change can be found in two forms: *convergence* and *reorientation*. Walsh (1995) explains that the former refers to the change which 'takes place over the long term and involves slow and steady patterns of evolutionary development. The basic patterns of organisational structure and culture do not change, but there is a gradual development of internal consistency within the organisation' (p.31). The latter, on the other hand, means that 'the fundamental character of the organisation is transformed, involving radical changes in organisational structures and values. Change is rapid and disruptive. Institutional understandings and patterns of behaviour are systematically undermined. Reorientation involves revolution rather than evolution. In many ways the public service developments of the 1960s and 1970s were convergent changes, as the bureaucratic form became more explicit and firmly established. It is clear that public services in many countries are now going through a period of rapid change which means a major reorientation of their basic institutional form' (p.32). With reference to this framework, the changes of SPS from the 1980s to 2007, I argue, was prone to reorientation. That is, the reform of prison management started with finding its own identity and mission, reflected in its 'end discourse' presented in Chapter 4. It was a relatively rapid process, enhanced by the publication of series of policy papers especially *Custody and Care*, *Assessment and Control* and Opportunity and Responsibility at the first stage. This changed the SPS a great deal not only in terms of work responsibility but also in terms of ethics and accountability (see Chapter 7). The 1990s witnessed even more radical changes in prison policy, which led to the

adoption of a business like approach to running its prisons, the establishment of Kilmarnock as a private prison and the shift in organisational values and culture toward a focus on 'vision for correctional excellence' rather than 'routine-based management'.

The establishment of CJAs in the 2000s also represented a change in orientation as noted by the SPS director, who reflected that 'not only are there cultural shifts, internally there have been changes in the whole dynamic of how we interface and what strategy we use to deal with the community justice authorities who are making more and more demands in health and things. CJAs are asking real question about how we are delivering the service. Who's delivering it for us? And they are trying to specify what we do' (Interview, Current SPS Director, 3 July 2007).

I wish to point out that, with such a dramatic change, an organisation like SPS cannot afford resistance from staff. Administrators needed to make sure that all the parties involved understood these changes and willingly agreed to work towards the same goals. The former senior manager of the SPS explained the strategy used in the SPS at that time as follows:

> 'The work we did at that time was done in a way that involved the staff to a substantial degree. If you wish to change anything in any organisation you have to involve the staff. This has not been the tradition of the prison service, which traditionally has been a hierarchical organisation based on rank and where staff at some degree were alienated from the management. They did not necessarily have full confidence in the management. We certainly improved the relationship between staff and the management and the union and the management despite the fact that we were doing things that were very difficult for the trade union'. (Interview, Former SPS Director, 18 April 2007)

Institutional changes, like decentralisation and devolution, normally involve the goal of performing better and more effectively. However, the change process is not always as smooth as the organisation wants. There are key issues that have to be solved so that the goal is achieved. Walsh (1995) suggests that an organisation may face problems relating to information, incentives, trust, quality and risk and that these are not independent of one another. Traditionally, the public sector deals with these

issues through its 'professionalism, hierarchy, self-efficiency, incremental patterns of planning and budgeting, and the departmental pattern of organisation' (p.47). However, according to Walsh, when employing the culture of markets and contracts, the institution needs to respond to those key issues in a different way. In practice, information is not always free and is often incomplete and unequally distributed. 'The greater is social complexity and variation, the more necessary it is that there should be detailed information for decision making, but the greater will be the cost of creating and maintaining an information system' (p.47). According to Walsh, for performance monitoring and incentives, it will be more effective to create a contract that has incentives for the contractor to perform in order to avoid unnecessary expense on contract monitoring which can be extremely expensive (p.48-49). The quality issue can be a problem if the goods are not 'material' ones as it is impossible to write objective specifications. There are truths in this observation when considering the nature of the prison service. 'A key issue that arises in the development of contracts and markets is that of how contracts can be written that will ensure that quality services are delivered' (p.53). This leads to the issue of risk. Walsh has pointed out that 'the development of markets and contract systems has the effect of creating distance between the parties to an exchange' (p.54). Contracts can impose a greater risk on one party than on the other. The contractor may face a risk of financial cost of investment. The purchaser or the client generally bears the risk of contractor failure or inadequate delivery which can result in a great amount of budgetary loss. Therefore, Walsh suggests, 'contracts need to be created in such a way that they will provide an appropriate set of incentives and reduce the risk that is faced by the parties to the relationship' (p.54).

The issue of trust is vital to the contractual relationship (this issue is elaborated in Section 5.3). 'Without trust there can be no confidence that future obligations and commitments will be met, unless contracts are complete and self-enforcing, which is rarely the case if there is uncertainty, opportunism or bounded rationality' (p.50). Furthermore, 'it will be necessary for the purchasers of a service to have some means of knowing that they can trust the providers, through, for example third party audit

systems of processes of quality assurance, and perhaps at a deeper level commitment to appropriate sets of values' (p.51).

This is consistent with Flynn (1993:126-142) who argues that the new contractual relationship, which is a key feature of NPM, causes structural change and divides people in the organisation into *the centre* (which performs support functions rather than control), *the sellers* (the officers and workers in the authority and any contactors who provide services), *the workers* (the contractors who provide the service), and *the buyers* (designated staff to buy the service, using money from taxpayers).

The discussion above demonstrates how decentralisation was understood in this research. It was generally referred to as a change in the administration of prisons which were traditionally controlled by Headquarters. In other words, prison management was top-down management. Recent change in policy discourse (as demonstrated in Chapter 4) and the influence of a managerialist ideology were the key factors that decreased the power of Headquarters and in the meantime promoted the autonomy of prison establishments. In the following sections, I demonstrate the impact of decentralisation on the management of prisons as a whole with a focus on the new form of relationship between 'the principal' and 'the agent' and the changing roles of key actors as a result of decentralisation policy. This issue laid the foundation for the discussion on the new contractual relationship in Section 5.3 and also the customer-oriented policy in Section 5.4.

5.2.1 The *principal* and *agent* relationship
I. Ministers and the Chief Executive
During the past 20 years, especially after Scottish devolution, the political influence on penal policy and the prison service has been monumental. At face value, the role of the Minister and the SPS Chief Executive seemed to be clearly understood. As indicated in the SPS Framework Document, the former makes decisions on the policies for dealing with offenders, sets the targets to meet and oversees the SPS's performance against those targets. The latter, on the other hand, is delegated the authority to work on the means of achieving those targets, the management of prison

staff and resources, the structuring of daily regimes for prisoners and other operational and contractual decisions within the framework. In practice, however, it is inevitable that the Minister gets involved with the choices that the agency makes. The former Chief Executive of SPS explained that working with the Minister at the time was rather 'difficult'. He commented that:

> 'Working with Justice Minister was difficult. He had a different approach and was more hands-on and much more concerned about public opinion. More right wing basically. He was a difficult person, and not just to people from the prison service − he was difficult. He was a clever politician but quite difficult for the whole Scottish Office. Then we had a change in Government in 1997 in the period before devolution. That was OK. There was a rocky relationship because of the incident involving the Minister and releasing prisoners. But that wasn't difficult, that period'. (Interview, Former SPS Chief Executive, 4 June 2007)

His comments are consistent with the work by Liebling (2004), which indicated that personalities and leadership skills were key factors which had a great impact on the relationship between politicians and senior managers of the public sector agencies. Based on her study of English prisons, Liebling found that the relationship between the English Prison Service and Ministers depended on personalities and on interactions between the key players: the Commissioner for Correctional Services, the Home Secretary, the Prisons Minister and the Director General. In this study, my interview with Tony Cameron, another former Chief Executive of SPS, confirmed Liebling's observation. With reference to my interview notes on the interviewee's personality and management style, I found that Eddie Frizzell seemed to be more involved with policy makers and that his relationship with politicians was not as hostile. Tony Cameron, on the other hand, had a relatively strong personality which led to a more 'aggressive' relationship with politicians. It was also my observation that, with strong personality, *agents* can challenge the *principal* if they choose to. The former senior manager of SPS described his relationship with the Minister as follows:

> 'The first Justice Minister we ever had didn't get involved in these things [daily services]. And when there were disturbances in the prisons, he stood back. We dealt with it. I went on television. Some people tried to make trouble between us but it didn't work. The

second Minister we had wasn't quite as good at that. But she did quite well.

It meant that I have a certain power to deal with the politicians and the Parliament. They didn't really like it, to be honest, particularly the Parliament because I was difficult with the opposition. But I knew that they couldn't do anything to me personally and I kept them away from the prison service'. (Interview, Former SPS Chief Executive, 13 December 2007)

The complexity of hierarchical administration in the public sector requires a good sense of communication and coordination from the Chief Executive. As the head of the organisation, Chief Executive has to interact with a wide range of people surrounding the Minister, for instance, the Minister's private secretary and political advisors, who play an intermediary role between the Minister and civil servants. These people can interfere with the daily management of the organisation as a 'messenger' of the politicians. In the SPS case, however, there were times that these people were disregarded as a result of the leader's personality. Again, one of the former Chief Executives of the SPS was a good case in point and he commented during the interview that 'the other people in between are less important. I always dealt with the Minister directly. I would phone up and say I need to speak with the Minister or the Minister would phone me. Or I would send a note to the Minister. I would never send a note to anybody else' (Interview, Former SPS Chief Executive, 13 December 2007).

As described above, after the SNP won the general election in 2007 and formed a minority government, there have been some significant changes in policy towards prison management. The most controversial one was the rejection of prison privatisation. Kenny MacAskill, the Justice Minister, explained that prisons 'are for public safety, not private profit, so we are drawing a line on the sand' (Scotsman, 13 November 2008). The message from the policy maker to the Chief Executive was clear and there was no significant opposition from the latter. The relationship between the two was relatively tense at this initial phase.

II. Headquarters and prison establishments

Influenced by managerialist ideology since the mid 1990s, the relationship between Headquarters and prison establishments gradually shifted from a traditional bureaucratic one to a contractual one. In other words, Headquarters and prison establishments were tied together by prison agreements. The former acted as a purchaser, who defined what was wanted from each establishment and monitored whether or not the outcome was achieved. The latter, on the other hand, acted as a service provider who is responsible for the delivery of prison services. (This issue of contracts is discussed in detail in section 5.3.) Liebling (2004) calls this relationship 'government-at-a-distance', which refers to as the state where 'there is a strong central direction, but also devolution-within-parameters to local managers' (p.377). It is very interesting that Liebling (2004) used the term strong central *direction* rather than *control* as it implies that managerial power is no longer limited only to the centre and Headquarters does not take absolute control of prison establishments anymore. Rather, prison establishments are granted a degree of delegated authority for the delivery of prison services. Nevertheless, I argue, the final decision is still in hands of the CEO who is responsible for the organisation.

In the case of the SPS, the extent to which prison governors were given power to exercise their decisions relied heavily on the Chief Executive's leadership and policy. From my interview with one of the former Chief Executives, I found that he had a clear policy of limiting the role of Headquarters and promoting the roles of prison governors in the management of Scottish prisons. He explained that 'I had a rule that no instruction was to be given to a governor unless it was cleared by a board member because I wanted to reduce the number of e-mails going to the governor's office from every bit of headquarters' (Interview, Former SPS Chief Executive, 13 December 2007). Bottom-up communication was enhanced during this era as one of the former senior governors and directors of SPS pointed out that

> 'I talked directly to Headquarters when I needed things, for example, a consultant to train staff…I remember writing a letter to Headquarters saying that I needed extra money for developing training and support for a sex offenders programme which I knew was not in the agreement. I ended the letter saying that I hoped the Board

would be able to support me. If not, I was going to do it anyway because it needed to be done. I would have to find the money from somewhere else'. (Interview, Former SPS Governor and Director, 12 December 2007)

As part of decentralisation policy, the organisational structure of the SPS underwent several changes during the last two decades. Re-clustering functions at Headquarters, pushing out a payroll system to be managed at local level and reducing the number of staff at the centre were evidence of the SPS's efforts to limit the role of Headquarters and to devolve power to prison establishments. The role of staff at Headquarters shifted from decision makers to consultants. In addition, instructions from the centre had to be approved by the Board before they were delivered to governors. 'This change sent a new message to Headquarters and ultimately led to the reduction of its size. According to the policy of the former chief executive (Interview, Former SPS Chief Executive, 13 December 2007), governors were given more power to say 'no' to Headquarters' staff. According to another governor, agency status and decentralisation policy helped to 'reduce that chain of command and communication. We have much a more direct and intimate relationship with Headquarters. We also have much better link with [Headquarters and with policy makers] informing policy up and down about what was working and what was not working' (Interview, Current Prison Governor, 25 April 2008).

5.2.2 The changing role of prison managers

In his book *Understanding Prisons: The New Old Penology*, DiIulio (1991) argues that the role of prison staff has changed over time. The 'old penology' views 'guards' as bureaucratic automatons and state functionaries performing uninspiring public service and as mechanistically sadistic ogres who suffered from 'lock psychosis' (p.94). The 'new penology', on the other hand, offers two visions of prison staff. 'In the new penology of the 1940s and 1950s, the guards appeared − if they appeared at all − as benignly conservative sources of bureaucratic inertia who simply needed to be retrained (or retired) so that needed reforms could take place. During the 1960s, in most prison systems, guards officially became the 'corrections officers,' a bureaucratic amalgam of cop and counsellor, disciplinarian and therapist' (p.94).

What I wish to add to DiIulio's argument is that senior prison staff now acted as *managers*. As a matter of fact, governors, and establishments used to be accountable to Headquarters in a hierarchical 'military-like' way. In recent years, however, their 'military-like' roles were gradually phased out and their managerial roles became more significant (Bryans 2007; Liebling and Price 2001). Now the situation has changed and, according to King and McDermott (1989), the problem of prisons in recent years is much more of management than of prison overcrowding, sanitation or resource allocation. This argument still holds today. One of the issues regarding the management of prisons in the new era was the attitude of the management and staff. Positive attitudes were required in order for the prison to function effectively and efficiently. One of the senior governors who had a long (30-year) experience in the SPS emphasised the significance of attitudes, noting that 'all of our attitudes changed. My personal attitude is hugely different from what it was in the 1980s. We have moved forward together. People whose attitudes were inflexible were dealt with individually. They were informed that this was not acceptable. If it continued, we would find the way to move them. If people still refused to fit in, they would have to leave' (Interview, Current Prison Governor, 25 April 2008). In addition, according to another prison governor, the governor position differed from the senior management of other agencies because they have 'social responsibility associated with helping prisoners so that they will not re-offend' (Interview, Current Prison Governor, 25 April 2008).

Obviously, managerial skills are needed by senior prison staff to meet the targeted outcome and deliver service in terms of the 'value for money' principle. One senior governor pointed out that 'tasks and roles have increased dramatically to meet the internal targets. But I have a tight budget and I have to make savings from this budget without diminishing performance. In other words, doing more with less or the same (Interview, Current SPS Prison Governor, 25 May 2007).

When looking at the changing roles of prison staff, especially those at senior level, Liebling (2004:25) points out that 'the public manager should, after all, know what

resources they were managing and to what effect. Scrutiny, of an unprecedented kind, was born. The growth of management saw a decline in the influence of professionals in running their organisations, and some tensions between the values of non-managerialist 'expert professionals' and the need for greater 'public accountability'. This conformed to one of the NPM characteristics which encouraged public sector managers to be change agents and run their agencies with a new approach to action and thinking (Walsh 1995).

Leadership which is one of the key skills of prison managers was emphasised by the interviewees. The former Chief Executive of SPS stated during the interview that 'if you feel vulnerable or weak, this job [CEO] is not for you. Being the head of an organisation of this type is quite lonely. You have to be careful not to try to do everything yourself' (Interview, Former Chief Executive, 13 December 2007). Comments from one of the senior governors also reflected that leadership was the key to success, especially in terms of giving people confidence to get on with their jobs, supporting, coaching and mentoring.

> 'I like to create a climate in which managers and staff will do their best. We don't operate a blame culture. I also try to engender a really strong team spirit so that we are proud of what we achieve in this establishment'. (Interview, Current SPS Governor, 25 April 2008)

The recruitment of governors for the Scottish prisons is now open to the public. Senior managers from outside have been invited to apply for governor positions. The new recruits, or what former Chief Executive of SPS called 'the new blood' (Interview, Former SPS Chief Executive, 13 December 2007) have to work as deputies to senior governors during an induction period before being promoted to governors. A so-called 'two-way street' policy was also developed during this period to encourage civil servants to change their place of work, especially to move from the public sector to the private sector. The aim was to exchange 'know how' between the two sectors. Those who wished to come back to the public sector were welcome although a position was not guaranteed immediately.

In terms of accountability, since managerialism became dominant in the management of public sector − including prison services − prison managers have not only had to be responsible for the daily regime but have also had be *accountable* to the Board and policy makers. Their primary concerns have a lot to do more with 'efficiency', 'effectiveness' and 'value for money' than with traditional 'punishment' and 'rehabilitation' concerns (as discussed in Chapter 4). The accountability issue is discussed in Chapter 7 where I explore the accountability mechanisms used in prison management in Scotland.

5.3 Contract management and competition

> The use of contracting has expanded greatly over the last twenty years, and it has been used for the provision of core as well as support services … In Britain almost every service that is provided by the public sector has been considered for operation on a contract basis, including such apparently unlikely causes as prisons and aspects of the justice system. (Walsh 1995:118)

The above quote implies that NPM has significantly changed the way that public services are managed. Traditionally, the government was responsible for both the production and the delivery of public goods and services but this was found to be costly and ineffective. The use of contracts in recent years was intended to solve the problem by reducing costs and increasing the effectiveness of public services. The expansion of 'contracting out' in the late 1980s, as a result of the Local Government Act 1998, moved the provision of public services from a hierarchical approach towards a market-based approach in which the public sector becomes the 'client', 'commissioner' or 'purchaser' and is responsible for defining 'what is wanted', 'how to get it', and 'how to monitor and measure its performance' (Walsh 1995:110). The other party, the provider or the contractor, is responsible for the production and delivery of agreed goods or services. The content of the contract can be very specific if the purchaser specifies both the anticipated outcome and the means to achieve it. Alternatively, it can be relatively flexible when the purchaser leaves it to the provider to find the best way of achieving the specified outcome.

The use of contracts in the management of the public sector has been extensively discussed (e.g. by Chapman 2000; Flynn 1993; Lane 1997, 2000a, 2000b; Walsh 1995). Hood (1991) points out that there has been a shift towards greater competition in the public sector. There is clear evidence of a new approach to public investment, procurement measures and public tendering. The justification for this change was to reduce costs and create higher standards of service delivery. In general, public sector reform involves a reconsideration of how the government uses market mechanisms either on their own or by mixing them with bureaucratic procedures with an emphasis on the employment of 'tendering and contracting out' (Lane 2000b:131). The significance of contracts in the management of public sector was stated by Lane (2000b) as follows:

> NPM puts in place a contracting state, where personnel and other resources are to be managed by means of a series of contracts. These contracts will cover not only the employment relation but are also to be used for the clarification of objectives and tasks for service delivery. Government will rely heavily upon chief senior officials (CEOs) to write and handle these contracts, at the same time as the CEOs will relate to government through contracts. (ibid. 147)

In Scotland, despite the fact that contracts have been used in the prison service for almost two decades, there has been relatively little discussion of this in the academic literature. Most of what has been written discussed prison contracts at a macro level in a broad context and focused only on private prison contracts. One exception is Sarah Armstrong (2007) who, in *What Good Are Markets in Punishment?*, argues that there are many areas in the prison service that have made it a big business, for instance, offender management courses, food and health care, prison clothing, bed linen, court transportation, and architecture. 'The supply of file clerks, toilet paper and drug test kits and training may not hold out much allure to students of crime and justice, but it is for these products and services that there is a real market' (Armstrong 2007). She argues that the privately supplied goods and services in public prisons are not less important than the privately managed prisons themselves. She also suggests that the involvement of the voluntary sector, which she calls a 'soft' form of privatisation, should be included in the equation when looking at the provision of prison services by private agents because 'by excluding them from the

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analysis, we are prevented from seeing that far from being a quintessentially public activity, prisons may actually be an exemplar of developed governance in which the state is doing more steering than rowing and public services are, and have long been, delivered through complex and multi-layered arrangements of public and private transactions' (ibid. 12-16).

As suggested above, this thesis aims to fill a gap in the current literature. That is, with reference to the SPS's experience, it draws attention to the different types of contracts in the Scottish prison system, contract monitoring and the impact of private prison contract. Among the key questions that it attempts to answer are: what types of contracts have been introduced in the SPS?; what was written into those contracts?; and how did contractualism affect the management of prisons in Scotland? The questions are addressed below.

5.3.1 Types of contract

Lane (2000b) states that, in general, there are two types of contracts − short-term and long-term contracts. He argues that 'organisations may provide goods and services using either in-house production or contracting out. In-house production tends to rely heavily upon long-term contracting, creating hierarchies, whereas contracting out relies upon tendering/bidding processes taking place in market form and resulting in short-term contracts' (p.133). With reference to Lane's argument, I adapted the in-house production and contracting out concepts to categorise the SPS contracts into two groups: *internal* and *external* contracts. The former refers to the *prison agreement* that the Director of Prison signs with each prison establishment. The latter covers the contracts that the SPS agrees with private providers to deliver prison services.

I. Internal Contracts: SPS Service Agreements[47]

This section argues that the development of internal contracts was part of the SPS's attempt to improve the quality of the public prisons as part of the organisational reform strategy after the establishment of its first private prison, Kilmarnock. To

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[47] The content of Service Agreements for Public Sector Prison can be found on the SPS website (SPS 2008d).

support my argument, I refer to *Managing within a Contractual Framework*, produced by the then Rehabilitation and Care Directorate (now the Partnerships and Commissioning Directorate) of the SPS. This framework addresses the background to public prison contracts (now known as Service Agreements − SAs), its development from the original *Service Level Agreements (SLAs)* and *Performance Contracts (PCs)* and the impact of SAs on the Rehabilitation and Care Directorate that was the key actor responsible for internal contracts.

According to the framework, the development of SAs officially began in September 2002 when the then Justice Minister issued a statement on the significance of contract management in the prison service and encouraged public prisons to adopt the same approach that the SPS had done with Kilmarnock. He stated that 'the Chief Inspector of Prisons has drawn attention to the focus and clarity brought by contract management to private prisons and has called on the Prison Service to introduce similar measures in the public sector. I have instructed the SPS to bring forward proposals to achieve that.   I expect that to result in published performance agreements for publicly-run prisons and full reporting of performance against those targets' (SPS n.d.:1). Following this political initiative, the SPS then took the first step by developing *SLAs* for all prison establishments. This was a significant shift in terms of quality control for public prisons in Scotland. The SLAs covered a wide range of performance control measures including the SPS's Key Performance Indicators (KPIs) and the Minister's targets.

The original SLAs were modified in 2003 leading to the creation of Performance Contracts for public prison establishments. To cope with this development, the senior management structure was changed in particular by the creation of the 'client' and the 'provider' roles. In the first stage, the Director of Prison Services, on behalf of the SPS Prison Board, played the client role and was responsible for defining what services were required. The Director of Prisons was the service provider responsible for providing prison services based on the client's specification.

On 1 April 2004, the PCs were officially implemented. The governor of each establishment, the Director of Prisons and the Director of Prison Services were key parties signing the contract. These initial agreements were monitored in monthly reports for each establishment. The first summary report came out in April 2005. The result suggested that the use of the performance contract approach had increased the overall quality of public prisons.

In 2005, there was another restructuring of the SPS senior management. As a result, the Director of Rehabilitation and Care became responsible for the client role, commissioning prison services specified by the Director of Prisons who was given the 'corporate provider' role. This year also witnessed a significant challenge in the management of offenders in Scotland as a result of the introduction of the Management of Offenders (Scotland) Act 2005. As an immediate response to this development, the framework document stated that 'we need to ensure our processes and procedures compliment those deployed by our partner organisations such as Criminal Justice Social Work and the Police Service. For this reason, the (Commissioning) Client will head up a Policy Development Group that will oversee formulation of new [policies] and changes to existing policies. No new policies will be implemented without the Client's authority (which will include consultation with the Provider)'. In addition, following the recent change in the SPS's organisational structure, in which the Rehabilitation and Care Directorate was replaced with Partnership and Commissioning, the Director of Partnership and Commissioning was given the client role while the Director of Prisons still played the service provider role.

A later development in the SPS's internal contracts was the modification of PCs which resulted in the creation of Service Agreements. According to *SPS Service Agreements, A Management Framework for Service Improvement* (2008), the SPS is now in the process of developing and improving its Service Agreements. To achieve this, a Service Framework was set up as the 'culmination of work agreed between the Director of Partnerships and Commissioning and the Director of Prisons'. Effective from April 2008, the Service Framework provides 'a statement of requirements

agreed between Directorates, including the Director of Health and Care for the SPS, that defines the services and service levels required of Scottish Prison Service establishments'. As the new set of SAs is still at an early stage, some significant elements, such as the requirements of young offenders and female offenders, are not fully addressed in the 2008 version.

Overall, the internal contracts of SPS have undergone many significant changes since their establishment, especially in terms of the roles played by each Director, the responsibilities of the parties involved, service specification and measurement procedures.   As far as roles and responsibilities are concerned, the current SA framework not only sets out the key responsibilities of each director but also specifies the cooperation between directors. For instance, 'Directors of Prisons are responsible for the direct management of SPS establishments, the implementation of SPS policies within those establishments, for securing primary assurance of delivery and the maintenance of security and order of prisons. Working together with Director of Partnership and Commissioning to agree service and performance level across SPS Establishments.'   In addition, the Director of Prisons collates performance data on a monthly basis and supplies reports to the Director of Partnerships and Commissioning. The latter then works with the Director of Corporate Services to agree an Audit and Assurance plan.

At an operational level, the SPS announced on its website (www.sps.gov.uk) in September 2008 that it needed 'modern prison officers' to work in prisons. The expected roles of these officers were clearly marked. It said 'prison officers are highly skilled professionals. The role is wide ranging but always people centred. There are two levels of prison officer roles in the SPS. All Officers are recruited as Operations Officers; Residential Officer being a promotional position after successful completion of probationary period.' The responsibilities of these officers include 'working as an integral part of a team, Operations Officers are responsible for gate duties, reception of visitors, control and supervision of prisoners, supervision of visits, prisoner escort, providing prisoner information, monitoring security systems, contractor security and patrol duties.'

As of 18 April 2008, the requirements of the Service Framework cover five areas: Prisoner Places, Service Specification, Corporate Service Levels, Establishment Service Levels and Key Performance Indicators and Service Level Definitions. The first two sections are the most important as they specify what the contract requires from public prisons. Section 1, Prisoner Places, categorises prisoners places into three groups − *Available Prisoner Places*; *Additional Prisoner Places*; and *Contingency Places*.

Section 2, *Service Specification*, is the most significant part as it specifies what a prison has to deliver. This section is divided into six sub-sections. The first sub-section deals with General Principles and Expectation. The second to fifth deal with the requirements that each SPS Establishment has to deliver, which are '*Providing Secure Custody Service*'; '*Providing a Safe and Ordered Prison Service*'; '*Operating a Humane, Fair and Caring Prison Service*'; '*Providing Opportunities and Services to Reduce the Risk of Prisoners Re-offending on Release*'; while the sixth deals with '*Resources: Effective, Efficient and Sustainable Management*'.

Figure 5.1 shows examples of content written in the SAs under the heading of *Providing Secure Custody Service.* It specifies what secure custody service is and also addresses the following key requirements in order to achieve secure custody service: lawful custody, prisoner supervision system arrangements and management of different groups of prisoners. I wish to highlight that the content of SAs, especially these requirements, reflect the commitment to decentralisation in the SPS discussed in previous section. Prison establishments are delegated a considerable amount of decision-making power in delivering the service. The contract only specifies the 'end' of 'secure custody', for instance, each prison will 'ensure that appropriate arrangements are in place for those likely to attempt to escape'. As it does not specify what the 'appropriate arrangements' are, each establishment can opt for any 'means' as long as they help to achieve the target as measured by the key performance indicators (KPIs) set by management. As shown in Table 5.1, KPIs for 'secure custody' are 'Extreme Risk Escapes', 'Escapes at other Supervision Levels',

'Absconds and incidences of failure to return', 'Liberations in error' and 'Detentions in error'. According to the current Director of SPS, these KPIs were positively accepted by prison establishments. He explained that 'prisons responded quite well to it. In some respects, KPIs reflected the prisons' culture of 'tell me what you want, and I will do it'. That is why prisons responded well to this kind of performance measurement' (Interview, Current SPS Director, 12 June 2007).

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1. PROVIDING SECURE CUSTODIAL SERVICE
Each prison will ensure that all prisoners are subject to such security restrictions as are necessary to keep them in lawful custody and to protect the public. Each prison will establish and operate an integrated multi-functional approach to the management of physical, procedural and dynamic aspects of security to prevent escapes, maintain good order, and to ensure the safety of staff, prisoners and the public.

1.1 Lawful Custody
Each prison will:
- ensure that Prisoners are held in lawful custody and ensure, prior to the liberation of any Prisoner, that the correct custodial period has been served;
- ensure accurate calculation of the sentence length for all Prisoners held within the Prison and shall also provide this information, with appropriate explanations, to the Prisoner within 24 hours of his admission;
- ensure Prisoners who have reason to doubt the legality of their custody have the opportunity to contact a legal adviser by telephone or letter free of charge;
- ensure Prisoners who are foreign nationals or stateless can contact a diplomatic representative free of charge;
- not refuse to admit to the Prison any Prisoner who has been sent to the Prison unless it would be unlawful to hold him/her in custody; and
- not release from the Prison any Prisoner on the basis of incomplete or inaccurate information unless details have been verified with the issuing authority and it would be unlawful to continue to hold him/her in custody.

1.2 Prisoner Supervision System Arrangements
Each prison will:
- ensure that through risk assessment, security and allocation procedures, Prisoners are placed in conditions of security commensurate with the risk of harm they pose to the public and the likelihood of their trying to escape. In all cases the primary risk indicator will be the risk of harm to the public;
- ensure that appropriate arrangements are in place for those likely to attempt to escape; and
- ensure that suitable and sufficient arrangements are in place for the supervision and monitoring of activities of prisoners on placements, leave and temporary release within the community. Such arrangements shall be in accordance with Prison Rules and in line with the Integrated Practice Guidance for Home Leave (2007) and any subsequent updates or replacements.

Figure 5.1: Excerpt from SPS Service Agreement

SECURE CUSTODIAL SERVICE	
KPI1a	Extreme Risk Escapes
KPI1b	Escapes at other Supervision Level
SI1	Absconds and incidences of failure to return
SI2	Liberations in error
SI3	Detentions in error
FAIR AND ORDERED PRISON	
SI4	% prisoners completing the appropriate element of the Nationally Approved Induction Programme
SI5	Incidents of concerted indiscipline
HUMANE, SAFE AND CARING PRISON	
SI6	Cells out of use
SI7a	Prisoner Perception: Food
SI7b	Prisoner Perception: Cleanliness
SI7c	Prisoner Perception: Personal Hygiene
SI7d	Prisoner Perception: Family Contact
KPI2a	Prisoner on staff assaults - serious
KPI2b	Prisoner on staff assaults - minor or no injury
KPI2c	Prisoner on prisoner assaults - serious
KPI2d	Prisoner on prisoner assaults - minor or no injury
PROVIDING OPPORTUNITIES AND SERVICES TO REDUCE THE RISK OF PRISONERS REOFFENDING ON RELEASE	
KPI3	Numbers of hours of completed programmes and approved activities
KPI4	Offender development hours
SI8	Purposeful activity hours
SI9	Average % capacity of all activity areas in use in each half day
KPI5a	% of education classes spent delivering literacy skills
KPI5b	% of education classes spent delivering numeracy skills
KPI6	Increase in employability
KPI7	Vocational and employment related qualifications
KPI7b	Vocational and employment related qualifications at SCQF level 5 or above
KPI8	Reduced or stabilised drug misuse
SI10	Number of prisoners (serving over 31 days) identified as having an addictions misuse problem and undertaking an ICM addictions assessment
SI11	% referrals to Throughcare Addictions Services who have a Community

	Integration Case Conference with the TAS representative in attendance
SI12	% prisoners leaving having secured accommodation or been referred to the relevant housing provider
INTEGRATION OF OFFENDER MANAGEMENT SERVICES	
SI13	% of appropriate convicted prisoners completing the Core Screen assessment
SI14a	% of ICM case conferences held within relevant timescales
SI14b	% of ICM case conferences for which a minimum of 4 weeks notice is given to CJSW
KPI9	% of ICM case conferences held with Criminal Justice Social Work representative/s in attendance
SI15	% of ICM case conferences held with family members in attendance
SI16	Compliance with parole timescales
SI17	% of appropriate short term prisoners completing reviews of the Community Integration Plan

Table 5.1: Key performance and service indicators: Public Sector Prisons

II. External contracts: Contracts with private providers

As described above, external contracts are the contracts that SPS signed with its private partners for the delivery of prison service. External contracts are also managed by the Partnership and Commissioning Directorate. It should be noted here that the change of this Directorate from Rehabilitation and Care in a way reflected the influence of NPM, the move towards Public Private Partnerships (PPP) and the contractual model of governance. In fact, it is clearly stated in the Directorate's vision statement that 'the core role of the Directorate will be as Commissioning Client for custodial, correctional and inclusion services for all prisoners. This role involves moving its' focus from 'public sector prison policy making' to 'all sector requirement setting' and the new arrangements were expected to 'result in changes in activity, relationships with partners, behaviour and structures' (SPS 2008d).

After examining the SPS external contracts that are available to the public, I clustered them into four main groups: (a) private prison contracts; (b) prisoner escort and court custody service contracts; (c) prisoner programme contracts (i.e. for addiction programmes and medical services); and (d) contracts for support services (i.e. maintenance and office supplies). The discussion in this section focuses on the first two groups as they are the contracts that deal with the core functions of the

prison service. In addition, they cost the SPS and tax payers a considerable amount of money and, more importantly, they are relevant to the concerns of this research.

a. *Private prison contracts (Kilmarnock and Addiewell)*

HMP Kilmarnock, the first private prison in Scotland was established in the middle of 1990s (the development of private prisons is discussed in detail in Chapter 6). On 10 November 1997, the first private prison contract was signed by the SPS and Premier Custodial Group (now wholly owned by Serco[48]). The site of Kilmarnock was a former ordinance factory southeast of the town which had previously been selected and purchased by the SPS in June 1996. This prison was the first prison in Scotland to be designed, constructed, managed and financed (DCMF) by the private sector under the Private Finance Initiative (PFI). It was officially opened on 25 March 1999 and is operated under a 25-year contract. The prison comprises 500 single cells, with a contractual maximum capacity of 692 prisoner places. It is a closed, mainstream, high security prison and operates a regime similar to HMP Shotts, Edinburgh and Perth.

HMP Addiewell is the second privately-run prison in Scotland. The Addiewell contract is similar to that of Kilmarnock. The 25-year contract was signed by the SPS and a consortium led by Kalyx[49] on 20 June 2006. The prison was designed and built by Interserve Project Service, financed by the Royal Bank of Scotland, and is now operated by Kalyx. Addiewell prison is situated in Addiewell near West Calder in West Lothian. It comprises 700 prisoner places with a maximum capacity of 792 prisoner places. This maximum security prison became operational in December 2008.

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[48] Serco is an international company which runs a wide range of business including scientific establishments, critical traffic management systems, railways, border security, detention centre, health care, military supports and facility maintenance. See Serco (2008a) for more details on the company's profile.
[49] Kalyx was originally known as UK Detention Services (UKDS). The name of the company was changed in 2006 to reflect the expansion of its business beyond detention centre services (Kalyx 2008).

The tendering process for both contracts followed the guidelines provided by the government[50]. However, the Kilmarnock and Addiewell contracts are far more complicated than those of public prisons. The Kilmarnock contract comprises of eight parts − General (definitions and background), Provision, Maintenance, Operation, Finance, Termination, and Miscellaneous, and covers 65 contract items (SPS 2007a). For Addiewell Prison, the contract is even more complex, covering 79 items (see Chapter 6). From the SPS's point of view, the content of contracts between SPS and its private partners might seem complicated but this is intended to make it easier for the two parties to manage the contracts. 'The SPS needs to understand clearly how the private prison contract is operated. This is because a contract is used to create a relationship between the prison service and the private sector. [Even though they might be complex], such contracts usually allow flexibility of the outputs and outcomes without costing the SPS or the service provider' (Interview, Current SPS Director, 3 July 2007).

b. Prisoner Escort and Court Custody Service (PECCS) Contract

According to the *Prisoner Escort and Court Custody Services Contract: Post Implement Review* (SPS 2006c), there were 140,000 prisoner escorts per year across Scotland, two-thirds of which were carried out by eight Scottish police forces and the rest by the SPS. The uncoordinated process created a series of problems, not least an inefficient use of resources. Accordingly, a multi agency review (SPS, Scottish Court Service, District Courts/Local Authorities, the eight Scottish police forces; and the State Hospital and other NHS secure Units) was undertaken with the aim of improving the quality of the existing arrangements. Key concerns from the participating parties included deployment of police officers in the front line service and an inconsistent regime in prisons which affected escort demands (2006c: 3):

- A growing and shared sense that arrangements were not working as well or as efficiently as they might;
- A belief that the existing arrangements could be significantly improved;

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[50] A step-by-step guide to a Public Finance Initiative (PFI) process by the House of Commons

- Growing demands to maximise deployment of police officers to front line services;
- Inconsistent regime delivery in prisons due to increased and variable escort demands diverting prison officers from delivering constructive activities for prisoners;
- Increased awareness around the inefficiencies of deploying police officers and prison officers to roles that did not require their full range of skills or powers;
- Increased dissatisfaction with the duplication of effort, nugatory work and inefficiency of the extant arrangements, aggravated by a lack of coordination between the agencies involved;
- Frustration at arrangements and systems that did not allow for the recording of accurate data on either performance or incidents, making performance improvement difficult; and
- Alternative service provision in England and Wales had shown potential benefits in terms of performance, new working practice and technology. This suggested a mature and experienced market existed to provide a new service.

The review resulted in an agreement to engage a single operator for court custody and prisoner escort services. A procurement process began in January 2002 and by November 2003 the first contract for the provision of prisoner escort and custody services was signed by the SPS and Reliance Secure Task Management Ltd (Reliance)[51]. The contract implementation began in April 2004 and became fully operational on 21 February 2005. It will run until December 2011 with the option of a three year extension (ibid. 4).

The rationale behinds PECCS, I argue, reflects the influence of NPM in the management of prison *business*. According to the Project Initiation Document (PID), PECCS aims to 'free up police and prison officers to secure better value for money through a phased implementation of a contracted-out prisoner escort and court custody service throughout Scotland'. Moreover, when looking at its strategy for service delivery, PECCS employs a business-like approach in solving the

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[51] Reliance Security Group was established in 1973. The growth of its business was significant as a result of NPM scheme. The government's decision to privatise key public services especially transportation and safe custody of detainees in the 1990s created new markets for the companies which specialised in the field, including Reliance. Currently, its business includes secure transportation, staff resourcing, care support services, medical services, custodial services, tagging and monitoring services, private finance initiatives, evidential property management and offender services partnership (Reliance Security Group 2008).

aforementioned concerns and developing the efficiency and effectiveness of service, for instance, by maximising the effective use of resources, providing better value for money and promoting information management[52].

The PECCS contract was divided into ten parts: (1) General Principles; (2) Prisoner escorting and court custody management; (3) The prisoner; (4) Staff Matters and Certification of PCOs; (5) Prisoner escort and court custody task; (6) Admission, induction and release; (7) Care and services for staff and prisoners; (8) Security; (9) Vehicles; and (10) Transitional arrangements (SPS 2008c). In addition, PECCS also specifies the roles and responsibilities of the parties involved. The content of the items in the PECCS contract is shown in Appendix Five.

The Post Implementation Review, which was conducted 18 months after PECCS was launched, revealed that PECCS had achieved the identified business benefits, especially in terms of an efficient use of human resource, by releasing 300 police and 200 prison officers to undertake their core duties. The review covered the key agenda items of PECCS (Value for Money and Effective Use of Resources, Process Improvement and Reducing Inefficiency, Better Management Information, Multi Agency Working and Best Value) and provided suggestions for improvement. For instance, in terms of process improvement and reducing inefficiency, the review indicated that 'the 33 performance measures in the contract set out a minimum

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[52] In response to the concerns expressed by the parties involved, the strategies used to improve the quality of PECCS were:

- 'Realising and maximising the effective use of resources across the range of activities associated with prisoner escorting and court custody requirements within the Scottish Criminal Justice System;
- Providing better value for money by using appropriate staff to conduct court custody and escort work activity. Such staff did not require to be police officers or prison staff;
- Removing the duplication and consequent inefficiency from existing arrangements;
- Providing uniformity and consistencies of service delivery throughout Scotland;
- Obtaining better management information about the delivery of service with a focus on continual improvement;
- 'Joining up' agencies in a way that delivered a complex project and improved multi agency working between key partners; and
- Delivering 'Best Value' and making use of the best practice learned from established providers in the prisoner escort service sector.'

standard to be achieved against each one' and 'the delivery of prisoner escort services by a single contractor has improved accountability and removed duplication of effort between agencies. Feedback from partners has confirmed that the introduction of the contract has rationalised the service at a national level' (see Appendix Six). In terms of multi agency working, the review found that 'the PECCS contract has shown that complex multi-agency contracts can be delivered and has promoted consultation and information sharing between all partners, in setting up and in the subsequent management of the contract' (SPS 2006c:7).

5.3.2 Contract monitoring issues

In Scotland, contract monitoring and performance inspection were key procedures that were specified in all contracts and agreements. Basically, the SPS's measurement mechanisms follow the principles set out by the Government in *Modernising Government* which outline '*four principles for performance management and inspection,*'[53] namely (1) encourage a whole systems approach; (2) move from counting what goes in, to assessing what is being delivered; (3) intervene in inverse proportion to success; and (4) use the right information at the right level. Nevertheless, critics argue that monitoring contracts can be very costly. There are some factors that should be taken into consideration when drafting contracts to prevent unnecessary expense at the performance monitoring stage. Walsh (1995:49)

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[53] Four principles for performance management indicated in Modernising Government were as follows:

'Encourage a whole systems approach. We will put the focus on assessing improvements in the effectiveness and value for money of a whole system, such as the criminal justice system, not just in its constituent parts.

Move from counting what goes in, to assessing what is being delivered. We will keep a tight rein on the management of resources. But we also need to know what is being achieved with the money spent. The targets for government Departments, as far as possible, are expressed either in terms of the end results or service standards, and we are working to develop measures for all levels of government which support this approach.

Intervene in inverse proportion to success. The Government is no afraid to take action where standards slip. But we do not want to run local services from the centre. Where services deliver results we will give them greater freedom to innovate.

Use the right information at the right level. We want managers to use performance measures to monitor and improve their organisations. We do not want them to feel swamped by information overload or bureaucratic requests for irrelevant data. We will use new technology to take a more streamlined approach to managing information in the public sector.'

suggests that the contract monitoring process can be extremely expensive if the service is delivered in 'widely spread locations', takes a long period of time, and requires a great number of inspectors for effective monitoring. He also points out that if the service requires technical or professional inspectors, this can lead to high costs. In addition, although performance monitoring can be contracted out, 'the costs of monitoring services may be greater than any savings that are made as a result of the introduction of market processes. The more effective is the structure of positive incentives for the contractor to perform, the less need there will be for monitoring and maintenance' (p.49). For the public sector, monitoring the contract is as difficult as entering the contract.

Comments from the SPS Director whose job was relevant to contract management revealed that

> 'A lot of work went into the process. This is to ensure that we get the best of what the private sector does along with all the benefits of having the private sector in the prison system'. (Interview, Current SPS Director, 3 July 2007).

However, given its limited experience in contract competition, the public sector tends to put a great deal of effort into the contract process to ensure that the contract specifies all aspects required and that it is clear enough for the monitoring team to inspect. If the contract drafting process is comprehensible and clear, it should help to alleviate the work loads during the monitoring stage. Table 5.2 shows the criteria for performance measurement of the prisoner escort contract (PECCS). These key KPIs reflected the SPS's attempts to employ business-like mechanisms approach to ensure the effectiveness of the service. These indicators, in addition, demonstrated that SPS still put 'secure custody' and 'order' at top priorities.

PERFORMANCE MEASUREMENT
1) Service Delivery
1a) Incident of late or non-collection of a prisoner from any of the Premises.
1b) Incident of late delivery of a prisoner to any of the Premises
1c) Incident of late return of a prisoner to any of the Premises.
1d) Incident of use of an inappropriate vehicle to transport prisoners.

2) Prisoner Care
2a) Incident of death or suicide in custody.
2b) Incident of self-harm by a Prisoner.
2c) Incident of substantiated complaint by a Prisoner (including loss or damage of Prisoners property).
2d) Incident of failure to provide food or water to a prisoner.
2e) Incident of failure to provide a prisoner with medical services or access to a medical officer
3) Secure Custody
3a) Incident of Prisoner Unlawfully at Large including release of a Prisoner in error.
3b) Incident of loss of key or key/lock compromise
3c) Incident of failure to follow defined security procedures
3d) Incident of failure to carry out an effective security risk assessment.
3e) Incident of failure to gather and/or disseminate intelligence received.
4) Maintain Good Order:
4a) Incident of concerted Prisoner disorder
4b) Incident of failure to discharge responsibilities in relation to the safe custody of Prisoners.
4c) Incident of assault against Service Provider staff or others (Serious)
4d) Incident of assault against Service Provider staff or others (Minor)
4e) Incident of assault against a Prisoner (Serious)
4f) Incident of assault against a Prisoner (Minor)
4g) Incident of Prisoner found in possession of an Unauthorised Article.
4h) Incident of damage to any Premises.
5) Contribute Effectively
5a) Incident of an official complaint substantiated by the Escort Monitor
5b) Incident of non-certificated staff undertaking PCO duties.
5c) Incident of inaccurate, incorrect, late or failure to report any Performance Measure to the Authority.
5d) Incident of Service Provider failure to ensure that a PCO is cleared by Disclosure Scotland and the Authority.
5e) Incident of a member of Service Provider's staff found to be in breach of duty.
5f) Incident of failure to ensure accurate recording of transfer of responsibilities

Table 5.2: PECCS Performance Measurement

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In addition to the 'official' monitoring against the aforementioned KPIs in the contract, private prison contracts are also subject to public and political scrutiny. Since private prisons are relatively new in Scotland, everything about them can attract attention from society. In another words, its activities are regularly monitored by a 'third party' other than the SPS and the monitoring team. The senior manager of Kilmarnock pointed out some difficulties in managing private prisons in the light of scrutiny, as follows:

> 'So, you have media as a national scrutiny, SPS as an internal scrutiny, Parliament as a political scrutiny, and the local community as a local scrutiny. There are so many parliamentary questions asked by left wing MPs. So it's been very adverse since this prison was opened. The prison is very high profile. That's evident. Whenever anything happens, it hits the newspaper. It's non stop. I do a lot of PR. I do a weekly column in the local newspaper. And I am running out of things to say'. (Interview, Kilmarnock Senior Manager, 1 May 2007)

5.3.3 The influence of private contracts

Has contracting out affected the management of public prisons? Although the answer to this question is still inconclusive, I argue that the existence of Kilmarnock has created changes in how public sector prisons in Scotland are managed, at least at the policy level. As discussed above, the introduction of Service Agreements (SAs) into the public prisons demonstrates the impact of private prison contracts. In other words, private prisons have created a competitive atmosphere in the prison system. They have been used as a benchmark for quality improvement in the public system. This development was reflected by the senior manager of Kilmarnock, who said that

> 'What has been interesting is how we have been used. So within the prison service we are used as a beating stick; they can do it half the price, why haven't you? So, that has been interesting'. (Interview, Kilmarnock Senior Manager, 1 May 2007)

This is similar to the comment of former SPS Chief Executive who was known to be a supporter for private prisons, who pointed out that

> 'They also set an example to the public sector of what's possible. We have found that private prisons create pressure on the public sector to

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perform better. If prisons in the public sector were performing perfectly, there would be no room for private prisons'. (Interview, Former SPS Chief Executive, 13 December 2007)

Since the Director of Partnership and Commissioning is responsible for both private prison contracts and SAs for public prisons, it is inevitable that the two contracts will influence each other. However, I argue that the influence of the private prison contract on the SAs was greater than vice versa. It is really a one way transfer. What was found inefficient and ineffective in the private prison contracts was a lesson for the development of SAs. The key director of SPS explained that his public contract team interacts with his private contract team on a regular basis and that this promoted experience sharing between the two. His strategy for the management of SPS contracts was to create a 'culture of thinking'.

'What I have done is to bring the contract manager for the private sector team and the public sector contract manager together at the same desk and in the same group so that they can discuss things and make sure that they are achieving best value and sharing of strategy about how things should be done. … The point of the contract is to make those business decisions to place in contracts and to make sure that service delivery, the KPIs has been delivered, the co-worker has been delivered'. (Interview, Current SPS Director, 3 July 2007)

Last but not least, the impact of private prison contracts can also be observed in the report of the Chief Inspector of Prisons for Scotland (2000). This noted the use of contracts for private prisons that clearly specified what is required from a prison and also established an *investigation officer* and a *compliance officer* as key accountability mechanisms for monitoring the contract. It even recommended that this approach be applied to public prisons. The report stated that 'as well as providing clear focus and direction, there were obvious frustrations about operating within the rigid framework of a detailed contract that set higher standards for Kilmarnock than other SPS prisons and which required sometimes lengthy discussion and agreement before some changes could be implemented. However, the roles of Investigations Officer and Compliance Officer in particular were of obvious added value to the operation of the prison and we **recommend** that consideration should be

given as to how such roles could be developed elsewhere in the SPS' (SPS 2007c:para. 9.15).

5.4 Customer-oriented organisation

The shift towards a customer-oriented service was among the most significant developments in the Scottish prison system in the NPM era. A 'customer orientated' approach borrowed from the private sector gradually became a characteristic of public organisations (Hood, 1991). DiIulio (1991) points out that prison management in the new era or what he terms the 'new penology', has focused mainly on prisoners. He claims that 'whereas the old penology focused sympathetically on prison administrators, the new penology focused sympathetically on prison inmates' (1991:72). For the SPS, although there are a range of stakeholders who are affected by the SPS's service, it is undeniable that *prisoners* are the principal *customers*. As explained in Chapter 4, prison discourse during the last twenty years has paid closer attention to the *management* aspect of prisons. In particular, there has been continuous development in prison policies to improve its organisational structure and the treatment of prisoners in terms of their living condition, regimes, health and basic human rights.

My focus in this section is on the SPS's attempt to serve and satisfy prisoners who are its core customers. In Chapter 4, I discussed the development of prison discourse over the last twenty years. Evidence showed that one of the key aims of organisational development was to improve the service so that it responds to the needs and risks of prisoners. The published policy papers had a lot to do with attempts to serve the needs of prisoners as customers of the prison service, for instance, those concerned with Inclusion Policy (IP), Suicide Risk Management Strategy (ACT2Care) and Health Care Standards (HCS). As demonstrated in previous chapter, IP was an extended version of OR. Its main focus, however, was on short-term prisoners while OR focused on long-term prisoners. In addition, ACT2Care dealt specifically with prisoners who were suicidal or at risk of self harm. HCS focused on the improvement of healthcare standard for all prisoners in Scottish prisons.

To develop policies or programmes that are responsive to prisoners, the SPS developed its Prisoner Survey as a key mechanism for identifying its customers' needs. The *Prison Survey* was used as an additional and effective communication channel between prisoners and prison authorities. Launched in 1990, the Prison Survey originally focused on the basic elements of prison life, such as living conditions, family contact, healthcare, relationships, atmosphere and perceived safety. Over the years, however, this has been modified to concentrate on prisoners' views on variety of issues i.e. drug use, programme involvement, sentence management, mental health, safety, change and bullying.

The process of the survey started with the questionnaire developed by the research team at Headquarters. The research team handed out these questionnaires to every prisoner in every prison. Prisoners were encouraged to score each and every questionnaire item. In case they needed assistance in filling out these questionnaires, the research team would provide appropriate help. Questionnaires were then collected and taken back to Headquarters for analysis. Results from the survey, together with data from prisoners' complaints, were reported to the SPS Board of prison managers and policy makers who would use this information to develop appropriate policies. One of the SPS Board members commented that

> 'The Prisoner Survey makes us rethink our management side: the philosophy of imprisonment; how we deal with prisoners; how we train staff; and the style of organisation and then we began to think that we were far too militaristic'. (Interview, Current SPS Director, 3 July 2007)

This brought SPS into the era of change as one of the former senior governors of the SPS commented

> 'We moved away from industries where prisoners where occupied with work. After those incidents in the late 1980s, the SPS decided it would think about things like responsibility for prisoners. We started out the prison survey which was quite interesting if you think of customers and a customer-focused service. The survey did tell us many things, for example, the fact that prisoners wanted family

contact. I was the governor of Dundee at the time and was very much involved in family visits, visiting centre and family contact. I did respond to customers' needs. And my prison happened to get the award from the UK government which recognised organisations trying to focus on customers'. (Interview, Former SPS Governor and Director, 12 December 2007)

The content of the questionnaires covered such key areas such as atmosphere of prison, smoking habits, prison foods, cleanliness, prison hygiene, visits, drugs and miscellaneous. Table 5.3 demonstrates the results of Prisoner Surveys over the period from 2004 to 2007. Prisoners' perceptions on each agenda item changed up and down over time. There did not appear to be any patterns of how prisoners responded to questionnaire items. Having said that, I wish to point out that the SPS seemed to be successful with the policy to stop 'slopping out'. Many of the items in the 'cleanliness' and 'hygiene' categories received a higher score over time, for instance, 'the cleanliness of your hall/dormitory', 'the cleanliness of the toilet area', 'the cleanliness of the showers', 'the cleanliness of your cell when you first moved in', 'the condition of your mattress', 'I have access to hand washing facilities after I use the toilet' and 'I can wash my hands before every meal'. Overall, prisoners seemed to be pleased with access to the sanitary facilities provided by prisons. On the other hand, prisoners' perception in 'visits' category fluctuated. Only the 'access to family and friends' item received a higher satisfaction over time. Last but not least, despite a much lower score on 'safety' and 'bullying' compared to other items in other categories, prisons appeared to perform well in keeping order which resulted in the increase of prisoners' satisfaction.

OVERALL COMPARISONS 2004- 2007	2004 (% of prisoners reporting)	2005 (% of prisoners reporting)	2006 (% of prisoners reporting)	2007 (% of prisoners reporting)
ATMOSPHERE				
The reception area	81	80	74	75
Your hall or dormitory	88	90	86	86
Your workshop/work party	90	91	89	90
The visit area	68	68	69	69
The gym	95	94	95	94
The health centre/surgery	85	85	83	85

OVERALL COMPARISONS 2004- 2007	2004 (% of prisoners reporting)	2005 (% of prisoners reporting)	2006 (% of prisoners reporting)	2007 (% of prisoners reporting)
SMOKING				
Do you share your cell with a smoker?	50	47	48	54
Are you a smoker?	80	79	78	79
If YES do you want to give up smoking?	58	66	62	60
FOOD				
How would you describe the following in THIS prison?				
The choice of menu	54	53	55	56
The size of portions	50	51	54	52
The temperature of the food	56	58	60	59
The way in which food is served	62	66	69	72
The timing of meals	74	82	79	81
CLEANLINESS				
How would you describe each of the following?				
The cleanliness of your hall/dormitory	77	80	83	85
The cleanliness of the toilet area	69	73	79	80
The cleanliness of the showers	66	67	73	73
The cleanliness of the visits area	93	92	91	94
The cleanliness of your cell when you first moved in	45	50	50	54
The condition of your mattress	31	35	40	46
HYGIENE				
If I want, I can have a shower every day	90	90	86	86
If I want, I can change my underwear every day	89	91	87	89
If I want, I can take daily exercise	92	92	94	95
I receive a clean towel every week	85	85	84	84
I have access to hand washing facilities during the day	92	94	96	97
I have access to hand washing facilities after I use the toilet	92	93	96	96
I can wash my hands before every meal	93	97	98	98
I have access to cell cleaning materials	83	83	88	88
VISITS				
How would you describe each of the following?				
Access to family and friends	78	78	78	79
The length of the visits	62	63	61	66
The ability to arrange visits	74	74	75	74

OVERALL COMPARISONS 2004- 2007	2004 (% of prisoners reporting)	2005 (% of prisoners reporting)	2006 (% of prisoners reporting)	2007 (% of prisoners reporting)
Facilities for children at visits	66	67	68	67
The level of privacy at visits	38	41	41	44
Access to pay phones in this prison	75	79	77	78
Facilities for disabled visitors	63	69	66	71
The timing of visits	72	71	68	71
DRUGS				
Have you EVER used ILLEGAL drugs in prison?	55	50	50	51
MISCELLANEOUS				
Safety (I have feared for my safety in the last month.)	17	15	17	16
Bullying (I have been bullied in the last month.)	9	9	11	11

Note: The ratings shown here were obtained by aggregating all the positive responses to each question. They reflected prisoners' perceptions on a variety of areas of prison life. See *Prison Survey 2008* (SPS 2008b) for more details on the nature of the questions and the responses from prisoners.

Table 5.3: Results from Prisoner Survey between 2003-2006
Source: Scottish Prison Service (2008b)

I wish to conclude this chapter by highlighting the fact that the SPS's attempts to embrace market mechanisms or business-like approaches, i.e. decentralisation, contractual management and customer-oriented service reflected a progressive prison management that was no longer bounded by a bureaucratic approach. This allowed more flexible 'means' for deciding how prisons should be run. Having private prisons in the prison system, for example, indicated that the SPS was ready for competition. The private prison companies can be viewed as both 'partners' and 'competitors' in the current prison 'business'. Despite the claim from a private prison antagonist that prison privatisation did not bring about improvements in quality in the service (Interview, Academic, 9 May 2007), my analysis of the SPS's experience presented above revealed that private prisons can be considered as the catalysts for quality improvement. In the next chapter, the results from the

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examination of the two private prisons in Scotland are presented in light of the alternative approach to prison management.

CHAPTER 6

PRIVATE PRISONS IN SCOTLAND

> Private prisons are important for thinking about punishment generally because they exemplify the salient features of any prison in late modernity, a bureaucratic institution lacking a clear normative basis; they are not departures from contemporary penal practice, but the embodiment of its most characteristic features. If punishment mainly means imprisonment, and imprisonment mainly works by containing, then private prisons are well-placed to perfect the modern punishment of carceral containment (Armstrong 2003:294)

Armstrong's (2003) argument accurately reflects the comments by SPS senior management who were advocates of private prisons as presented in Chapter 5. These supporters (including one of the former Chief Executives) implied that if the key function of prison services is to 'contain' an offender sentenced by the court, the status of a prison should not be an issue. The senior manager of SPS implied the principle for the improvement of prison management in Scotland, saying that

> 'What we did not want was more concrete, high walls and a bigger steps approach. What we were looking for was to re-establish legitimacy. We had to do two things: fight the fire [prison incidents and challenges at the end of 1980s] and, at the same time, find a different approach to prison management'. (Interview, Current SPS Director, 12 June 2007)

SPS policy on private prisons from the late 1990s to the present (before the new policy launched by the SNP Government came out) did not really create the climate of 'it is us or them'. At a policy level, Kilmarnock was treated as another prison in the prison system and was also granted a certain degree of flexibility as the first private prison.

Not many people know how private prisons are operated while some people do not even recognise their existence. This chapter aims to fill this gap by revealing the management of private prisons with reference to Scotland's experience. In fact, this chapter wishes to add the argument raised in Chapter 2 with regards to the emergence of private prisons in Scotland and elaborate on the contractual

management that was discussed in Chapter 5. Special attention is given to the classic study by Mick Ryan and Tony Ward (1989) and a more recent study of policy transfer by Tim Newburn (2002). There were two principal questions established as a departure point of this chapter which are: *(1) how did the use of private prisons become a managerial alternative for the incarceration of prisoners in Scotland? and (2) how do the two private prisons in Scotland operate?*

The two questions build on what I have already presented in previous chapters regarding to the influence of NPM on prison policy and operations. In Chapter 4, I argued that, since the late 1980s, prison discourse has gradually become dominated by managerial values, i.e. efficiency, effectiveness and value for money. SPS policy papers were presented as key evidence of this development. For the operational dimension, I demonstrated, in Chapter 5, the extent to which the SPS employed business-like mechanisms to run its prisons. Three key mechanisms namely devolved control (decentralisation), contractual management and customer service were examined. In this chapter, I wish to focus on the emergence of private prisons in Scotland. With reference to the books by Ryan and Ward (1989) and Newburn (2002), I examine the factors that drove the SPS towards private prisons and explain why this occurred when it did. These two books are discussed at length and contrasted with empirical evidence from the SPS. In addition, building on the analysis of private prison contracts in Chapter 5, I examine and discuss the origins of Kilmarnock and Addiewell, their organisational structures, their regimes and their staffing.

This chapter is presented in a descriptive format and comprises three main parts. The first discusses the development of private prisons in Scotland; the second deals with HMP Kilmarnock; and the third deals with HMP Addiewell.

6.1 The development of private prisons

Private prisons became a controversial issue in Scotland in the middle of the 1990s when there was a proposal to establish HMP Kilmarnock as the first privately run prison. According to policy makers and academics, this proposal was not an

unexpected policy intervention from the UK government. I wish to support this observation and argue that the establishment of private prisons was not a new idea thought up by the management in Scotland. It was, rather, a managerial choice that the SPS opted for in order to deal with the situation in Scottish prisons in the mid-1990s. In other words, private prisons were a foreseeable, delayed implementation of UK government policy that aimed to achieve cost reduction, efficiency and effectiveness. So I asked, '*why did it happen when it did?*

Prison management of Scotland, like that of other jurisdictions, has been gradually influenced by the international community and by globalisation. For instance, the European Convention of Human Rights has affected the way the SPS has treated its prisoners during these past ten years (Interview, Current SPS Director, 12 June 2007). In response to this development, more and more efforts have been made to prevent 'slopping out' and complaints from prisoners have been taken more seriously (SPS, 1993, 2000b, 2006b). The SPS has also invested a great deal in prisoner programmes and positive 'prisoner outcomes' have been formulated (Interview, Current SPS Governor, 25 April 2008) and they have become one of the main targets of the organisation. Moreover, its *'vision for correctional excellence'* and its aim to be recognised as *'the leader in prisons'* led to SPS becoming more proactive in the correctional community at the international level[54]. The exchange in knowledge and 'best practice' between the SPS and its' *'partners'* has become commonplace in prison management today. When looking at the SPS's prisoner programmes, especially the programmes for sex offenders, it becomes clear that the SPS has been working closely with the Canadian Correctional Service. For example, the most recent programme 'transferred' from Canada is the Violence Prevention Programme (VPP)[55] which is an intervention programme for high risk violent offenders.

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[54] The SPS is the main organising body for the International Corrections and Prisons Association (ICPA). Founded in the 1998 as a non-profit association, ICPA provides a forum for professionals in correctional and criminal justice field to exchange idea and practice. At present, ICPA represent more than 80 nations worldwide and gains Special Consultative Status with the Economic and Social Council of the United Nations (ECOSOC). The association is governed by a multinational board of Directors and president of ICPA is Tony Cameron, the former Chief Executive of the Scottish Prison Service. More details can be found at the ICPA's website (http://www.icpa.ca/).

[55] The VPP addresses the need to deal with inmates who have a history of violence and have difficulty in controlling their emotions. The programme comprises 10 modules which focus on Making

Meanwhile, for daily management and practices, the SPS tends to use Scandinavian countries, Benelux countries, Ireland, Canada, and New Zealand as benchmarks because of their similarities in size and policy approach (SPS 2005b).

The emergence of *private prisons* is one of many forms of practical knowledge that Scotland has imported from England to deal with its problems during the NPM era. To understand the birth of private prisons in Scotland, the bigger context needs to be taken in to account. Accordingly, this section attempts to reveal how prison privatisation took hold in the UK in the first place. To achieve that, I wish to refer to Tim Newburn's (2002) book *Atlantic Crossings: 'Policy Transfer' and Crime Control in the USA and Britain*. Newburn points out that prison privatisation, like many other crime control policies such as zero tolerance, curfews, 'three strikes and out', electronic monitoring and the war on drugs, are the product of a policy transfer process from the USA to the UK. The extent to which these policies have been transferred to the UK can be explained by looking at the following factors: the 'ideological proximity' between the UK and USA; the 'electoral success' of Bill Clinton which led to the use of similar language by the governments of the UK (New Labour) and the USA (New Democrat) e.g. the 'tough on crime' policy; the expansion of the 'penal-industrial complex'; and the growth of a neo-liberal penal-policy complex that emphasises bureaucratic, political and moral entrepreneurial interests (Newburn 2002). Consistent with Newburn's argument, Parry (2005:1) points out that

> 'Interest in privatisation stemmed from inflexible industrial relations practices of the Prison Officers' Association and from American experience. The Adam Smith Institute report 1984 was followed in 1987 by a House of Commons Home Affairs Select Committee report (Contract Provision of Prisons HC 291, 1987) which set policy on its way by calling for an experimental tendering of custodial services, to concentrate on the remand system. In 1991, the first contracts were let − Group 4 was chosen from eight bidders to run the newly-opening Wolds Remand Centre on Humberside, with a Home Office controller (and deputy) in the centre monitoring standards alongside the Director. Staff were licensed by the Home Office to have, in effect,

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Changes; Violence Awareness; Anger Control; Solving Problems; Social Attitudes; Positive Relationships; Confliction Lifestyles; Lifestyles; Self Control; and Violence Prevention (SPS 2009d).

the powers of prison officers. In late 1991 the government proposed to contract-out Blakenhurst, a prison in Hereford and Worcester with both convicted and remand prisoners'.

While Newburn explains the emergence of private prisons as a policy transfer at the macro level, Mick Ryan and Tony Ward (1989) look in detail at how prison privatisation was adopted in the UK. I wish to demonstrate the journey that private prisons made from the US to the UK and to Scotland by referring to Ryan and Ward's (1989) book *Privatisation and the Penal System: the American experience and the debate in Britain.* The book is relevant to this study because it helps to clarify how prison privatisation became a managerial choice in dealing with the prison situation in the UK over the past twenty years, and it helps to understand the future of private prisons in Scotland. By observing the American experience in prison privatisation through the reports of politicians, pressure groups, and the media and combining them with the history and practices of the British penal system, Ryan and Ward are ultimately against the idea of prison privatisation. Like others who oppose the idea of privatisation, their arguments concern 'productive efficiency', 'the ethics of making money out of punishment,' and 'the genuinely difficult political issue of accountability'. However, it should be noted that Ryan and Ward are not against the participation in the prison service of some private agencies, such as private volunteer agencies or non-profit organisations, because these agencies do not have a vested interest in the prison system that would weaken the integrity of the system.

Ryan and Ward start their book by accounting for the American experience of prison privatisation. In the US, a significant movement towards privatisation began in the 1970s when the prison population increased dramatically, especially in New York. In response to the huge demand for more resources, a great number of prison spaces were added by converting buildings previously used for other purposes and constructing new prisons by raising prison bonds. This was when the private sector officially got involved in the penal system in the US. From converting, building and then running prisons, the private sector moved onto jails (which hold prisoners on remand), immigration detention centres, prison industries, the delivery of prison

services like medical service, catering, and rehabilitation, and even the 'shallow end' of the system like halfway houses.

Controversial issues that arose in America are something that should be carefully assessed before importing privatisation to Britain. Among the most crucial problems were issues of civil rights. Ryan and Ward refer to the report of the National Prison Project under the American Civil Liberties Union (ACLU) which expressed concerns over the fact that the power to deprive a person's freedom cannot be delegated to private entities.

Ryan and Ward also reveal that, among the major pressure groups whose members felt threatened by privatisation were the National Sheriffs' Association and the American Federation of State, County, and Municipal Employees (AFSCME). Their arguments were rather similar and concerned the accountability of the private sector. Ryan and Ward note that the AFSCME vigorously opposed privatisation by pointing out that 'in the early years of the present century many American cities and towns contracted out a whole range of public services; but problems were frequent. Contractors often over-charged, gave poor service and in some service areas and in some cities, corruption was endemic' (1989:32-33).

To understand more about the American experience, the report of the House of Commons Home Affairs Committee, which was dispatched to visit the American private prison and came back with the recommendation to promote privatisation in Britain, was analysed. Ryan and Ward point out that since the objective of the Committee's visit to the US was not primarily to observe private prisons, they visited only a limited number of privately-run institutions. This led to the argument that the Committee's recommendations were quite premature. The report of Prison Officers Association (POA), which also travelled to the US to visit private prisons, supports this argument. After visiting four private institutions in the US, the POA reported unconvincing levels of performance in private prisons. Ryan and Ward also assess the influence of the media on importing the idea of prison privatisation from the USA to the UK. They found that reports and press coverage on private prisons can

easily attract policy makers, especially MPs, for whom they may constitute the main source of information. However, given the fact that press reports tend to ignore or play down those features of the American political system that were most likely to appear odd to a British audience, some of them could be trustworthy while others are just propaganda.

Ryan and Ward claim, in later chapters, that these American experiences are not new to British criminal justice. They reveal that the involvement of the private sector began in the eighteenth century with profit-making prisons. At this early stage, they explain that 'the avaricious turnkey' portrayed by Hogarth was not a contractor selling services to the state, but a publicly appointed official who maximised his income by collecting fees from his prisoners. The situation in this period was that prisoners who had money could live far better than those who had none. Soon after that, the private sector expanded its role in the development of prison industry, starting from a 'state-use' system to the current contracting-out system. Moreover, as in the US, some institutions for young offenders and the running of immigration detention centres in England have been under the control of the private sector for a long time. However, this scenario, I argue, is too extreme to apply to the current situation in Scotland given that contracts between the SPS and private providers are now extremely detailed and specific. In addition, HM Inspectorate for Prisons in Scotland and the contract monitoring team can ensure that the treatment of prisoners in private prisons conforms to the contract and to the law and can provide recommendations to prevent and resolve any misconduct of the private provider. This issue lays the foundation for the discussion of ethics and accountability in Chapter 7.

After investigating the American experience as well as British precedents, Ryan and Ward indentify a number of ethical and political flaws of prison privatisation. Such significant issues include: *'the delegation of the power to punish'* from the state to the private sector which might lead to the abuse of power by the private sector; *'profit and ethics'*; *'political pressures'* to support longer sentences and put more people in prison; *'prison discipline'* involving the abuse of their 'disciplinary powers'

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which can potentially affect prisoners' date of release; and *'accountability'*. Their arguments are similar to those of many others who were against private prisons on the ground of legitimacy, ethics and accountability (DiIulio 1986, 1988; Lawrence 1986; Logan 1990).

In light of the above, Ryan and Ward argue that prison privatisation is not an appropriate solution for the challenges faced by British penal systems. Rather, they suggest that radical alternatives to prison be introduced to engage the community in helping offenders to reintegrate into society and reconstruct their lives. They also suggest that cooperation between the public sector, the private sector and the society be enhanced to improve the prison service rather than privatising prisons.

They conclude their study by summarising the case against privatisation. In their view, the greater 'productive efficiency' of the private sector is still not convincing. They caution that what seems to 'work' in the US might not be promising in Britain given the differences between the penal systems and in the political and legal frameworks and in light of the cultural legacy of history which has a powerful impact on the way policy makers respond to demands for change. Both the threat posed by the profit-making private sector and the potential of the voluntary or non-profit sector as a site for radical intervention, are likely to vary from country to country.

As mentioned earlier, Ryan and Ward's arguments in *Privatisation and the penal system: the American experience and the debate in Britain* are clearly against prison privatisation. Despite the fact that my view differs somewhat from theirs, it is not the intention of this research to debate the legitimacy of private prisons. Rather, I wish to make an argument based on the SPS's experience that private prisons are an integral part of NPM. In Chapter 5 I demonstrate that having private providers in the prison service can have a positive impact on the overall prison system as it creates a sense of competition between public prisons and private ones. Public prisons need to deliver a 'value-for-money' service and to serve their *customers'* needs or they may lose their contracts to their private competitors. In addition, with reference to the reports of HM Inspector for Prisons in Scotland, Kilmarnock prison appears to have

performed satisfactorily as specified in the contract. The Chief Inspector even recommended that public prisons in Scotland could learn from Kilmarnock and adapt some practices from Kilmarnock in their establishments.

What drove Scotland to establish a private prison? Prison management in Scotland in the 1990s was influenced by managerialist ideology and, as I have argued, this was initially during a 'trial and error' period when a number of new policy papers were produced and a number of prisoner programmes were implemented (see Chapter 4 and 5). Private prisons were among the new practices that the SPS adopted to deal with the problems of overcrowding and to achieve the UK government's aim of improving the quality of its public services. Price and Riccucci (2005) argue in their study of prison privatisation in the USA that the primary reasons that most states chose to privatise their prisons were not fiscal ones. Rather, they suggest, 'political and ideological factors such as the overall political and ideological culture of the state' seem to provide a more plausible explanation of why states decided to privatise their prisons. This fact is consistent with what I found in Scotland. In addition, Harding (1997:21) points out that:

> Precursors to the push for privatisation were: a burgeoning prison population; consequential overcrowding and deteriorating conditions; an urgent need for large and continuing capital outlays on new plant; legal inability or political reluctance to commit such funds; low management and staff morale, linked with input-based penal strategies; ideological distaste for public sector enterprises, coupled with a general commitment to privatisation; anti-union feeling, both for its own sake and because of the increases in recurrent funding needs that flowed from strong unionism; and a sense, if not an articulate expression, of the fact that penal policy benefits might flow from an alternative form of service industry.

In summary, based on Ryan and Mick's (1989) and Newburn's (2002) arguments and supported by others who have written on private prisons (for example, Ascher 1987; Scottish Consortium on Crime and Criminal Justice 2006; Shaw 1990) and NPM scholars (such as Aucoin 1990; Flynn 2001; Hood 1991; Pollitt and Harrison 1992), what I wish to emphasise is that the emergence of private prisons in Scotland is not really surprising. Private prisons were established in the 1990s and were one

of the policies transferred from south of the border. This development can also be viewed as part of the NPM movement. Under the *Modernising Government* scheme discussed in previous chapters, the SPS as a public agency did not have much choice but adopted what the UK Government required.

As at the end of 2008, there were 12 private prisons across the UK, two of which were in Scotland. Table 6.1 shows that private prisons in the UK were used to incarcerate a wide range of prisoners from young prisoners to medium-security adult prisoners. The management of contracts was subject to the government's Private Finance Initiative (PFI) and the Design Construct Manage Finance (DCMF) model, which was developed under the umbrella of a neo-liberal ideology aimed at efficiency and value for money. At the time, only three companies had managed to win a private prison contract in the UK. Serco Group plc had won five contracts while Kalyx (formerly know as UKDS) had won four. The rest were under the management of G4S Justice Service. In Scotland, Kilmarnock was managed by Serco and Addiewell, the newest private prison in the UK and the second private prison in Scotland, was supervised by Kalyx. The management of each prison is discussed below.

Prisons	Corrections Corporations	Type of Contract	Current Type of Prisoners	Open Date
1. HMP Wolds	G4S Justice Service	Management (the first prison in Europe managed by the private sector)	Category C training prison (Originally, it served as a remand prison in 1992 and was turned into a local Category B prison in 1993.)	April 1992
2. HMP& YOI Doncaster	Serco Group plc	*N/A*	Category B (males aged 18 and over awaiting trial and serving sentences.)	June 1994
3. HMP /YOI Parc	G4S Justice Service	PFI	Category B (convicted male adult prisoners and remand /convicted young offenders and juveniles)	November 1997

Prisons	Corrections Corporations	Type of Contract	Current Type of Prisoners	Open Date
4. HMP Lowdham Grange	Serco Group plc	*N/A*	Adult males serving sentences of more than four years.	February 1998
5. HMP Ashfield	Serco Group plc	PFI	Young offender (males aged between 15 and 18 awaiting trial and serving sentences)	November 1999
6. HMP Kilmarnock	**Serco Group plc**	**Private Finance Initiative (PFI)**	**Male adult prisoners – remands and sentenced- and male young offender**	**25 March 1999**
7. HMP/ YOI Forest Bank	Kalyx (former UKDS)	DCMF	adult and young male offenders	January 2000
8. HMP Rye Hill	G4S Justice Service	PFI	Category B (male adult sentenced prisoners including vulnerable prisoners)	January 2001
9. HMP Dovegate	Serco Group plc	*N/A*	Male adult prisoners serving sentences of between 4 years and life	July 2001
10. HMP Bronzefield	Kalyx (former UKDS)	*N/A*	Female prisoners (the only privately managed prison for women in the UK)	June 2004
11. HMP Peterborough	Kalyx (former UKDS)	*N/A*	Category B (both male and female prisoners)	2005
12. HMP Addiewell	**Kalyx (former UKDS)**	**Design, construct, manage and finance (DCMF)**	**Male offenders (sentenced and on remand)**	**December 2008**

Table 6.1: Private Prisons in Britain
Sources: Scottish Prison Service (2009b) and HM Prison Service (2009)

6.2 HMP Kilmarnock: the first private prison in Scotland

What I wish to achieve in this section and the next is to show how private prisons in Scotland operate. Private prisons are usually thought of as institutions managed by a private company where prisoners enjoy lenient conditions; prison regimes are not taken seriously; money can buy comforts; and the private company only cares about profits. In this section and the next, these myths are contrasted with empirical evidence from the two private prisons in Scotland.

6.2.1 The opening

The opening of Kilmarnock in 1999 was a challenge for the SPS as it was the first prison in Scotland to be designed, constructed, managed and financed (DCMF) under the private finance initiative (PFI). Kilmarnock started to take prisoners on 25 March 1999 and operated according to what the contract specified. During the opening stage of Kilmarnock, the two key issues that were mentioned in the report of HM Chief Inspector of Prisons for Scotland (2000b) were the transfer of prisoners from the public sector to Kilmarnock and the inexperience of its new staff. The report stated that 'a process had been agreed with the SPS for the screening of prisoners and a gradual build up to full capacity, to avoid any repetition of the mistakes made when HMP Shotts Phase 2 opened in 1987. Initially, long-term prisoners who volunteered and were considered suitable for transfer to Kilmarnock arrived at the rate of 50 per week. There were planned periods of consolidation before prisoners were accepted directly from the courts, either on remand or as short-term convicted prisoners, until the establishment reached its normal operating capacity of 500 in June 1999. The Director of Kilmarnock considered this gradual approach to be particularly helpful for the staff, 91% of whom had no previous experience of working with prisoners'.

In terms prison staff, the recruitment of inexperienced staff ran counter to the logic of traditional public management which valued its employees' experience. If Kilmarnock had been managed by the public sector, there is no doubt that it would have employed seasoned prison officers. In this case, Serco took a risk that difficult and manipulative prisoners might have tested the limits of these inexperienced staff,

which could be a threat to order and security in the prison. According to the Chief Inspector's report (2000b), this risk 'had been anticipated and support teams of experienced prison staff from other *Premier Prison Services* [now Serco] establishments, principally HMP Doncaster, were deployed during the start-up phase. *Premier Prison Services* also employed some experienced former SPS Governors, who provided very helpful advice and useful insights into Scottish prisoner culture during that phase.' Since its opening in 1999, the cooperative relationship between experienced staff and newcomers at this newly established prison has been consistently good. There was no significant conflict between the two groups. When I visited Kilmarnock in 2006 for a preliminary interview and asked the Deputy Director how the prison managed the differences in working experience of its staff, I was told that

> 'for staff who have experience in public sector prisons, we re-programme them. For newcomers, mentors are assigned for everyone for a year. It is easier to train newcomers than those who have had some experience with government because the latter tend to bring with them the old bureaucratic culture' (My pilot project's research note).

The opening of Kilmarnock illustrates the SPS's new approach to the management of its prisons in the late 1990s. Prior to the establishment of its first private prison, the SPS tended to follow the precepts of traditional public administration by emphasising adherence to rules, hierarchy, experience and working routines. When using a private company, in this case Serco, to manage one of its prisons, the SPS became more flexible and took a risk. It experimented with new ideas and the techniques that the private sector brought in. As argued in Chapter 5, the establishment of a private prison ultimately led to changes in the management of public sector prisons. The most significant development was the use of contractual management in running the public prisons in Scotland.

As discussed in the previous chapter, the Kilmarnock contract was far more complicated than the Service Agreements (SAs) of the public prisons. The content of the Kilmarnock contract comprised eight parts covering General (definitions), Provision, Maintenance, Pre-Operation Period, Operation, Finance, Termination and

Miscellaneous (Appendix Seven). I wish to highlight some of the key points of the contract which relevant for this study. In general, from the client's point of view, the complexity of the contract implied intense scrutiny. On the other hand, from the service provider's point of view, the Kilmarnock contract was perceived as a 'punitive' contract. During the pilot project, the senior manager of Kilmarnock pointed out that

> 'when you look at the current contract, it is more like a *punitive contract*, not a *reward contract*. If we do things wrong, we get punished. But when we go beyond the requirements, what do we get? Nothing'. (My pilot project's research note)

When the interview for the present research was conducted, I received the same comment from the Kilmarnock's senior management who stated that

> 'there is no incentivisation whatsoever. And I question whether it is perceived as a partnership. It is more perceived as a contract. Now we operate partnership but it is not perceived as a partnership. The fundamental difference [between Scotland and England] for me is the belief in a win-win situation that you are looking for. The belief in Scotland is that 'you do what I say' − it is like a parent and child relationship'. (Interview, Kilmarnock's Senior Manager, 1 May 2007)

6.2.2 The Houseblock

Since Kilmarnock is a closed high security prison of the same category as HMP Shotts, HMP Edinburgh and HMP Perth (keeping in custody long-term prisoners, mostly in Categories A and B), the balance between its managerial aims which were efficient and effective management and the security of its physical environments needed to be maintained. Kilmarnock has two houseblocks. Houseblock 1 (Afton House) holds long-term prisoners and Houseblock 2 (Doon House) holds short-term, remand prisoners and those on protective custody. Each houseblock has four wings, and each wing is self contained and has two floors. Access to each wing is through electronic gates controlled by residential staff. Residential Officers (ROs) are appointed for the wings. They are trained Prison Custody Officers (PCOs) who have to deal with very demanding tasks. High people skills are required from ROs. On

any given day, ROs can be assigned to work as Personal Officers (POs) who are allocated a number of prisoners from the Wing for individual care.

6.2.3 The management and staff

The Director of Kilmarnock Prison is the Head of the Senior Management Team. Since its opening, Kilmarnock has had four Directors. The first and the second Director had previously been Governors in the SPS. The third, the only female, had a background in teaching before becoming the experienced governor of various prisons in England. The current Director had previously been the Deputy Director at Kilmarnock for 3 years and had a background in custodial services of 15 yeas. There are four Assistant Directors (ADs) responsible for custodial services (AD1), residential (AD2), programmes (AD3), and resource and administration services (AD4). The AD1 also acts as the Deputy Director. All ADs and three other managers, the Clinical Manager, the Investigations Officer and the Contract Compliance Officer, report directly to the Director.

At an operational level, although Kilmarnock's custody officers (COs) and SPS Prison officers are both regulated by the Criminal Justice and Public Order Act (1994)[56], the nature of their employment makes them different from each other. While COs are private sector employees, POs are civil servants employed within the

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[56] The duties and responsibility of COs according to this Act are as follows:
'Powers and duties of prisoner custody officers employed at contracted out prisons
(1) A prisoner custody officer performing custodial duties at a contracted out prison shall have power to search—
(a) any prisoner who is confined in the prison or for whose custody he is responsible; and
(b) any other person who is in or is seeking to enter the prison and any article in the possession of such a person.
(2) The power conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket, headgear and gloves.
(3) A prisoner custody officer performing custodial duties at a contracted out prison shall, as respects the prisoners for whose custody he is responsible, have the duty—
(a) to prevent their escape from legal custody;
(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
(c) to ensure good order and discipline on their part; and
(d) to attend to their wellbeing.
(4) The powers conferred by subsection *(1)* above and the powers arising by virtue of subsection *(3)* above shall include power to use reasonable force where necessary.'

public sector. In addition, COs work for the benefit of their company. SPS prison officers, on the other hand, are responsible for delivering a public service on behalf of taxpayers. The difference between COs and SPS prison officers was also highlighted by the senior manager of Kilmarnock, who said that:

'As a private sector organisation, [Kilmarnock] tended to deal with staff more robustly and tell them what to do. If they don't do it, they can sack them, get rid of them. The public sector has a political problem in getting rid of civil servants. Quite rightly! However, what it means is that your efficiency is eroded. And what the private sector is saying is that if you really want to be efficient you have got to have control over these people.' (Interview, Kilmarnock's Senior Manager, 1 May 2007) The report of the first full inspection of Kilmarnock which was carried out in 2000, stated that human resource management at Kilmarnock was of 'a high standard'.

> All staff in the establishment were provided with a detailed contract explaining their conditions of employment, which they were required to sign. They were also provided with written information on Premier Prison Service's grievance, disciplinary and appeals procedure and a comprehensive Staff Handbook.
>
> All PCO staff underwent a six month probationary period and those who satisfied the standard of the initial training programme were certificated at the end of a six week course and were contracted at that stage. Ongoing assessment and reports were then compiled throughout the remainder of their probationary period. Non-prisoner contact staff had a three-month probationary period. (2000b:para. 9.16)

For the staff who had experience of working in public prisons, there were measures to 're-programme' them. Normally, two mentors were assigned to newcomers for a year and the mentoring process for new staff was easier than for those who have had some experience of working in public prisons (comments of Kilmarnock's senior manager given during the pilot project). Nevertheless, as far as Trade Unions are concerned, Kilmarnock currently does not recognise the Prison Officers Association in Scotland (POAS) despite the fact that POAS attempts to represent staff in Kilmarnock.

6.2.4 Prison regimes

Kilmarnock provides basic, standard and advanced regimes for its prisoners. Prison regimes are similar to those in public sector prisons. For instance, at reception, prisoners are searched in the admissions area. An officer on duty and a nurse are responsible for interviewing prisoners. Information is then recorded on the Prisoners' Record System (PRS). Prisoners are then provided with an information pack including *'Reception Information for New Prisoners'* and a copy of the *Prisoners' Handbook*. Necessary clothing is also provided at this stage.

Different induction programmes are designed to suit different types of prisoners – remand, long-term, short-term and protective. The goal of these programmes is to acquaint prisoners with all the main elements of prison life. Risk and needs assessments are conducted with every prisoner in order to produce an individual sentence plan. Basically, this sentence plan contains targets that prisoners should achieve and activities that they need to carry out in order to reach those targets while incarcerated in Kilmarnock.

A wide variety of prisoner programmes are available in Kilmarnock including Problem Solving, Skills Training, Advanced and Basic Drug Awareness, Anger Management, education and social work. The Chaplaincy Team is also established to provide activities which suit prisoners' religion and faith. The present chaplaincy comprises four groups: Church of Scotland, Roman Catholic, Episcopalian and Free Church. Kilmarnock's vocational training and industries are designed for prisoners so that they can acquire the skills needed in the labour market outside prison. The prison provides a variety of workshops, including metalwork, welding, carpentry and laundry. Prisoners earn a wage ranging from £6.00 to £20.00 per week, depending on what they do.

Kilmarnock also provides a full range of healthcare services. Its in-house services include dentistry, psychiatry, podiatry and physiotherapy. It employs a full time doctor and nurses in different areas. The prison has also set up an Addiction Team for prisoners who have drug and alcohol problems. In addition, Kilmarnock's

Resettlement Team provides services and supports prisoners to prepare prisoners for returning to the community.

6.2.5 The report of HM Inspectorate of Prisons for Scotland (HMIP)

> 'The Chief Inspector's report indicates that we are in the top three, if not the best, prison in Scotland. If we were here only to make a profit and ran the prison badly, we would not have come this far' (Interview, Kilmarnock's Senior Manager, 26 January 2006).

Since its opening until 2007, Kilmarnock has been fully inspected three times by the HM Inspector of Prisons for Scotland. The first full inspection was in 2000, one year after the opening of Kilmarnock, the second was in 2004 and the most recent was in 2007. No serious warning was issued by the Chief Inspector and the results of the three inspections results are shown in Table 6.2.

First Full Inspection (March 2000)	Second Full Inspection (October 2004)	Third Full Inspection (September and December 2007)
For SPS HQ/Area Director 1. The SPS should consider introducing more widely the satellite tracking system for prison vehicles that is in use at Kilmarnock. (para. 3.23) 2. The SPS should consider how the performance management of its other prisons can be improved in the light of the experience at Kilmarnock. (para. 4.6) 3. The issue about prisoners' progression from Kilmarnock to other mainstream SPS prisons requires to be addressed at the earliest opportunity. (para. 6.23) 4. Consideration should	1. There should be more activities available to prisoners when they are out of their cells in the evening and at weekends. 2. Prisoners should be escorted to where they need to be within the prison more efficiently. 3. Induction should be carried out consistently and with all prisoners. 4. The overall Sentence Management System should be changed in order to integrate the elements more closely. 5. All visiting staff who work alone, such as the optician, should hold their consultations in an area that can be	1. Ways should be found to allow prisoners, particularly short-term prisoners, young adults and prisoners on protection, more time out of their cells; 2. Prisoners should be present when their property is opened and cash checked in reception 3. Risk assessments should be carried out in private in reception 4. Prisoners, particularly prisoners at risk of suicide or self-harm, should be passed through reception more efficiently and quickly 5. A proactive approach

First Full Inspection (March 2000)	Second Full Inspection (October 2004)	Third Full Inspection (September and December 2007)
be given as to how the roles of Investigations Officer and Contract Compliance Officer could be developed elsewhere in the SPS. (para 9.15) **For PPS/Director** 5. Working conditions in the Communications Room should be significantly improved as a matter of urgency. (para. 3.25) 6. The establishment's drug strategy requires co-ordination, with the various elements integrated to a greater degree than has yet been the case. (para 4.36) 7. There should be a review of the entire work of the social work unit, including staffing resources, in order to ensure their effective input. (para. 6.44) 8. As a matter of priority, management should seek the advice of HM Fire Service Inspectorate regarding the fire escape route from the upper floor of the Gate complex. (para. 7.27) 9. There should be a radical upgrading of staff facilities through-out the establishment. (para. 9.44)	observed by other staff.	to matters of equality and diversity should be adopted 6. Greater emphasis should be placed on linking individual aspects of the Integrated Case Management process and on monitoring outcomes.

Table 6.2: Key recommendations of the Chief Inspector for Kilmarnock after the full inspection

Given the recommendations from the full inspections of Kilmarnock in Table 6.2, I wish to highlight that the challenges faced by the private prison were rather different from those faced by its public counterparts. One obvious example was that slopping-out was not a problem presented in Kilmarnock[57]. No recommendation directly requested Kilmarnock to improve the hygienic and sanitary conditions of the prison (HMIP 2007c) whereas HMP Edinburgh, which was inspected in the same year, was recommended to draw up an action plan to 'address the problem of the lack of proper toilet facilities in Forth Hall' (HMIP 2007b:para.2.17) and HMP Shotts was recommended in 2003 that the toilets in cells be screened off (HMIP 2007d:para.2.4). The news release on the Scottish Government's website on 26 April 2005 quotes comments of Dr. McLellan, the Chief Inspector of Prisons, on the performance of Kilmarnock in recent years, saying that Kilmarnock 'does not face the accommodation problems old buildings have. There is a separate toilet cubicle in every cell (with the exception of two cells in the Segregation Unit), the prison is clean, and prisoners keep their cells clean and tidy. The advantages of good living conditions are clear to see' (Scottish Government 2006). More importantly, HMIP even recommended that the SPS adopt Kilmarnock's practice to improve the performance management and to consider how the roles of Investigations Officer and Contract Compliance Officer could be developed in the public prisons. Moreover, the senior officer of HMIP commented during an interview that 'the fact that it runs more cheaply than other prisons is a significant driver for the Scottish Prison Service in the way it manages its prisons (Interview, HMIP Senior Officer, 10 May 2007). This confirmed my argument in the previous chapter that private prisons can act as catalysts for improvements in the prison system.

Although the reports addressed some of the problems that Kilmarnock presented, for example, the provision of basic education and vocational training, food conditions and staff turnover, these reports came as quite a surprise because the overall evaluation was relatively positive in spite of the fact that Kilmarnock was the first private prison, the staff had little prior experience of working in prisons. Although,

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[57] Note that Kilmarnock was only a few years old, much 'younger' than most of the public prisons in Scotland.

before the establishment of Kilmarnock, the SPS had no experience of managing private prison contracts, it managed to ensure that its first private prison had no record of escapes and no serious security incident. Serco, as the first private prison provider in Scotland, not only carried out what was required of it by the contract but actually had an impact on the SPS as a competitor in the 'prison business', and ultimately raised the standards of prison management in Scotland as a whole. The senior management of Kilmarnock claimed that

> 'in terms of performance, I think we are one of the top two or three prisons in Scotland at half the cost. I think we should have laid a way for innovation. We haven't done so because we had to concentrate so heavily on meeting the contract requirements. There are areas where we have provided the innovation and that have been adopted by the SPS. I think there is a real issue with measuring our performance against theirs'. (Interview, Kilmarnock's Senior Management, 1 May 2007)

The success of Kilmarnock led to the use of contractual management in public sector prisons and to the establishment of a second private prison, HMP Addiewell.

6.3 HMP Addiewell[58]

A few years after Kilmarnock was established, the Scottish Executive produced its *Prison Estates Review* which aimed at making efficient use of prison establishments. The Review suggested that 2,200 prison spaces would be needed by the 2000s and this led to the proposal to establish two new prisons, one of which was to be built and operated by private sector. One of the senior directors of SPS had this to say about the building of Addiewell.

> 'It isn't about sector. It's about services for offenders. It's something about the benefits of good standards, good governance, and good institutions. How can we share the best practice between each other? How can we think prison design and learn from that? These are all opportunities for doing things differently, to create innovations for the future'. (Interview, Current SPS Director, 3 July 2007)

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[58] HMP Addiewell opened for operation after the data collection for this research was done. It is unfortunate that the information of this prison at the time was relatively limited and that the interview could not be done. Data about Addiewell used in this research, therefore, are mainly from documents. The contract is available online; see SPS (2008e).

HMP Addiewell, the second privately-run prison in Scotland, was to function with more requirements than Kilmarnock. In fact, despite the fact that Kilmarnock contract included a great deal of detail at the micro level, the areas covered by Addiewell Prison Contract were even more detailed than those in the Kilmarnock contract. In the Addiewell contract, there are 79 items that the prison has to follow compared to Kilmarnock, which is subject to 65 items. These increasing items reflected not only the quantity of works but also implied the substance and quality of services needed to provide (as discussed in Chapter 5 and demonstrated in Appendix Seven and Eight). The SPS thought it was necessary to make the Addiewell contract as comprehensive as possible as in order to prevent some foreseen problems which occurred in Kilmarnock and other public prisons in particular access to programmes and prisoners' living conditions (my research note from the interviews with SPS staff). Additionally, with reference to its experience with the management of Kilmarnock in terms of public and political scrutiny, SPS gained a better knowledge of what should be put in the contract and what could be negotiated with the private provider in order to enhance effective management and at the same time to enhance value for money which might help ease pressures from key stakeholders including policy makers, the public and the media for private prisons (my research note).

Recently, however, the image of Addiewell was portrayed in the free newspaper, *Metro Scotland* (2nd December 2008) as 'a cutting edge prison of the 21st century' where prisoners can enjoy en-suite cells, multi-channel Freeview TV from flat screen televisions, a 'state-of-the-art' computer room, large gym hall, fitness suite and electronic kiosks which can be used to order meals in advance, to check their money in their account, to order foods from the canteen and even to top up their phone accounts. The *Daily Record* (10th February 2009) called it a 'luxurious' prison and reported that prisoners named it 'the Addison' after the Radisson hotel chain.

During the test-run period, the management of Addiewell was more problematic than that of Kilmarnock, given that the SNP Government had expressed its strong opposition to private prisons. Prison privatisation in Scotland seems to have come to a premature end when the SNP formed a minority government after the general

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election in 2007. As mentioned earlier, the plan to have Bishopbriggs Prison run by private sector was reversed. And the two existing private prisons, Kilmarnock and Addiewell, will have to undergo a relatively strict scrutiny.

Continuous criticism of private prisons has made it difficult for Addiewell to find constructive methods to defend its performance in Parliament and to deal with the media and the public as well. Intense scrutiny (see Chapter 7) has also been a challenge to the newly-opened Addiewell Prison. Learning from Kilmarnock's experience could help Addiewell to defend itself. The former Governor of Kilmarnock expressed the view that

> 'The other part that absolutely fascinated me is the close involvement of The Scottish Parliament and the Scottish Executive with prisons at the local level. When working in English prisons, I can't remember when the local MP visited the prisons. I have never experienced the Home Secretary visiting prisons. Whereas in Scotland, local MPs visit prisons regularly.
>
> In Scotland, the Minister of Justice is closely involved in which prisoners go where. The direct involvement of the Scottish Executive with my prison and the scrutiny and spotlight that they have, are unknown in England. I recognise that the senior management of the English Prison Service will be talking and meeting with the Minister for Prisons. Here, my middle managers know the Minister of Justice and local MPs by their first names. So, that is different. It's a kind of cultural and political split'. (Interview, Kilmarnock's Senior Manager, 1 May 2007)

I wish to add here that the performance of Addiewell is crucial for the future of private prisons in Scotland. It has to prove that it is an efficient service provider which can compete with other public prisons and with its private counterparts. Addiewell cannot afford to lose because its future is crucial to the future of private prisons in Scotland. Obviously, if the SNP Government retains the support of the Scottish public, it is unlikely that Scotland will have new private prisons in the near future. According to the a statement from the Justice Secretary, reported in a news release on the Scottish Government's website on 23 August 2007, 'rather than filling up prisons with minor offenders and building private prisons that cost the taxpayer hundreds of millions of pounds, we should ensure that prisons are used to detain

dangerous criminals and punish serious offences. These investments are part of our wider strategy for managing offenders in an appropriate and responsible way that will help reduce re-offending and enhance public protection' (Scottish Government 2007).

CHAPTER 7

ETHICS AND ACCOUNTABILITY

This chapter explores issues of accountability in the Scottish Prison Service over the last two decades. Influenced by NPM, the SPS has undergone many changes in terms of policy and practice. For instance, as discussed in Chapter 5, market mechanisms have gradually been imported and have come to dominate formerly bureaucratic management techniques. In addition to the contracting-out of its support services, the SPS now employs private companies to deliver some of its core functions which include keeping offenders in custody as described in Chapter 6. The shift towards privatisation and the adoption of business-like approaches has led to a number of major criticisms and a great deal of controversy about ethics and accountability. Unfortunately, research on these issues, especially on the relation between NPM and ethics and accountability (e.g. Berman 1998; Frederickson 1997; Harding 1997; Kolthoff 2007), has been limited. The most common critique had to do with the claim that the attempt to run public organisations like the private sector usually leads to corruption and unethical behaviour (Frederickson 1997).

It is not my intention in this chapter to investigate the general issues of ethics and accountability in the prison service. What I attempt to do here is to examine the ethics and accountability *mechanisms* in the Scottish prison system in the NPM era. To guide the discussion in this chapter, three key questions were raised: *How does NPM affect ethics and accountability? What are the accountability mechanisms in the Scottish prison system*? *How does the SPS respond to these mechanisms in terms of policy and practice*? A normative approach was used to tackle these questions. Theories and comments from the academic literature were examined and contrasted with quotations from SPS policy papers and interviews. Special attention was given to the two most relevant publications. The first is a book by Emile Kolthoff (2007), entitled *Ethics and New Public Management: Empirical Research into the Effects of Business-like Government on Ethics and Integrity*, which explores the relationship between NPM and ethics and integrity issues using The Netherlands's police force as a case study. The second is *Private Prison and Public Accountability* by Richard

Harding (1997) which examines the accountability mechanisms of private prisons in three different jurisdictions: the USA, the UK and Australia. In addition, to demonstrating the influence of NPM on prison management in terms of increased public accountability, this chapter focuses on three accountability mechanisms: (1) *Her Majesty Inspectorate of Prisons for Scotland* (HMIP) which has direct responsibility for 'inspecting' prisons in Scotland, (2) the Scottish Prisons Complaints Commission (SPCC) which was established in 1994 to deal with complaints from prisoners, and (3) the Scottish Public Services Ombudsman (SPSO), which was established in 2002 and is responsible for investigating complaints about organisations providing public services in Scotland.

The justification for examining these three mechanisms (HMIP, SPCC and SPSO) was based on their direct impact on the SPS's core functions. I wished to examine the mechanisms of *performance accountability*, i.e. accountability for the custody and rehabilitation of prisoners, which is the principal mission of the SPS. These three mechanisms, I argue, help enhance best practice in the prison service, improve inefficient and ineffective policies and operations, and promote moral standards. They enable the SPS to achieve its principal goals, which are public safety, reduction in reoffending and correctional excellence (as discussed in Chapter 4 and Chapter 5) with legitimate 'means' and 'ends'. The significance of these three mechanisms is that their outputs can have a considerable impact on the prison system and on prisoners who are now seen as the key 'customers' of the prison service. Last but not least, HMIP, SPCC and SPSO are employed by the government as managerial tools to monitor the delivery of prison services against established targets. The focus on these mechanisms, therefore, fits the aims of this research to investigate the development of managerialist ideology in the prison service. I demonstrate below the roles and outputs of each agency that have recently come to reflect the significance of managerialism and the use of a business-like approach.

By focusing on mechanisms of performance accountability, I do not wish to suggest that other forms of accountability e.g. legal accountability and political accountability are less significant. They have not been included simply because their

functions are not directly relevant to the scope of the present study. It goes without saying that mechanisms such as prison statutes and regulations are among the key 'inputs' to the delivery of prison services and were once regarded as the centre of the public service system. In the NPM era, however, they are supporting tools which act as vehicles for the effectiveness and efficiency of the prison service. They are, I argue, no longer at the heart of the service. In the dynamic circumstances of NPM, outdated legislation could be, and should be, reformed as implied by the modernising government agenda. In excluding these mechanisms from this study, I am aware that the validity of the account of accountability might be threatened. This was compensated, however, by a thorough examination and discussion of these three mechanisms. Also, the discussion of 'legality' as 'means discourse' (see Table 4.2 and the discussion in Chapter 4 where I demonstrated that 'legality' row remained empty as there was no significant policy which address this 'means discourse') and the argument about the roles of ministers in Chapter 5 were intended to compensate for the exclusion of accountability in this chapter.

7.1 The influence of NPM on public ethics and accountability

This section attempts to tackle the first question: *how does NPM affect ethics and accountability?* I refer to the work of Emile Kolthoff whose book focuses on the integrity of the police, and then move on to discuss the accountability issues that arise in the prison system with reference to Richard Harding's Work. The main aim is to present empirical evidence of the impact of NPM on the management of the prison services.

7.1.1 Emile Kolthoff's study

Emile Kolthoff's book *Ethics and New Public Management: Empirical research into the effects of business-like government on ethics and integrity* considers the relationship between NPM and ethical issues. The strength of his account is that his arguments are based not only on his academic knowledge but also on his professional experience as Director of the Dutch Office of Local Government Ethics. In his book he explores theories of previous thinkers and contrasts them with the evidence from his research and from his personal experience. Thus, he presents his arguments as an

academic and as a practitioner. This approach definitely strengthens the validity and reliability of his work.

Kolthoff (2007) starts his book by pointing out that a number of thinkers (i.e. Bovens and Hemerijck 1996; Frederickson 1997, 1999; Osborne and Gaebler 1992) have expressed concern over the use of business-like approaches by government. He also notes that, among them, Frederickson is 'one of the most outspoken opponents of the NPM movement' who has argued that the rise of NPM caused corruption and unethical behaviour in government. He points out that most of the scandals concerning the management of public services in recent years involved the use of business-like techniques and activities which were new to the public sector (for instance privatisation, market techniques and the outsourcing of tasks and services). As concrete research on this issue is still limited, Kolthoff's aim was to fill this gap by analysing the influence of NPM on integrity (Kolthoff 2007:1).

Kolthoff's main research question is *what is the relation between a business-like approach to government and integrity?* A *business-like approach to government* and *ethics and integrity* are the two central concepts in his study. Kolthoff explains that 'a business-like government is defined as a government moving in the direction of the business sector by taking over ideas, instruments, methods, institutions, and products that traditionally characterise this sector' (ibid. 2). He also adds that 'because the manifestations of business-like government are highly diverse, the most appropriate means for clarifying the framework of reference is to break down the paradigm by characteristics' (ibid. 25). His discussion of the *business-like government* concept is mainly based on the approach associated with Pollitt and Bouckaert (2004) and Hays and Kearney (1997). Pollitt and Boeckeart (2004:6) describe public management reform as a potential means of achieving multiple ends, including *savings* (economies) in public expenditure, improved *quality* of public services, more *efficient* governmental operations, and greater likelihood that the policies chosen and implemented will be *effective* (Kolthoff 2007:24). Pollitt and Boeckeart (2004:64) suggest that four main components are key to reform: (1) finance: budget, accounts, audits; (2) personnel: recruitment, posting, remuneration,

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security of employment, etc.; (3) organisation: specialisation, coordination, scale, (de)centralisation; and (4) performance measurement systems: content, organisation, use. On the other hand, Hays and Kearney (1997) had earlier identified five core principles of NPM as: (1) 'downsizing − reducing the size of government'; (2) 'managerialism-using business protocols in government'; (3) 'decentralisation − moving decision making closer to service recipients'; (4) business-like processes; and 5) 'privatisation − directing the allocation of government goods and services to outside firms' (Kolthoff 2007:24). Combining Pollitt and Boeckeart's (2004) approach with the five core principles proposed by Hays and Kearney's (1997), Kolthoff then focuses on four characteristics of a business-like approach which are *downsizing and entrepreneurship*, *decentralisation*, *performance measurement* and *the use of a planning and control cycle*.

As for *ethics and integrity*, Kolthoff explains that 'the term *"public ethics"* refers to the collection of values and norms, moral standards and principles, that form the foundation of integrity' (2007:3). In general, ethics are a set of principles frequently defined as a code of conduct; that is, a framework for action (Lawton 1998:6). Whereas the moral nature of these principles refers to what is judged to be right, just, or good (conduct), integrity or ethical behaviour means much more than not being corrupt or fraudulent.'[59] Accordingly, Kolthoff defines integrity as 'a quality or characteristic of individual or organisational behaviour that denotes the quality of acting in accordance with moral values, standards, and rules accepted by the organisation's members and society' (2007:3). He also adds that violations of integrity can be defined as the violations of these moral values and norms. In his study, Kolthoff clusters integrity violations into 10 different categories:

1. corruption, including bribing, kickbacks, nepotism, cronyism, and patronage (actions that benefit the individual, family, friends, or party);
2. fraud and theft of resources, including the manipulation of information to cover up fraud;
3. conflict of (public and private) interest through promises, gifts, or discounts;

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[59] Kolthoff also comments that the definitions of morals and ethics by previous thinkers are 'nearly identical' (p.3).

4. conflict of interest through jobs and activities outside the organization (e.g. moonlighting);
5. improper use of violence towards citizens and suspects;
6. improper (investigative) methods of policing (including improper means for noble causes);
7. Abuse and manipulation of information (unauthorized and improper use of police files; leaking confidential information);
8. Discrimination and (sexual) harassment; indecent treatment of colleagues or citizens;
9. Waste and abuse of organizational resources, including time; and
10. Misconduct at leisure (such as domestic violence, drunken driving, use of drugs).

To tackle the main research question, Kolthoff then operationalises the level of business-like approach and the frequency of integrity violations. The former is measured by individuals' perception of this phenomenon. The latter is also measured by individuals' perception of the occurrence of integrity violations. Kolthoff explains that 'this focus assumes that it is not necessarily the actual situation that influences people's behaviour but rather their situational perceptions and evaluation. This research looked in an explorative way for relations between the two phenomena, thus testing the "Frederickson assumption"' (ibid. 5).

Four hypotheses were set for the relations between a business-like approach and integrity based on previous literature: (1) a negative effect of downsizing and entrepreneurship on integrity (more integrity violations); (2) a negative effect of decentralisation on integrity (more integrity violations); (3) a negative effect of performance measurement on integrity (more integrity violations); (4) a positive effect of the proper use of a planning and control cycle on integrity (fewer integrity violations) (ibid. 69).

The Dutch police force was then selected as representative of government.[60] The nature of police organisation is appropriate for the topic, especially its organisational missions which are vulnerable to unethical and corrupted conduct in light of the past history of Dutch police and public beliefs. A total of 2,700 questionnaires were

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[60] Kolthoff (2007, p.6) explains that the police organisation is appropriate for this study because "since the 1990s, the ethics and integrity of the Netherlands police have received much attention and the introduction of performance contracts in the police force in the first years of the 21st century engendered a lively debate". More details can be found in Chapter 5 of his book.

given out to employees of the Regional Police Force in Midden West Brabant which is one of the larger police force in the south of the country.

The statistical analysis reveals that 'downsizing and entrepreneurship' had a negative influence on integrity, while 'performance measurement,' 'decentralisation,' 'ethical management,' and 'business-like management' contributed to integrity in positive ways (p.115). Unfortunately, the impact of the 'planning and control cycle' could not be studied due to Kolthoff's inability to develop measurable indicators for it (p.114).

Findings from Kolthoff's study provide the most recent evidence of the connection between NPM and ethical and accountability issues. My discussion later in this chapter draws upon these findings. The difference between Kolthoff's study and the present research is that the former focuses on the influence of a business-like approach on integrity at an individual level. Respondents were asked to reflect on their individual perceptions of the survey items. The latter, however, focuses on how NPM or the use of business-like approach has affected prison organisation in terms of its policy discourses on ethics and accountability. Data were collected from published policy papers and the interviews.

7.1.2 Harding's (1997) study on private prison and public accountability

Kolthoff's work demonstrates that the use of business-like approaches in government does not necessarily have a negative effect on the integrity of public employees and on the public sector as a whole. In fact, some features of NPM, specifically 'performance measurement,' 'decentralisation,' 'ethical management,' and 'business-like management', contribute to the improvement of integrity in government. Kolthoff's findings confirm what Harding (1997) had suggested a decade before. The two studies share a common interest of the connection between NPM and ethics and accountability. While Kolthoff's work focuses on the general *relation* between the two concepts, Harding's book is more specific in terms of examining only one feature of the NPM − privatisation. Harding regards accountability as a necessary *mechanism* which, he argues, could make the privatisation of public service 'work'.

Discussion in this section is based on Harding's (1997) book, *Private Prisons and Public Accountability*.   Special attention was paid to the models of public accountability of private prisons suggested by Harding.   These models were examined and contrasted with what I found in the SPS. In addition his discussion of accountability mechanisms was used as a guideline to explore accountability mechanisms in the SPS (see section 7.2.1).

Harding's (1997) study explores private prisons in terms of their public accountability in three jurisdictions − USA, UK and Australia.   The expansion of private prisons in these countries is far greater than anywhere else in the world.   His book examines the *accountability* concept from a different angle to Kolthoff (2007). According to Harding:

> accountability is not a unitary idea; its crucial components will vary from activity to activity, from structure to structure.   The closed nature of total institutions such as prisons means that there are special difficulties in achieving effective accountability, even within public-sector prisons, and obviously these factors will be no less applicable to accountability within private prisons.   However, a further question arises: are there additional factors that make accountability in private prisons even more difficult and illusory? (1997:17).

There are two points from Harding's view of accountability that the present research employed in the analysis of the SPS (discussed in section 7.2.1 below).   First, accountability is not a *unitary* idea.   I argue that the accountability mechanisms used in one jurisdiction do not necessarily match those in other jurisdictions.   When examining the accountability mechanisms in the Scottish prison system, there are some features (i.e. the Community Justice Authority and the Scottish Prisons Commission) that are applied in the Scottish jurisdiction only.   Further, Harding's question of whether there are any factors that make accountability of private prisons more difficult is also one of the interests of the present research.   As discussed in Chapter 6, I hypothesise that the management of private prisons is more difficult than that of the public ones on account of the greater accountability and scrutiny they receive.   The findings from the SPS case are discussed in section 7.3 below.   In any

event, after exploring the management of private prisons in the three jurisdictions, Harding (ibid. 27-31) suggests that the ten key tenets of public accountability covered the following areas:

- 'The distinction between the allocation and the administration of punishment must be strictly maintained, with the private sector's role being confined to its administration.

- Penal policy must not be driven by those who stand to make a profit out of it.

- The activities of the private sector and their relations with government must be open and publicly accessible.

- What is expected of the private sector must be clearly specified.

- A dual system must not be allowed to evolve in which there is a run-down and demoralized public sector arrangement.

- Independent research and evaluation, with untrammelled publication rights, must be built into private sector arrangements.

- Custodial regimes, programmes and personnel must be culturally appropriate.

- There must be control over the probity of private contractors.

- There must be financial accountability.

- The state must in the last resort be able to reclaim private prisons.'

The book also outlines a basic model of public accountability and describes the models that have been used in the USA, UK and Australia. Harding explains how each model works along with its pros and cons. And when considering changes in the management of prisons in these past two decades, he proposes a new model of accountability (shown in Figure 7.1).
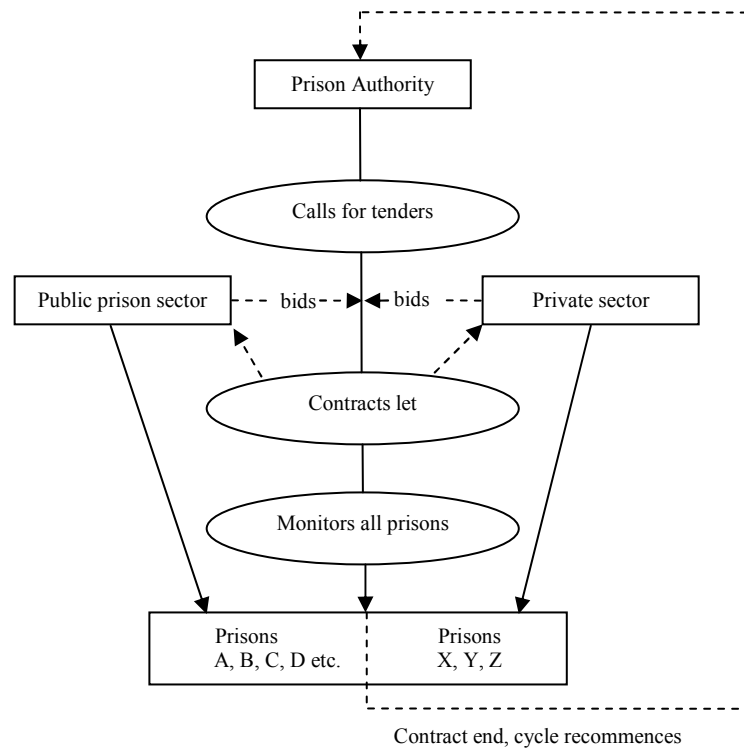
Figure 7.1: Harding's new model for public accountability

Harding concludes that

> accountability is often presented as a rather negative idea – a system to ensure that standards are not breached. In the context of prison privatisation, that aspect of accountability is crucial. But accountability also has more positive connotations – to make a system work better than it previously has done. The system in question is the prison system as a whole, not just the private sector component. The model of accountability developed in this book rests on the premise that the public component of the prison system is no less in need of effective regulation than the new private sector (1977:165).

In addition, 'the evidence is clear that private prisons could act as a catalyst for improvement across the whole prison system, but only if they are effectively regulated and properly accountable' (p.165). The proposals from Harding's book that are related to the present study are that 'a loose contract will tend to lose accountability'; that discipline for misconduct in private prisons should be similar to that in public prisons; that financial accountability for private prisons is strong; and that 'termination of the contract is an extreme sanction for a breach'.

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7.2 Ethics and accountability mechanisms for the SPS

This section aims to answer the second question: *what are the accountability mechanisms for the Scottish prison system*? Key accountability mechanisms for the Scottish prison system are identified and its involvement in the management of Scottish prisons is also discussed. A significant point that I attempt to make here is that, although the SPS in the NPM era enjoys a certain degree of independence as an Executive Agency, it is still subject to inspection and monitoring by other agencies as specified in legislation.

Ethics and accountability mechanisms in the Scottish prison system can be sub-divided, based on Walsh's (1995) suggestion, into parliamentary accountability, judicial accountability and administrative accountability. In terms of parliamentary accountability, prisoners who are dissatisfied with their treatment in prison may write to their MPs. Normally, the letter will be forwarded to the Minister with the MP's observations and/or recommendations. The letter will then be treated as a normal complaint, except that it might be given priority as it has already been seen by the Minister. For judicial accountability, there are a range of statutes, rules, regulations and legal requirements (e.g. Prison Act 1952, Prison (Scotland) Act 1989 and Prisons and Young Offenders Institutions (Scotland) Rules 2006). They include international rules and regulations such as the United Nations Standard Minimum Rules for the Treatment of Prisoners and the European Convention on Human Rights. For administrative accountability, the SPS is subject to a number of mechanisms including HM Inspectorate of Prisons for Scotland, Scottish Prisons Complaints Commission and Scottish Public Services Ombudsman. This chapter, however, focuses on three formal mechanisms of accountability, namely HM Inspectorate of Prisons for Scotland, Scottish Prisons Complaints Commission, and Scottish Public Services Ombudsman and also briefly touches on the significance of informal mechanisms. It should be noted that most of these mechanisms were created during the last twenty years during the study period of this research.

7.2.1 HM Inspectorate of Prisons for Scotland

In Scotland, prisons are subject to regular inspection. The Prisons (Scotland) Act 1989 (S7) lays down the statutory basis for the Chief Inspector of Prison for Scotland[61]. The Chief Inspector is appointed by Her Majesty 'to inspect or arrange for the inspection of prisons in Scotland and to report to the Secretary of State on them' and 'to inspect the conditions in which prisoners are transported or held in pursuance of prisoner escort arrangements (within the meaning of section 102 of the Criminal Justice and Public Order Act 1994) and to report to the Secretary of State on them'. The key areas which the Chief Inspector needs to assess in the report are the treatment of prisoners and the conditions in prisons.

The 'core' inspection team comprises Chief Inspector, a Deputy Chief Inspector, an Assistant Chief Inspector, an Inspector, and a Personal Secretary. There is also a support body composed of experts from HM Inspectorate of Education and the Social Work Inspection Agency and other experts and lay inspectors for specific inspections (see Adler and Longhurst (1994) for more details regarding the history and development of the Inspectorate). Each establishment is subject to an inspection every three to four years. In between, there may be follow up inspections carried out by the HMIP. The 1997 report by the Inspectorate on Aberdeen Prison suggests that 'the Chief Inspector has no executive powers but is able to draw the Secretary of

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[61] Prison (Scotland) Act 1989 provides that

"7. (1) Her Majesty may appoint a person to be Chief Inspector of Prisons for Scotland.

　(2) It shall be the duty of the Chief Inspector.

　　(a) to inspect or arrange for the inspection of prisons in Scotland and to report to the Secretary of State on them [; and

　　(b) to inspect the conditions in which prisoners are transported or held in pursuance of prisoner escort arrangements (within the meaning of section 102 of the Criminal Justice and Public Order Act 1994) and to report to the Secretary of State on them.]

　(3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.

　(4) The Secretary of State may refer specific matters connected with prisons in Scotland and prisoners in them to the Chief Inspector and direct him to report on them.

　(5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.

　(6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine."

State's attention to any aspects of a penal establishment which call for comment. The publicity which the Chief Inspector's reports attract is in itself a powerful instrument for change and improvement' (HMIP 2007a:*Role of the Prison Inspectorate* Section).

In 2006, the Inspectorate published *Standards Used in the Inspection of Prisons in Scotland* to 'enable prisoners and prison staff to understand the main areas to be examined in the course of an inspection and what would be expected in each area; and to provide assurance to Ministers and the public that inspection is being carried out within a consistent framework and that measurements are being made against appropriate standards' (HMIP 2006b:1). The Standards are set out under three headings: safety (security, good order, protection of prisoners from harm); decency, humanity and respect for legal rights; and opportunities for self-improvement and access to services and activities. In addition, based on the domestic, regional and international laws and regulations, nine prisoner outcomes[62] were established covering prisoner protection; prisoner dignity; appropriate prison conditions; treatment of prisoners with respect; contact with family and friends; prisoners' rights; prisoner programmes; healthcare standards for prisoners; and prisoner reintegration. The publication of the Standards reflects the principle of independence of the Inspectorate in setting requirements for the inspection of prisons and also, I argue, has led to improvements in the public sector organisation in the NPM era.

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[62] Nine outcomes are specified as follows:
  (1) Appropriate steps are taken to ensure that individual prisoners are protected from harm by themselves and others;
  (2) Prisoners are treated with respect for their dignity while being escorted to and from prison, in prison and while under escort in any location;
  (3) Prisoners are held in conditions that provide the basic necessities of life and health, including adequate air, light, water, exercise in the fresh air, food, bedding and clothing;
  (4) Prisoners are treated with respect by prison staff;
  (5) Good contact with family and friends is maintained;
  (6) Prisoners' entitlements are accorded them in all circumstances without their facing difficulty;
  (7) Prisoners take part in activities that educate, develop skills and personal qualities and prepare them for life outside prison;
  (8) Healthcare is provided to the same standard as in the community outside prison, available in response to need, with a full range of preventive services, promoting continuity with health services outside prison; and
  (9) Appropriate steps are taken to ensure that prisoners are reintegrated safely into the community and where possible into a situation less likely to lead to further crime."

Overall, according to Chief Inspector's report, the response of the SPS to the HMIP's recommendations in general was satisfied by the Chief Inspector. It was reflected by the senior officer of HMIP that

> 'I think they are very keen and take it very seriously. I think on those things where they can change, they have significantly changed in line with our recommendations. However, there are things that haven't changed, e.g. overcrowding and 'slopping out'. But their response to my recommendation is at a satisfactory level'. (Interview, HMIP Senior Officer, 10 May 2007)

In his latest Annual Report for 2007-2008, the Chief Inspector also stated that

> Scotland's prisons are much, much better than they used to be. It is the task of the Chief Inspector to inspect and to report on the conditions in which prisoners live and the treatment they receive. In both of these aspects our prisons have changed beyond recognition in the 30 years since the modern form of inspection began (HMIP 2008a:6).

7.2.2 The Scottish Prison's Complaints Commission (SPCC)

Most prisoners' requests and complaints in the Scottish prison system are normally dealt with locally, e.g. within the establishment by prison officers, governor-grade staff or the governor in charge of the establishment (Adler and Longhurst 1994). However, on 1 December 1994, SPCC was established as an independent body that formally deals with complaints from prisoners in Scotland. The principal role of SPCC is to resolve complaints that cannot be solved through the internal complaints system of the SPS. It is one of the developments in the Scottish prison system in the NPM era or the period which I term 'trial and error' period (see Chapter 4). The Prison Complaints Commissioner, Vaughan Barrett has said that 'the peaceful resolution of prisoner grievances will help to reduce hostility and make prisons safer places. This is not only conducive to prison staff and prisoners' well being but it is likely to have a positive influence on a prisoner's disposition when he is released and will hopefully contribute to a reduction in re-offending' (SPCC 2006:3).

In Scotland, the complaint system is known as the 'CP' system because prisoners have to fill in a 'CP' form appropriate to the nature of their complaint and send their complaint to the SPCC. There are four types of CP forms: CP1 for 'ordinary' complaints; CP2 for 'confidential' or 'sensitive' complaints; CP3 for medical complaints; and CP4 for complaints against Orderly Room Decisions. The procedures of the CP system are shown in Figure 7.2-7.5. Prisoners can directly contact SPCC by letter and telephone, and can also ask anyone to contact SPCC on their behalf. The Commission will only investigate complaints that cannot be resolved through the normal grievance system of the SPS. It will not consider complaints regarding court sentences, decisions concerning parole or life license, medical matters that involve clinical judgement, the subject of legal proceedings or the opinions of professionals regarding a prisoner, and complaints that are considered 'trivial, vexatious or completely without merit' (SPCC, 2008).

Prisoner
completes a CP1 Form

↓

Residential Officer
responds to prisoner within 24 hours

↓

Unit Manager
responds to prisoner within 24 hours

↓

Internal Complaints Committee
convenes within 7 days

↓

Governor in Charge
responds to prisoner within 7 days

↓

Scottish Prisons complaints Commission
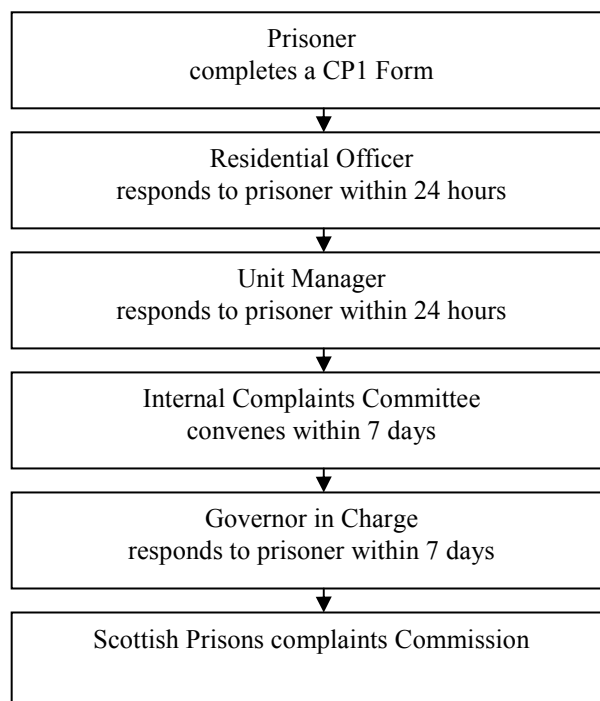
Figure 7.2: The CP1 System 'Ordinary' Complaints

```
┌─────────────────────────────────────┐
│            Prisoner                  │
│       completes a CP 2 Form          │
└─────────────────────────────────────┘
                  │
                  ▼
┌─────────────────────────────────────┐
│        Governor in Charge            │
│       response time – 7 days         │
└─────────────────────────────────────┘
                  │
                  ▼
┌─────────────────────────────────────┐
│  Scottish Prisons complaints Commission │
│                                      │
└─────────────────────────────────────┘
```
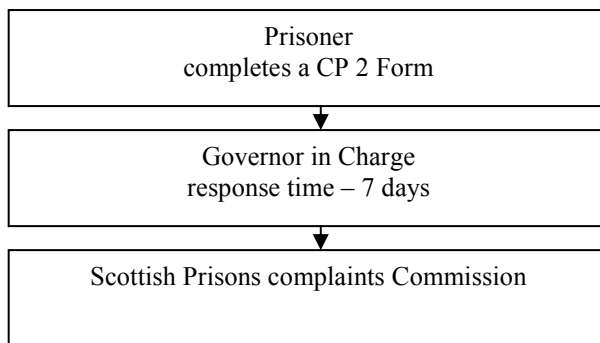
Figure 7.3: The CP2 System 'Confidential' or 'Sensitive' Complaints

```
┌─────────────────────────────────────┐
│            Prisoner                  │
│        completes a CP3 Form          │
└─────────────────────────────────────┘
                  │
                  ▼
┌─────────────────────────────────────┐
│          Medical Officer             │
│       response time -  7 days        │
└─────────────────────────────────────┘
                  │
                  ▼
┌─────────────────────────────────────────────┐
│            Scottish Ministers                │
│          response time – 28 days             │
│ (if complaint does not involve clinical judgement) │
└─────────────────────────────────────────────┘
                  │
                  ▼
┌─────────────────────────────────────┐
│  Scottish Prisons complaints Commission │
│                                      │
└─────────────────────────────────────┘
```
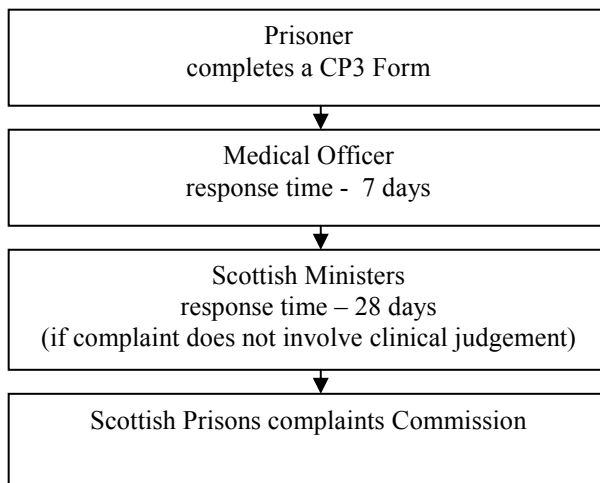
Figure 7.4: The CP3 System Medical Complaints

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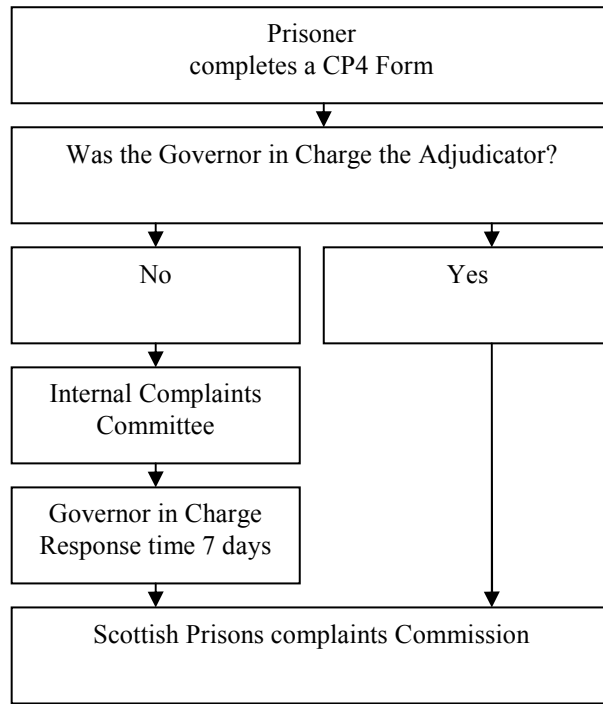
Figure 7.5: The CP4 System Complaints against Orderly Room Decisions

When looking at the complaints received from 1995 to 2008, the number of complaints went up and down over time (see Chapter 8 for the discussion of prisoners' complaints and SPS's performance). The trend in recent years, however, was downwards (Table 7.1). The latest statistics show that during the year 2007-8, the number of cases received went down to 324 of which 228 were within the jurisdiction of the SPCC. These numbers were the lowest in 13 years, only just above the first year after the SPCC was established. Table 7.2 reveals the number of complaints classified by subjects. The top five subjects of complaints received were location, OR proceedings, property, medical treatment and visits respectively.

Year	Cases Received	Cases within jurisdiction
1995 (1 Jan – 31 Dec)	217	120
1996	440	349
1997	450	361
1998	397	319
1999	433	343

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Year	Cases Received	Cases within jurisdiction
2000(1 Jan 2000 – 31 Mar 2001)*	392	245
2001/02 (1 Apr – 31 Mar)	405	231
2002/03	442	236
2003/04	441	264
2004/05	388	259
2005/06	460	363
2006/07	403	298
2007/08	324	228

*From 1995-1999 the Commission reported on a calendar year basis. In 2001 the Commission began its reporting year from 01 April. To allow for this change, statistics in 2000/2001 were recorded from 1 January 2000 for a 15 month period to 31 March 2001. Since 2001/2002 the reporting year has run from 1 April to 31 March.

Table 7.1: Total number of complaints received between 1995-2008
Source: HM Inspectorate of Prisons for Scotland (2008)

Subject Matter	Complaints Received by Subject Matter	Within Jurisdiction
Access to Rules	1	1
Amenities	3	3
Bullying	3	2
Canteen	4	4
Clothing	2	2
Compassionate Leave	3	2
Complaints System (CP)	7	6
Computers	9	9
Downgrading	16	11
Drug Testing	2	2
Education	3	3
Exercise	1	1
FOI Requests	2	2
Food	2	1
Home Detention Curfew	4	3
Health & Safety	2	1
Home Leave	1	1
Legal Correspondence	2	2
Liberation Date	2	2
Location	42	30
Mail	4	3
Mandatory Drug Testing	2	1

Subject Matter	Complaints Received by Subject Matter	Within Jurisdiction
Medical Treatment	23	7
Operations	7	2
OR Proceedings	31	20
Outside Placements	1	0
Parole Matters	2	1
Phone Calls	8	5
Physical Environment	2	2
PPC	7	6
Prisoner Records	2	1
Privileges	6	6
Programmes	4	4
Property	31	25
Regime	15	10
Religion	2	0
Removal from Association	3	3
Security Category	1	0
Sentence Planning	2	0
Social Work Matters	1	0
Staff	13	11
Staff Treatment	2	1
STOP Programme	3	3
Strict Escapee Status	1	1
Strip Searching	3	3
Supervision Level	1	1
Transfers	1	0
Visits	21	11
Wages	10	9
Work	4	3
TOTAL	**324**	**228**

Table 7.2: Complaints received by subject matters between 2007-08
Source: Scottish Prisons Complaint Commission (2008)

There are three possible outcomes after the SPCC investigates a prisoner's complaints. Firstly, SPCC does not find in the prisoner's favour. In these cases, SPCC will write to the prisoners explaining why the decision was made. Secondly, for complaints that can be resolved at local level, SPCC will contact governors, managers and staff of the prison. Lastly, SPCC will make a formal recommendation to the Chief Executive of the SPS who must respond to that recommendation within 28 days. SPCC will also contact the prisoners and inform them of recommendations made and their outcome (SPCC 2008). Table 7.3 shows the results of cases

management in the most recent years. Out of 228 cases within jurisdiction, 29.82% (68 cases) were closed with conciliation results while 39.03% (89 cases) were resolved at establishments with no further recommendations. For the year 2007-2008 no case received formal recommendation from SPCC and 17.98% (41 cases) were still under investigation. These recent statistics implied SPCC's problem-solving approach which attempted to find resolutions at the establishment level and included all the parties involved.

Results of cases management	Number of cases
Conciliated	68
No recommendation	89
Formal recommendation	0
Withdrawn by prisoner	30
Outwith jurisdiction	96
Files awaiting outcome	41
Total	324

Table 7.3: Results of case management 2007-08
Source: Scottish Prisons Complaint Commission (2008)

7.2.3 Scottish Public Services Ombudsman

Another accountability mechanism that was developed during the NPM era is the creation of the Scottish Public Services Ombudsman (SPSO hereafter). It was established by Scottish Public Services Ombudsman Act 2002 to replace the Scottish Parliamentary and Health Service Ombudsman, the Local Government Ombudsman for Scotland and the Housing Association Ombudsman for Scotland[63]. The main responsibility of SPSO is to investigate complaints about organisations providing public services in Scotland. The process of SPSO is similar to that of SPCC. The SPSO deals only with complaints that have exhausted the internal complaint procedures of the organisations concerned. The investigation is conducted by

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[63] At the time this thesis was revised, the SPCC was abolished in 2010 and incorporated into the SPSO.

collecting and examining evidence through 'seeking written answers to questions', 'interviews', 'getting copies of documents', 'site visits' and 'taking expert advice (for example on clinical issues)'.

The Scottish Public Services Ombudsman Act (S12 & S13) requires that the SPSO's investigations be conducted in private, and that SPSO should give an opportunity for the organisation to comment on the allegations that led to the complaint. If the complaint is within jurisdiction, the aggrieved persons and the organisations that the complaint is related to, will be informed about the complaint and the outcome. As a public organisation, SPS is subject to an investigation by the SPSO when there is a complaint against it. An important case relating to the custody of prisoners is the complaint against Reliance Custodial Services (RCS), the provider of prison escort and transfer for the SPS (Case Number 200503484). The complaint alleged that Reliance used 'excessive security in an already secure environment and failed to carry out a full risk assessment on premises that a prisoner was escorted to'. In this case, SPSO recommended that

> 'The Ombudsman recommends that the Service ask RCS to apologise to *Mr A* for not conducting a risk assessment for the visit on 31 January 2006 which led to an inconvenient visit and caused *Mr A* to complain.
>
> The Service and RCS have accepted the recommendation and will act on it accordingly.'

The recommendation of the Ombudsman implied that accountability of the prison services was not limited to only the 'principle' (SPS) but also to be borne by the 'agent' (private contractor). Even though the services were contracted out, the accountability of such services was still borne by SPS as the contract owner. Also, its private agent need to be accountable for a certain degree as specified in the contract. Anyway, this case was the lesson learnt for the Headquarters and prison establishments in terms of accountability, service agreements and service improvement (my research note).

7.2.4 Informal accountability

What I wish to raise here for future discussion are informal accountability mechanisms for the prison service. While discussions on formal accountability mechanisms are available in the published literature, discussions of informal mechanisms are not. In this NPM era, the SPS not only faces formal mechanisms but it also encounters informal scrutiny. Recent years witnessed the increasing importance of the media in *'inspecting'* , *'assessing'* and *'reporting'* the SPS's performance. News about prisons, especially the private prisons, is generally not good news. *'Slopping out',* for example, is among the issues that attracted the media's attention most often.

> Electrical spotlight is on you! When I first came here, sadly there was a newspaper article every week, about the 'Killy Hilton' [Kilmarnock is known colloquially as 'Killy'] and also something else. There was also a political spotlight. We were the only private prison [at the time] although there's another private contractor now, Alliance, and that eases the pressure. A second private prison coming on board should ease the pressure further. (Interview, Kilmarnock's Senior Manager, 1 May 2007)

7.3 The prison service and accountability: the SPS's response

The aim of this section is to tackle the third question: *how does the SPS respond to accountability mechanisms in terms of its policy and practice?* Results from documentary analysis and from interview materials confirm that the SPS has initiated new policies and operations in response to feedback, comments and recommendations from the external accountability mechanisms discussed above. My discussion in this section covers three key developments: the response to HMIP's recommendations; the launch of Prisoner Supervision System; and the establishment of internal mechanisms to enhance accountability.

First of all, the examination of the SPS's response to the recommendations of the HMIP demonstrates that during the last twenty years, the SPS has positively responded to the recommendations of the inspection agencies by launching necessary policies (such as the policy to deal with 'slopping out') to improve the quality of its services (see Table 7.4). The 2005-2006 report of HMIP (2006a) highlighted the

SPS's response in four key areas: overcrowding; children in prison; prison food; and drugs. In relation to prison food, for example, HMIP reported that 'the main thrust of improvement in recent years has been in relation to quantity and quality, especially at the point of delivery as prisoners have highlighted these as more of a concern than nutrition. The most recent prisoner survey results will be used by Catering Managers to improve diets and the 'Good Food Group' consisting of representatives from both within and outwith the SPS continues to consider how best to improve prisoner food and diet'. This implies that the use of such business-like approaches as decentralisation and customer orientation has the potential to improve the quality of service. As for drugs prevention and suppression, the report revealed that 'while there is an equal determination in the Service to prevent drugs entering, there is also a commitment to offer appropriate treatment services for those prisoners wishing to engage positively. The introduction of the Enhanced Addictions Casework Service (EACS) in August 2005 offers individual interventions tailored to specific population groups'. These quick responses resulted in a compliment from the HMIP as presented earlier.

Inspectorate Issues in HMIP Annual Report 2005-2006	SPS's Responses
Overcrowding	The SPS signed a contract earlier this year for the construction of a new prison in Addiewell, West Lothian. SPS are also seeking to build a new prison on the existing site of HMP Low Moss and await the outcome of a planning inquiry. New 'fit for purpose' accommodation has been built on time and within budget at HMP Edinburgh, HMP Glenochil, HMP Castle Huntly and HMP Cornton Vale.
Children in Prison	The vast majority of those under 16 who enter prison, do so for a very short period until suitable local authority accommodation can be found. There are however, exceptional circumstances whereby it is deemed that prison is the most appropriate location in which to locate a child. When such circumstances arise, the child will normally be located in HMYOI Polmont where there is a dedicated facility committed to meeting the needs of these very vulnerable young people.

Prison Food	The issue of prison food is one which SPS takes very seriously. The main thrust of improvement in recent years has been in relation to quantity and quality, especially at point of delivery as prisoners have highlighted these as more of a concern than nutrition. The SPS considers that gradual improvements from nutritional and other perspectives are the most sensible approach. This approach also avoids wasting resources. The most recent prisoner survey results will be used by Catering Managers to improve diets and the 'Good Food Group' consisting of representatives from both within and outwith the SPS continues to consider how best to improve prisoner food and diet. The figure of £1.57 no longer applies corporately and establishments now have some scope to set their own food expenditure within their overall budget.
Drugs	Drugs are recognised as a problem within prisons as they are a problem in society. The majority of those admitted to prison have an addiction problem. SPS are committed to preventing the introduction of drugs, however where there are a minority of prisoners with a will and determination to take illicit drugs, they inevitably find ways of securing a supply even while in prison. A balance must be struck in ensuring that prisoners have the right opportunities to challenge their offending behaviour and to prepare for release. While there is an equal determination in the Service to prevent drugs entering, there is also a commitment to offer appropriate treatment services for those prisoners wishing to engage positively. The introduction of the Enhanced Addictions Casework Service (EACS) in August 2005 offers individual interventions tailored to specific population groups.

**Table 7.4: SPS's Responses to HMIP's Recommendations
Source: HM Inspectorate of Prisons for Scotland (2006a)**

The relatively positive reports by the HM Inspectorate for Prison (as shown in Chapter 6) on Kilmarnock in recent years are evidence that reflects the SPS's success in working with the private sector to deliver prison services. This contrasts with the views of Frederickson (2005:178), who has said that 'it is my prediction that in 2008 this ancient saying will have come to pass: Today's problems were caused by yesterday's solutions. The managerialism recipe-deregulation, privatising, downsizing, and market competition – will make a dish that will spoil and become the problems of 2008, and these problems will be primarily ethical'. The year 2008

has now passed, and it should be noted that there has been little controversy over effects of the new managerialism in Scotland. The only negative impact on the SPS in recent years came from politicians when the SNP Government declared that it was opposed to private prisons. In any event, one preventive strategy of SPS to deal with potential criticisms was to educate the public and promote a better understanding of prison management in particular in the areas where the public have relatively limited knowledge for example the management of private prison, prison contracts and key administrative processes. Below is an example of SPS's policy on public procurement which was available on its website:

> **Procurement Ethics**
> The Civil Service Code and SPS internal policies establish clear guidelines regarding the values and standards of behaviour expected from civil servants. For example, individuals within SPS should act with 'integrity', 'honesty', 'objectivity' and 'impartiality'. These overarching values and standards apply to all SPS staff including those engaged in procurement projects and managing any resulting contractual relationships with suppliers.
>
> SPS expects suppliers to maintain and conduct its activities with SPS to similar ethical standards. (SPS 2007b)

In 2002 the SPS introduced the Prisoners Supervision System (PSS) to ensure that the management of prisoners in every Scottish prison is operated with efficiency and effectiveness. Available for public access, the SPS announced on its website that the PSS would help to enhance the effectiveness of sentence management of each prisoner[64]. It is also expected that the system would promote the *acceptable* behaviour of prisoners. Moreover, 'these changes will help redress the balance towards Lord Mountbatten's recommendation that individuals be held in the least restrictive conditions which are appropriate. Another outcome will be a high

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[64] The SPS announces that "the integration of the Prisoner Supervision System into the Sentence Management process provides a single cohesive system by which the SPS may manage prisoners through their sentence. PSS is designed to motivate the individual to demonstrate acceptable behaviour patterns and address identified needs. The Management Rules will enable consideration of prisoners serving a sentence of 18 months and over for access to 'top-ends' and open prisons at the earliest stage of their sentence at which preparation for release is appropriate. In the interim the separation of internal supervision level from external escort security considerations permits recognition of an individual prisoner's achievements by the granting of enhanced autonomy within a secure perimeter, regardless of sentence length". (SPS 2008f)

proportion of the prisoners being subject to Low Supervision arrangements while they are in closed establishments'. In a way, this new mechanism acts as another mechanism that encourages transparency of prison management and treatment of prisoners. It allows the public to have better understanding of what exactly the SPS does with prisoners and helps to monitor the SPS's operations which previously were hidden behind high walls.

I wish to argue that the aims of PSS reflect the influence of managerialist ideology (Appendix Nine). Such key discourses as 'effective management', 'fair and transparent' management and 'resource allocation' can be found throughout the document. The key elements which comprise (1) the Assessment Rule, (2) the Management Rule and (3) Integration with Sentence Management mirror the 'systematic' arrangement of prisoner treatment from admission to release. The Assessment Rule requires each prison to classify a prisoner to one of three levels: High Supervision; Medium Supervision; and Low Supervision. Each prisoner is assessed against ten criteria.[65] The Management Rule, on the other hand, focuses on the management of prisoners based on the length of their sentence: long-term and short term prisoners.   In addition, SPS recognises the need to take the results of Risk and Needs Assessment for Sentence Management into account when assessing the supervision level for each prisoner.

Last but not least, in order to enhance external accountability; the SPS has developed its own internal accountability mechanisms, including its strict policy on contract inspection and monitoring and the development of the Prisoner Survey (as discussed in Chapter 5). For the former, what I wish to argue is that the use of Key Performance Indicators (KPIs) in the inspection and monitoring process of contract management contributes to the improvement of the services provided. According to

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[65] Ten criteria are: (1) Within 12 months of commencing a sentence of 4 years or over for serious violence (including murder and sexual offences) or drug related offences?; (2)Previous history of serious violent offending within past 3 years?; (3) Means and willingness to escape now or on admission have a history of such behaviour?; (4) Means and willingness to organise serious indiscipline, (including drug dealing)?; (5) Previous involvement in violence or fear-inducing behaviour (in prison) within the last year?; (6) Current substance abuse?; (7) Significant psychiatric / psychological history within the past year?; (8) Serious outstanding charges?; (9) Impulsive behaviour now or in the past year?; (10) Indication of any vulnerability in present location?

Genders (2002:296), 'contractual arrangements enable the specification of standards of service against which performance can be measured and action taken in the event of non-compliance'. Each year the SPS will reassess and readjust its KPIs so that they reflect the SPS's vision, mission and responsibility. Obviously, current KPIs from the year 2005-2008 (as shown in Table 7.3) reveal the focus of the SPS on public safety (measured by escape and reoffending), prison orders (measured by assaults), the problem of 'slopping out' (measured by access to night sanitation), and rehabilitation (measured by prisoner outcomes). Prisoner Outcome, for instance, gradually becomes recognised as key policy goal as the SPS moves towards a customer-oriented business. The current SPS Director stated that 'prisoner outcomes are not just offending ones but they relate housing, physical health, mental health, drugs use, family relationship, employment and qualifications' (Interview, Current SPS Director, 25 July 2007).

Key Performance Indicators	2005-06 target	2006-07 target	Targets 2007-08
Average number of prisoners provided for (not KPI)	6,800	7,000	7,200
Escapes: extreme risk	0	0	0
Escapes: others	<=6 (pa)	≤ 6 (p.a.)	<= 6
Serious assaults: prisoner on staff	<= 12	≤ 12	<= 12
Serious assaults: between prisoners	<= 74	≤ 74	<= 74
% of prison places with access to **night sanitation**	93%	94%	95%
Average annual **cost per prison place**	£35,000	£35,000	£36,000
% of Integrated Case Management case conferences with social work contributions where needed	-	85%	85%
Offender Development Hours of completed programmes and approved activities	80,000	80,000	80,000
Offender development hours	1.3m	1.5m	1.5m
*No of work skill qualifications gained	4,800	8,500	10,000

*Offender Outcomes			
*Improved literacy skills	-	-	75%
*Employability prospects increased	-	-	7%
*Reduced substance misuse	-	-	20%
*Reducing Re-Offending *Return to custody (not KPI)	(2002 cohort) overall figure 48%; of which males 49%, females 39%	-	(2003 cohort next to be measured)

* denotes new measure

Table 7.5: Key Ministerial Targets
Source: Scottish Prison Service (2009c)

For the management of contracts, both public and private, I argue that contract inspection and monitoring mechanisms are vital to not only the success of SPS in meeting the established targets as specified in the contract but also to achieving the goals of correctional excellence and value for money. Harding (1997) calls this a 'contract-based accountability' which is managed by the supervising agency with no formal statutory support. The use of the inspection and monitoring process as accountability mechanisms is two fold: to ensure that the contract is not breached and to improve standards (as discussed earlier in Section 7.2). In order for these mechanisms to function properly, the contract itself needs to be clarified and understood by the parties involved (Interview, SPS's Senior Manager at the Headquarters, 17 May 2007).

What inspection and monitoring mechanisms expect is contract compliance. Eric Murch, the Director of Partnership and Commissioning, acting as controller, described how he cooperated with the Director of Prisons, who acts as a service provider, that

> 'The point of the contract is to give those business decisions a place in contracts and to make sure that the service is delivered, the KPI is delivered and the co-worker is delivered. Things needed to be put into the contract and then we measured them up as we had a monthly meeting namely a contract liaison meeting. There was a robust process. We did same to both public prisons and private sector providers' (Interview, Current SPS Director, 3 July 2007).

The one thing, however, that does not appear in the public contract is the penalty for breaching the contract (Interview, Former SPS's Governor and Director, 11 May 2007). This demonstrates the different accountability level borne by the public and prison prisons.

> 'If you were going to have the purity of the model, you would have to have penalties for the public sector. But the difficulty with that is you penalising yourself!' (Interview, Current SPS's Senior Manager, 17 May 2007)

The other internal mechanism developed was the Prisoner Survey. As indicated in Chapter 5, the survey not only reflects the SPS's efforts to serve its customers, but it also can be viewed, I argue, as a mechanism to reduce prisoners' complaints to HMIP and SPCC. The Prisoner Survey is a proactive measure for identifying prisoners' needs, obtaining feedback and dealing with issues in advance through policy and operational developments before problems occur.

In summary, most of the common criticisms of the prison system in the NPM era revolve around prison privatisation issues especially in terms of the ethics and accountability of private prisons. However, in Scotland, this issue is not as serious as in other jurisdictions (see Frederickson 1999, 2005; Genders 2002) as indicated by the positive reports from a range of inspection agencies. One of the contributing factors that protects the SPS from ethical issues is the fact that it has developed a number of internal accountability mechanisms (such as transparency policy and Prisoner Survey) and also utilised its resources, especially staff and technology (website), to communicate with prisoners who are its primary clients. Based on my findings from Scotland's experience, therefore, I wish to argue that the NPM itself does not create any problem of ethics and accountability.

CHAPTER 8

CONCLUSION

8.1 Summary of the research

This research builds on the pilot project that was carried out in late 2005 and early 2006. The main aims of the pilot project were to explore prison management and prison privatisation issues in England and Scotland, and to help identify the research that was needed in this area. I was particularly interested in the relation between prison management and the reform of public sector in the UK. However, when looking at the published literature, previous studies in this area were very limited. My primary question at the start of this study was how much the prison service, as an agency in the public sector, has been affected by managerialism since the late 1980s. The main goal of this research is to demonstrate how prison management in the last two decades has been influenced by the so-called *new public management* (NPM).

As presented in Chapter I, my journey began with the exploration of the current condition of prison service organisation. The Scottish Prison Service (SPS) was used as a case study for this research. Its penal policy, vision and mission, organisational structure and relevant management issues were examined. This was aimed at describing the anatomy of the 21st century prison service before exploring the history of Scottish prison management.

In Chapter 2, the literature on NPM and prison management were reviewed. Available evidence suggests that prisons have unfortunately been left out of the discussion of NPM until very recently[66]. Most of the NPM literature focuses on the reform of education and health care. In this chapter, I discussed and quoted at length from Christopher Hood's (1991) work, *A Public Management for All Seasons?* This is because his work gave rise to the term *new public management* and informed

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[66] Subsequent to the present research, Alison Liebling, Ben Crewe, Susie Hulley and Clare Mclean's current research on *Values, practices and outcomes in public and private sector corrections*, funded by Economic and Social Research Council (ESRC) and started from 2007 to 2009, deals substantially with prison development in terms of values and practices in relations to the evaluation of prison performance in NPM era.

debate in this area. Hood's (1991) article was used in this research as a framework for exploring the significance of NPM and its influence on the management of public services in the UK.

After contextualising the relation between NPM and prison management and with the intention of filling this gap in knowledge, Chapter 3 outlines three principal research questions: (1) *to what extent has managerialism had an influence on prison management?; (2) what does managerialism in the SPS look like?; and (3) how has the SPS approached 'New Public Management' (NPM)?* These questions aim to describe and understand the influence of NPM on prison management in Scotland and also to examine the response of SPS to this new approach.

The methodology used in the present study was explained in Chapter 3. Given the nature of the research questions and objectives, a deductive approach was employed as the principal means of finding answers to those questions. Previous proposals and arguments (i.e. Harding 1997; Hood 1991; Liebling 2004; Walsh, 1995) were tested against the empirical evidence from the SPS case. The rationale behind the selection of the SPS as a case study was mainly the ease of access and its manageable scale. As a staff member of the Department of Corrections of Thailand, I had known some SPS staff personally for some time prior to the commencement of this study research. This connection helped during the data collection process. Moreover, during the past two decades, the SPS has changed dramatically in terms of the management of its prisons. For instance, between the end of 1980s and the early 1990s, many significant prison policies were launched to reform its prison management. In the late 1990s, the first private prison in Scotland was established to create some *competition* in the management of prisons in Scotland. Scottish devolution also affected the SPS in terms of its political and public accountability. All these significant changes made the SPS an interesting choice for study.

Documentary research and individual semi-structured interviews were the key methods for data collection. In addition to academic literature, secondary data were collected from published policy papers, annual reports, and online documents. The

primary data for this research were collected from the semi-structured interviews. The interview questions were drafted as a guide but were used very flexibly. At the pre-test stage, I asked Dr. Jim Carnie, Research Manager of the SPS, to look at each item and comment on its validity. The interviewees were selected from three professional groups − (1) policy makers, (2) civil servants, and (3) academics and outsiders, all of whom needed to have knowledge of the SPS. Out of 38 invitations, 21 persons agreed to be interviewed. Each interview lasted approximately one hour. Data analysis in this research was similar to other qualitative research, such as Gulland (2007), which was based on identifying themes and categorising patterns of data collected from interviews and literature reviews. The interview data were transcribed selectively. Only relevant data were used in the analysis.

In general, this research attempts to explore the relationship between *prison management* and *NPM* (or *managerialism*). Throughout the study I demonstrate how the former has been influenced by the latter. At the macro level, prison policies and discourses were examined. At the same time, at the micro level I examined the market mechanisms and the 'business-like approach' used in the delivery of prison services. The findings are summarised below.

8.2 The influence of managerialism on prison management

Based on the analysis of relevant documents and the interview material, I have come to the point of being able to address the answers to my research questions. As for the extent which NPM has influenced prison management in Scotland which is the first question for this research, I conclude that the NPM scheme has had an impact on the SPS in two significant dimensions: prison policy discourses and operational management. The influence of NPM on the former is demonstrated in Chapter 4 where I argue that the focus of prison management has moved beyond the traditional purposes of prison to embrace specifically managerial aims. The influence of NPM on the latter is shown in Chapter 5 and 6 where I reveal the use of a 'business-like approach' to running Scottish prisons, in particular decentralisation, contractual management and a focus on customers. These market mechanisms are not a Scotland's unique innovation but are, rather, the products of policy transfer. They

have developed gradually from the early 1990s to the present. Nevertheless, they arose and were applied in the specific circumstances then prevailing in the Scottish prisons, to which they were seen at the time by the key actors as a valid response. Like all instances of policy transfer, they have 'naturalized' with the local conditions (Newburn and Jones 2004), producing a Scottish outcome with some distinctive features. These developments must also be interpreted in light of particular political circumstances, such as the advent of devolution.

For the second and third question, *'what does the development of managerialism in the SPS looks like?'* and '*how has the SPS approached NPM?*, the evidence suggests that the SPS, like other public services, has adopted NPM without incurring any significant resistance from management or staff. Despite the rough start in the late 1980s and 1990s, when the SPS faced a number of serious hostage-taking incidents and struggled to find a new set of prison policies, the development of managerialism in the SPS has been relatively peaceful and continuous, resulting in the extensive use of managerial mechanisms in prison management, in particular the adoption of contracting to establish Service Agreements (SAs) for public prisons.

8.2.1 Discourse dimension

The 'discourse matrix' presented in Chapter 4 confirms my argument that prison policy in Scotland has moved in the direction of managerialism. The growing influence of NPM can be seen in SPS policy papers and annual reports. The *'end discourse'*, which asks *what prisons are for*, has expanded from emphasising control, normalisation, and rehabilitation, which were presented in *Custody and Care*, *Assessment and Control* and *Opportunity and Responsibility*, to embrace managerial ends like excellence, efficiency and value for money, as shown in *Vision for Correctional Excellence*, *Estate Review* and *SPS Service Agreements*. On the other hand, the *'means discourse'*, which asks *how prisons should be managed*, has shifted from a traditional bureaucratic approach to the use of 'business-like' approaches, e.g. contracting out and customer orientation, for managing Scottish prisons. This movement, as I argue in Chapter 4, largely results from both internal and external

pressures including prison order problems, overcrowding, 'slopping out', political pressures and public scrutiny.

The development of prison discourses, however, is not a linear one. Although managerialist ideology dominates both *'ends discourses'* and *'means discourses'*, I argue that the original, traditional ends and means have not totally disappeared. The publication of *Health Care Standards*, *Suicide Risk Management* and *Inclusion Policy* maintain the focus on *control* and *normalisation* by using a combination of bureaucratic and managerialist approaches. This demonstrates that the use of a 'business-like' approach does not entirely replace traditional concerns. This might be simply because the SPS is still a public organisation with a long history of public sector management. Its bureaucratic values and culture are deeply rooted not only in the organisation but also in the staff who manage the system.

Another point that I wish to highlight is the fact that the lines between *'end discourses'* and *'means discourses'* have become blurred during the NPM era. This is because both focus on managerialism. The *'end discourse'* language in *Vision for Correctional Excellence*, as presented in Chapter 4, emphasises the significance of excellence in prison business as a goal of the SPS. The means to achieve this goal, as the *Vision* suggests, resemble the private sector's approach. This is an example of how managerialism has influenced *'end discourse'* as well as *'means discourse'* and blends the two together.

8.2.2 Operational dimension

The change in prison discourses as a result of NPM led to experiments with 'business-like approaches to the management of prisons. A significant milestone was the establishment of Kilmarnock, the first private prison in Scotland, in the late 1990s. The rationale behind this development was, I argue, that the means for achieving what prison is for are no longer restricted to a bureaucratic way of doing things. Rather, with the impact of NPM, the prison service has been exposed to a series of management choices most of which have been borrowed from the private sector.

The market mechanisms discussed in this research − devolved control, contractual management and the focus on customers − are evidence to support my argument that the SPS has been keen to use a business-like approach in the management of prisons during the last twenty years. I also wish to argue that this development does not stop here. Although the SNP Government is clearly opposed to private prisons, its policy on the management of the Scottish prison system is still likely to employ one of those 'business-like' techniques as suggested in the SPS's recent framework document.

8.3 The importance of ethics and accountability

In Chapter 7, I argue that, when the SPS decided to embrace business-like mechanisms for the management of its prisons, this inevitably led to closer scrutiny and more accountability measures in addition to those which had been developed when it was a traditional public service organisation.   These accountability mechanisms are intended to promote good governance of the SPS. In this research I focused on three key *administrative mechanisms* − Her Majesty Inspectorate of Prisons for Scotland, Scottish Prisons Complaints Commission and Scottish Public Services Ombudsman.

These mechanisms, I argue, are vital aspects of prison management in the NPM era as their common goal is to ensure that the SPS delivers its services in an optimal manner. The SPS can benefit from these mechanisms in that their guidance and feedback can help improve quality of service. Accountability mechanisms assure the public that the service provides 'value for money' and safeguards them from malpractice by the SPS that, at the end of the day, promotes public safety. The implication of my argument is that NPM has contributed to the improvement of the public services not only from an economic perspective but also through its ethical stance. The accountability measures that have been put in place reflect the attempt to 'control' the quality of services, 'prevent' misconduct and 'promote' good governance.

The claim that private prisons are less accountable than public prisons is not borne out in this research. I argue that private prisons in Scotland are equally accountable, and definitely not less accountable, than their public counterparts. When the SNP won the general election in 2007 and formed a minority Government, penal policy towards private prisons shifted dramatically and put private prisons under much closer scrutiny. Private prisons are also informally monitored by the media and the public. Once there is an escape, suicide or misconduct in private prisons, it invariably catches the attention of the media. A news report of this type often emphasises the location of the incident by highlighting the term '*private*' instead of simply mentioning the prison. These formal and informal accountability mechanisms are evidence to support my argument which is detailed in Chapter 7.

8.4 Overall performance

In general, it is fair to conclude that the 'quality' of prison services in Scotland during the past twenty years has improved. Such problems as 'slopping-out', safety and order, limited access to rehabilitative programmes and healthcare service and overcrowding have been professionally dealt with. As presented in Chapter 6 and Chapter 7, the reports of HMIP during the past twenty years recognise the development of prison estates, prisoners' living conditions, prisoner treatment and even the use of business-like approach for management of public prisons. Although the reports of the Chief Inspectorate suggest that the SPS's response to his recommendations was at 'satisfactory' level, the standard of service is still a concern for HMIP. The classic issues of SPS such as accommodation spaces, access to some programmes and drug problems are still under scrutiny.

Beside the use of prisoner survey as a tool to evaluate the 'quality' of the services (as presented in Chapter 5), prison complaints can also reflect the SPS's performance. At the face value, the higher the number of prisoners' complaints, the more likely that the services provided are unsatisfied. With reference to the latest statistics on prisoners' complaints presented in Chapter 7, Chart 8.1 was drawn to highlight changes in the number of prison complaints over time. From 1995 to 2008 witnessed the swing of the prison complaints with a relatively stable era from 2000-2005.

When the number of prisoners reached its peak in 2006, the number of complaints also went up to the highest point ever. The good sign, however, is the reduction of prison complaints since 2006. From a peak of 460 complaints in 2006, the number of complaints fell to 403 in 2007 and 324 in 2008. As for the complaints within jurisdiction, the number of complaints likewise3 went down significantly from 363 in 2006 to 298 in 2007 and 228 in 2008. Based on the aforementioned assumption, and in the absence of any evidence to suppose that complaining has become more difficult, this chart implies that the reduction in prisoners' complaints tends to suggest an increase in the quality of prison services.
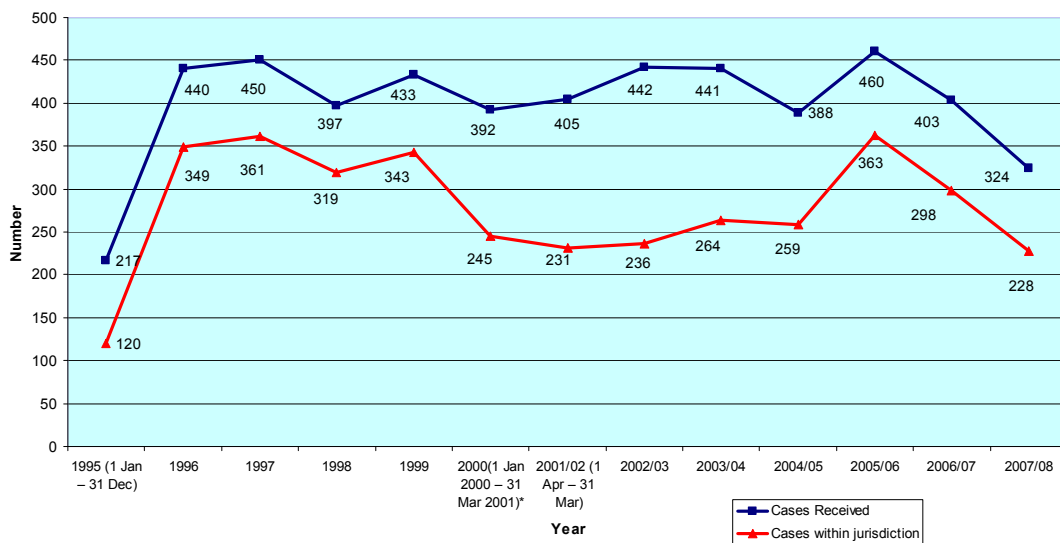
Figure 8.1: The Number of Prison Complaints from 1995-2008
Source: HM Inspectorate of Prisons for Scotland (2006, 2008)

The SPS's performance in managing prison safety and order as well as prisoner treatment can also be viewed through the number of prison suicides over time. Bird (2008) studied the change in male prisoners' suicides from 1994 to 2003 and the findings indicate that the total number of suicides decreased over time. Despite the decline in the overall number of suicides, Table 8.1 shows that the number of suicides in the 15-24 age group increased at a higher rate than in other groups. Bird (ibid.) suggests that 'their vulnerability was addressed by the Scottish Prison Service's changes in how addictions and the identifying of suicide risk are dealt with on reception into prison, and by remedying deficiencies in younger prisoners'

induction and their lack of activities or occupation on remand' (2008: 448). I wish to point out that the data for this study were collected before the review of ACT&Care in 2005 which changed the way in which suicide risks were identified in prison (as mentioned in Chapter 4). Future studies might need to investigate how the new policy, *ACT2Care* which replaced ACT&Care, has affected prison suicides and prisoner treatment in the 2000s.

Age group, years	Prison suicides 1994-1998		Prison suicides 1999-2003	
	Prisoner on remand/untried	Total	Prisoner on remand/untried	Total
15–24	15	19	17	21
25–34	12	23	8[a]	17[a]
35–44	4	9	2	6
45+	2	6	6	7
Total for all ages	33	57	33	51

a. Status undetermined for one prisoner, eight known to be convicted

Table 8.1: The Number of Prison Suicides from 1994-2003
Source: Bird (2008)

Last but not least, the quality of prison safety and order, which are the key thrusts of the prison service, are reflected by the number escapes, serious assaults on staff and serious assaults on prisoners. Again, as a rule of thumb, we might take a higher the number of escapes and serious assaults to signify lower effectiveness in respect of prison custody and order. The analysis of the data from the Annual Reports and Accounts of the SPS for 2007-2008 reveals the relatively positive outputs of the prison service (Figure 8.2). In terms of escapes, the number reached its peak in the year 1999-2000 when there were a total of 23 escapes across the jurisdiction. After that, the number was relatively stable over time with no escape in the most recent years. For serious assaults on staff, the number has gone up and down. The worst situations were in 1999-2000 and 2002-2003 when the number of assaults went up to 25 and 29 respectively. On the other hand, serious assaults on prisoners seem to have decreased over time. The highest number was in 1999-2000 when there were 239 cases were recorded. The number, however, has gone down since 2002-2003.

The number of cases dropped to 68 in 2007-2008. In conclusion, the general trend of these safety and order indicators is to decrease-that is to say, an improvement-over time. Although there are issues that needed to be dealt with individually, the statistics imply that the SPS's attempts to enhance security and safety while promoting prisoners' access to treatment and programmes have met with some success.
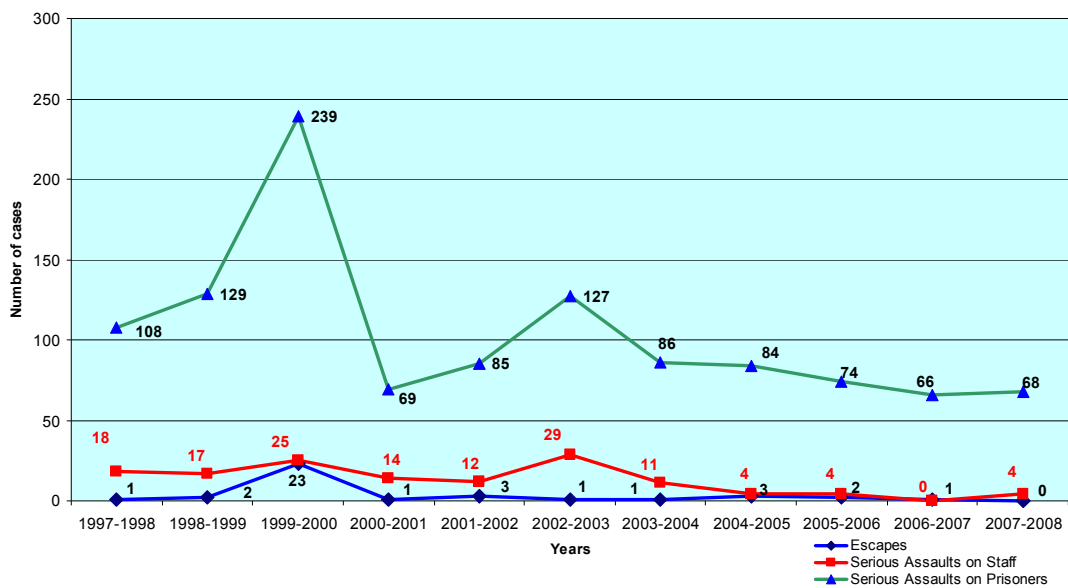
Figure 8.2: The Number of Escapes, Serious Assaults on Staff and Serious Assaults on Prisoners from 1997-1998 to 2007-2008 Source: Scottish Prison Service (2002b, 2006a, 2008a)

8.5 Contribution made by this research

What the present research adds to existing knowledge in the field is that it provides empirical evidence of the influence of NPM on prison management over the past twenty years. As mentioned in Chapter 2, there have been a relatively limited number of studies on how prison management has been changed as a result of the introduction of NPM. Most of previous studies have tended to discuss the experience of health and education. The present research partly shares the same interest with Liebling's (2004) book *Prison and their Moral Performance: A Study of Values, Quality, and Prison Life* in that both touch on the significance of managerialism on the *late modern* prison. While Liebling (2004) focuses on the

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changing values of prison staff and prisoners during a period of rapid modernisation, this study set out to examine changing policy discourses and management mechanisms.

In Chapter 4, I argue that prison policy discourses in the last two decades have changed and have adopted a managerialist ideology rather than the traditional penal ideologies. A 'discourse matrix' was developed from the original model proposed by Adler and Longhurst (1994). It can be used as a framework to examine prison policy in other jurisdictions or indeed across the public services more broadly. In this research it demonstrates the influence of managerialist ideology on prison policy in Scotland especially after devolution. Drawing on the language used in policy papers, annual reports and the interviews with policy makers, terms such as *efficiency*, *effectiveness*, and *value for money* tend to have been put in the spotlight while *rehabilitation*, *deterrence*, and *incapacitation* seem to have faded away. This finding confirms Liebling's (2004:23) view that:

> Critics argued throughout the 1990s that managerialism was displacing older normative concerns and ideals in criminal justice and in prisons in particular. It represented a departure from an 'old way of life': the welfare state compromise between capitalism (the free market) and socialism (public provision through the state), the ameliorative aspirations of many public institutions, including the prison and an ethos of 'public service'.

The use of market mechanisms in prison management in Chapter 5 is the main contribution of this research. It builds on Kieron Walsh's (1995) exploration of the use of business-like tools in the public sector during the 1980s and early 1990s. Previous literature has never really looked at the use of market mechanisms in prison practice. Most of the literature has overstated the privatisation of prisons which, I argue, is only one piece in a large jigsaw puzzle. I have demonstrated and discussed at length the ways in which competition, contracting, decentralisation, and customer-oriented policy were introduced into the management of Scottish prisons without any significant resistance from management and staff. This, I argue, implies a positive response on the part of SPS towards the managerialist route which has dominated the public sector since the late 1980s.

8.6 Future study

My main focus has been on the influence of managerialism at the organisational level. Data were collected from the interviews with the Chief Executive, senior directors and prison governors who were directly involved in the policy making process. Unfortunately, feedback from prison staff in local establishments was not included in this study. It is likely, I assume, that these staff have been affected by the whole managerialist reform as much as the organisation as such. Prison officers as service operators are now being monitored closely and their performances are being measured. Moreover, their daily regimes have to conform to the contract which their governor signs with Headquarters. It would therefore be interesting for a future study to investigate the influence of managerialism on operational prison staff.

The present research focuses on how prison management in Scotland developed from the late 1980s to 2007. However, since my data collection process finished, there have been significant developments in prison policy in Scotland. These policies were either introduced after I finished data-collection or fell beyond the immediate scope of this research in terms of topic. Among the most significant were the creation of Community Justice Authorities (CJAs) under the National Strategy for the Management of Offenders (NSMO) which came into force in March 2006[67] and the establishment of Scottish Prisons Commission (PC) which was established in September 2007 and produced its report − *Scotland's Choice* − on July 1, 2008 containing 23 recommendations [68]. Given time limitations, it was not possible for the present research to include the influence of these developments on the SPS. Future research may wish to explore the effects that they have had on the SPS, especially in

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[67] The NSMO is reviewed every 3 years. The first strategy covered 2006-2008 and the present three-year strategy covers 2008-2011.

[68] See *Scotland's Choice*, Report of the Scottish Prison Commission, July 2008. The recommendations cover variety of areas concerning the use of imprisonment in Scotland. For instance, imprisonment should be reserved for 'serious' offenders; 'paying back in the community' should be used with 'less serious' offenders; the government should extend 'the types and availability of effective alternatives to prosecution'; the government should establish National Sentencing Council (NSC) to develop clear sentencing guidelines; the National Community Justice Council (NCJC) should be established to lead a new Community Supervision Sentence; the Community Supervision Sentence should be used instead of 6 month or less imprisonment sentence; the Open Prison Estate should be used to prepare and train prisoners before release-not to ease prison overcrowding; and the government should pursue a target of reducing the prison population to an average daily population of 5,000.

terms of prison policy, as the SPS is now facing a new challenge of prison management as a result of *Scotland's Choice* report which clearly recommends what prison is for and how it should be run in the 21ˢᵗ century. According to Armstrong and McNeill (2009)'s work, it examinees and takes into account a connection between penal policy, prison populations and national well-being considers, a separation between questions about the purpose of punishment and questions of the capabilities of prisons and the role of the criminal justice system and the number of prison populations. It also encourages informed debates about a complicated topic which would result in a plan of action for the key parties involved. This development implies that the interaction between the influence of NPM and the wider scope of penal politics is an unfinished story.

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APPENDIX ONE

INVITATION LETTER

UNIVERSITY OF EDINBURGH
School of Law

School of Law
University of Edinburgh
Old College
South Bridge
Edinburgh EH8 9YL

(DATE)

(INFORMANT'S ADDRESS)

Dear   (NAME)

I am writing to ask whether you would agree to be interviewed for a study I am conducting as part of my PhD degree in the School of Law at the University of Edinburgh under the supervision of Professor Richard Sparks and Professor Michael Adler. I would like to provide you with more information about this research and what your involvement would entail if you decide to take part.

In the course of experience working as a civil servant in the Department of Corrections of Thailand, I was keen to further my knowledge of prisons. Therefore, when granted a scholarship by the Royal Thai Government to study in the UK, I decided to focus my study on its prison systems. Scotland was selected as the site of this research because I am a student at the University of Edinburgh. Apart from reasons of convenience, I chose to study the Scottish Prison Service (SPS) because of its reputation in prison management, its size that fits with the time constraints of this research, and its positive connection with the Department of Corrections of Thailand.

Over the past twenty years, the SPS has undergone many significant events and changes. It is my aim to describe and explain how those events have affected SPS and how SPS has adapted itself in terms of management style. I believe that because you have been actively involved in the management and operation of SPS, you are well placed to speak with respect to various issues, such as prison policy, key actors in the management of SPS during the past twenty years, and the driving and restraining factors for change.

Should you agree to take part, I would like to conduct an interview of approximately one hour in length to take place in a mutually agreed location. With your permission, the interview will be audio recorded to facilitate the collection of information, and later transcribed for analysis. A copy of the transcription will be sent to you upon request. All information you provide is considered completely confidential. Your name will appear in my thesis and/or publications to come as a result of this research only with your expressed consent. Data collected during this study will be retained for approximately a year in a locked office at my residence. Only persons directly involved with this research will have access. I would like to assure you that this research has been reviewed and received ethics clearance through the Research Office, School of Law at University of Edinburgh. There are no known or anticipated risks to you as a participant in this study.

I am hoping to conduct approximately 20 interviews and would like to have them completed by summer 2007. **Therefore, I was wondering if you could let me know the date, time, and location that would be convenient for you.**

If you have any questions regarding this study, or would like additional information to assist you in reaching a decision about participation, please contact me at:

My contact address: Mr. Assanee Sangkhanate
35/14 Leith Street
Edinburgh EH1 3AT
Tel. 07876595977
Email: s0460232@sms.ed.ac.uk / assanee45@yahoo.com

You can also contact my supervisors, Professor Richard Sparks at (0)131-650-2059 or by email at r.sparks@ed.ac.uk and Professor Michael Adler at (0)131-650-3931 or by email at michael.adler@ed.ac.uk.

I hope that the results of my study will be of benefit to prison administrators and staff of SPS and of other jurisdictions who will be able to learn from Scotland's experience, administrators from other public agencies who are managing change in their organizations, and a broader research community.

I very much look forward to speaking with you and thank you in advance for your assistance in this research.

Yours sincerely,

(Assanee Sangkhanate)

APPENDIX TWO

DRAFT INTERVIEW QUESTIONS

No.	Questions
1	Over the past 20 years, Scottish Prison Service has encountered several challenges (i.e. riots in late 1980s, emergence of private prison, and the devolution). How do these factors affect the prison service?
2	What impacts these challenges have in term of management style?
3	Has prison management/policy changed as of *or* prior to these challenges?
4	As a policy maker/board member/civil servant, how do you proactively deal with these challenges? What are the consequences?
5	As a policy maker/board member/civil servant, how do you manage to work with policy maker/board member/civil servant in order to help develop the service under these challenges?
6	Who are/were key actors in helping develop the prison service in Scotland? What are/were their inputs?
7	What are significant pressures for change in prison service in Scotland? Why?
8	What are restraining factors for the change?
9	Have you witnessed any resistance or support for change?
10	Has the prison privatization scheme affected the prison service in Scotland? Why/Why not? How?
11	Can private prison be viewed as a pressure for change?
12	Is there any lesson learned from the private company in term of prison management?
13	How do you perceive the role of politics/politicians in prison service in Scotland?
14	How politicians help develop prison service in Scotland? What are significant evidences?
15	To the best of your knowledge, how the devolution affect prison service?
16	How prison service looks like before and after the devolution? Any significant changes i.e. penal policy, organization structure, and management style? Do these changes result from the devolution or something else?
17	As a policy maker/board member/civil servant, has your job changed as of the devolution?
18	To the best of your knowledge, what are the similarity and the difference between Scotland and other jurisdictions in term of challenges?
19	Has SPS coped with challenges the same way as other jurisdictions did?
20	Is there any lesson learned from England or international community?

No.	Questions
21	Generally speaking, privatization is more famous in England than in Scotland. However, for prison system, it seems that private prison in Scotland is more favoured than those in England. Why is that?
22	To the best of your knowledge, what are the similarity and the difference between SPS and other public agencies in Scotland in term of challenges?
23	Has SPS coped with challenges the same way as other agencies did?
24	Is there any lesson learned from other public agencies?
25	Is the development of prison management from the 1980s to present a continual one? How do you perceive it?
26	How do you perceived the current performance-based practice in SPS?
27	How does the performance-based practice affect you and your job?
28	How do you deal with this performance-based practice?
29	How do you perceived the current prison service in term of management style?
30	In which direction the prison service is heading to? Why? How?

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APPENDIX THREE

CONSENT FORM

The University of Edinburgh
School of Law

<u>CONSENT FORM</u>

I have read the information presented in the information letter about a study being conducted by **Mr. Assanee Sangkhanate** of the **School of Law** at the **University of Edinburgh**. I have had the opportunity to ask any questions related to this study, to receive satisfactory answers to my questions, and any additional details I wanted.

I am aware that I have the option of allowing my interview to be audio recorded to ensure an accurate recording of my responses.

I am also aware that excerpts from the interview may be included in the thesis and/or publications to come from this research, with the understanding that my name will appear in the thesis and/or publications only with my permission.

I was informed that I may withdraw my consent at any time.

This project has been reviewed by, and received ethics clearance through the Research Office, School of Law at University of Edinburgh. I was informed that if I have any comments or concerns resulting from my participation in this study, I may contact Professor Richard Sparks at (0)131-650-2059 or by email at r.sparks@ed.ac.uk and Professor Michael Adler at (0)131-650-3931 or by email at michael.adler@ed.ac.uk.

With full knowledge of all foregoing, I agree to participate in this study.
     ☐ YES   ☐ NO
I agree to have my interview audio recorded.
     ☐ YES   ☐ NO
I agree to have my name appeared in any thesis or publication that comes of this research.
     ☐ YES   ☐ NO

Participant Name: _____ (Please print)

Participant Signature: _____

Date: _____

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APPENDIX FOUR

LIST OF INTERVIEWEES

(In alphabetical order)

No.	Surname, Name	Key position(s) relevant to this research	Period in office
1	Cameron, Tony	Former SPS Chief Executive	1999-2007
2	Campbell, Niall	Chairman of Safeguarding Community and Reducing Offending (SACRO) Member of Parole Board for Scotland	2002-present (date of interview) 2003-present (date of interview)
3	Coyle, Andrew	Director, International Centre for Prison Studies, King's College Former Governor of Brixton (England), Greenock, Peterhead and Shotts Prisons	1997-2005
4	Donegan, Kate	Governor of HMP Perth Former Assistant Governor/Deputy Governor/Governor of Cornton Vale, Barlinnie, Reading (England) and Glenochil and Deputy Chief Inspector of Prisons	2005-present (date of interview)
5	Douglas-Hamilton, Lord James	The Under-Secretary of State for Scotland Minister of State	1987-1995 1995-1997
6	Duffy, Michael	Director of Prisons, SPS Former Operations Director (South & West)	2004-present (date of interview)
7	Fox, Tom	Head of Corporate Affairs, SPS (SPS Spokesman)	At present (date of interview)
8	Frizzell, Eddie	SPS Chief Executive	1991-1999

9	Gallagher, Jim	Private Secretary to Secretary of State for Scotland	1989-1991
		Director of Human Resources SPS	1991-1996
		Seconded to UK Cabinet Secretariat	1999
		Member of Prime Minister's Policy Unit	1999-2000
		Head, Scottish Executive Justice Department	2000
		Director General for Devolution, Ministry of Justice, UK	2007
10	Gunn, Dan	Governor of HMP Edinburgh	Joined SPS since 1975-present (date of interview)
		Former Director of Prisons and Governor at various prisons	
11	Hogg, Andy	Secretary, Trade Union Side, SPS	At present (date of interview)
12	McLellan, Andrew	Chief Inspector, HMIP	2002-present (date of interview)
13	Murch, Eric	Director of Partnership and Commissioning, SPS	2006-present (date of interview)
		Former Governor of Low Moss	
14	Parry, Richard	Academic, University of Edinburgh	1983-present (date of interview)
15	Russell, Peter	Former Director of Human Resources, SPS	1998-2002
16	Spencer, Alec	Director of Rehabilitation and Care, SPS	2001-2006
		Former Governor of Dungavel, Peterhead, Edinburgh and Glenochil	
17	Sweeney, Rona	Assistant Governor/Governor-in-Charge (Peterhead unit, HMI Longriggend and HMP Shotts)	1987-present (date of interview)
18	Tombs, Jacqueline	Professor of Criminology, University of Stirling	At present (date of interview)
19	Withers, Peter	Governor Grade Career	1972-1995
		Director of Custody	1995-1997
		Area Director	1997-2004
		Director of Prison Services	2004-2006
20	SPS Director*	SPS Director	-
21	Senior Management of HMP Kilmarnock *	Senior Management of HMP Kilmarnock	-

* Consent has not been granted to identify an interviewee

APPENDIX FIVE

PRISON ESCORT AND COURT CUSTODY SERVICE (PECCS) SPECIFICATIONS

Section	Subsections
GENERAL PRINCIPLES	*1.1 Introduction* *1.2 Enabling Legislation* *1.3 Other Legislation 1.4 Escort Monitor* *1.5 Her Majesty's Chief Inspector of Prisons for Scotland* *1.6 Government Policy* *1.7 Prisoner Escort Documentation*
2. PRISONER ESCORTING AND COURT CUSTODY MANAGEMENT	*2.1 Custody, Care and Effectiveness* *2.2 Routine Operational Communications* *2.3 Personal Responsibility of Staff* *2.4 Strategic Planning* *2.5 Health & Safety and Hygiene* *2.6 Fire Precautions* *2.7 Environmental Health Regulations*
3. THE PRISONER – GENERAL PRINCIPLES	*3.1 Rights of Prisoners* *3.2 Range of Possible Classes of People in Custody 3.3 Confinement and Allocation of Prisoners* *3.4 Extreme Security Escorts (formerly Category 'A' Prisoners)* *3.5 Prisoner Policies and Strategies* *3.6 Scottish Prisons Complaints Commission* *3.7 Prisoners' Request and Grievance Procedures*
4. STAFF MATTERS AND CERTIFICATION OF PCOs	*4.1 Staff Identification and Uniform* *4.2 Staff Complement* *4.3 Staff Selection and Recruitment* *4.3.2 Personnel* *4.3.3 Sub-Contracted Staff* *4.3.4 Security Vetting and Approval of Staff* *4.5 Certification of PCOs* *4.6 Withdrawal of Certificate* *4.7 Control and Restraint (C & R) Techniques Training* *4.8 Other Areas of Operational Expertise* *4.9 Specialists and Support Staff* *4.10 Management Training* *4.11 Incident Command Training* *4.12 Health & Safety Training* *4.13 Fire Safety and Evacuation Training* *4.14 First Aid Training 16* *4.15 Changes to Staff Policy and Procedures*
5. PRISONER ESCORT AND COURT CUSTODY TASK	*5.1 General* *5.2 Court Escorts and Custody Tasks 5.3 Escort of Persons from Police Custody Units to Courts* *5.4 Escort of Prisoners from One Court to 5.5 Escort of Prisoners from Courts to Places of*

Section	Subsections
	Custody 5.6 Escort of Prisoners to and from Prison, Young Offenders Institution (YOI), and / or Hospital 5.7 Managing Business in the Criminal Courts 5.8 Management of Court Custody
	5.9 Bail and Discharge Arrangements
	5.10 Police Transfer Escorts
	5.10.1 Scottish Inter Police Force Transfers
	5.10.2 Extract Warrants
	5.10.3 Inter-Police Force Transfers from Outwith Scotland
	5.11 Hospital Orders, Criminal Procedure (Scotland) Act 1995
	5.12 Non-Core Services
	5.13 Children's' Hearings
	5.14 Committal of Children Appearing in Court
	5.15 Funeral Escorts
	5.16 Police Enquires
	5.17 Immigration Appeals
	5.18 Deportation
	5.19 Inter-Jurisdictional Transfer 5.20 Inter-Prison Transfers
	5.21 Inter-Prison Visits
	5.22 Marriage Escorts
	5.23 Transfer to and from Hospital (subject to Mental Health (Scotland) Act 1984 to be repealed and replaced by the Mental Health (Care and Treatment) (Scotland) Act 2003)
	5.24 Hospital and/or Other Medical Appointments
	5.25 Hospital Supervision and Confinement, Including Maternity and Mother with Baby Escorts
	5.26 Social Security Tribunal
	5.27 Special Escorted Leave and/or Escorted Exceptional Day Absence
	5.28 Community Placements Escorts
	5.29 Home Leave Escorts
	5.30 Transfer of Responsibilities
	5.31 System Reviews
6. ADMISSION, INDUCTION AND RELEASE	*6.1 Prisoner Admission and Court Custody*
	6.2 Admission Process
	6.3 Suicide Risk Management
	6.4 Cell Allocation
	6.5 Prisoner Correspondence
	6.6 Challenge by Prisoner
	6.7 Prisoner Release
7. CARE AND SERVICES FOR STAFF AND PRISONERS	*7.1 Management of Court Facilities*
	7.2 Responsibilities for Court Facilities
	7.3 Access to Manuals, Records and Documents
	7.4 Vandalism
	7.5 Toilet and Sanitation Facilities
	7.6 Drinking Water
	7.7 Inspection and Security Risk Assessment
	7.8 Management of Prisoner Healthcare,

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Section	Subsections
	Medication and Infection Control
	7.8.2 Qualifications of Health Care Staff
	7.8.3 Medical Records
	7.8.4 Access to Own Doctor
	7.8.5 Health Issues 35
	7.8.6 Medical Services Cost
	7.9 Compilation of Statistics and Annual Report
	7.10 Prisoner Clothing
	7.11 Food Services
	7.12 Court Based Social Work and Mental Health Services
8. SECURITY: PASSIVE AND DYNAMIC	*8.1 Security Reviews: Scotland*
	8.2 Prisoner Accommodation
	8.3 Official Visits to Prisoners
	8.4 Discipline
	8.5 Searching
	8.6 Physical Restraint
	8.7 Incident Reporting & Management
	8.8 Contingency Planning
	8.9 Security Intelligence (General)
	8.10 Control of Drugs and Unauthorised Articles
	8.11 Control of Equipment, Tools and Stores
9. VEHICLES	*9.1 Vehicles*
10. TRANSITIONAL ARRANGEMENTS	*10.1 Phasing In Services*
	10.2 Authority Support During Service Implementation
	10.3 Plans, Policies and Procedures
	10.4 Implementation Contact and Liaison
	10.5 Inspection and Security Risk Assessment

APPENDIX SIX

RESULTS OF 'PECCS' REVIEW

Review Agendas	Comments
Value for Money and Effective Use of Resources	The major business benefit envisaged for the project was more efficient service delivery through more effective use of resources. In line with projections the implementation of the PECCS contract freed up at least 200 police from court duties and an estimated further 100 from escorting duties. In all, around 300 police officers were redeployed to front line duties across Scotland's eight forces. In addition stakeholders report some additional efficiency in their backroom co-ordinating functions. Within prisons the number of prison officers released from escort duties was around 200 many of which were given up as efficiency savings or to allow reinvestment for improvements to services. The main benefit to prisons was the increased stability and consistency of delivery of regimes. In local prisons escort variability had frequently resulted in the restriction of regime activity. The new contract allowed for improved delivery of constructive activity for prisoners. The Police and SPS further report that they have reduced the costs associated with maintaining the vehicle infrastructure necessary to deliver a high volume prisoner escorts.
Process Improvement and Reducing Inefficiency	The 33 performance measures in the contract set out a minimum standard to be achieved against each one. This standard increases during the life of the contract. RCS have matched or exceeded the required standards in all but a few months. This despite a 15% increase in the volumes of escort transactions, with peaks at times when the volumes have been 40% more that the contract initially envisaged. Escort volumes have increased in line with the general increase in the prison population, which over the same period, has continued to rise dramatically. Performance for the year to date stands at around 90% 'on time deliveries' with an average of 15,594 escort movements per month. So the contract is delivering improvements in performance despite significantly higher transaction volumes. In addition the delivery of prisoner escort services by a single contractor has improved accountability and removed duplication of effort between agencies. Feedback from partners has confirmed that the introduction of the contract has rationalised the service at a national level. Not only has this resulted in savings, attributable to former backroom personnel but it has clarified reporting lines and promoted an improvement culture.
Better Management Information	The Auditor General's Report of September 2004 commented that there was no accurate pre-tender data available. This is now no longer the case with RCS maintaining databases covering a wide range of information previously unavailable. This means better strategic decision making is possible. The SPS also maintains records in relation to key contract performance data. Performance data is shared with partners at the Multi-Agency Liaison Group and management information in relation to the

Review Agendas	Comments
	contract is published on the SPS website for increased transparency. This includes statistics on RCS performance across 33 performance measures, which includes a Release in Error statistic which was not previously systematically recorded.
Multi Agency Working	The Multi-Agency Liaison Group (MALG) was formed in November 2005 by the SPS. The MALG comprises of representatives of the key stakeholders and provides a multi-agency vehicle for: Monitoring performance; Joint problem solving; Review of incidents; and Advising the contractual authority on new requirements. The PECCS contract has shown that complex multi-agency contracts can be delivered and has promoted consultation and information sharing between all partners, in setting up and in the subsequent management of the contract. Joint working has been further developed by the development of a multi-agency approach to contract monitoring. The police currently have a second opportunity as part of the Contract Monitoring Team.
Best Value	Since April 2002 there has been a duty of Best Value placed on Accountable Officers. The SPS believes that the PECCS contract reflects the principles of 'best value' both in development and subsequent deployment. Previous sections have outlined benefits around economy, efficiency and effectiveness and the benefits realised in the delivery of the contract The tendering process has assured VFM by ensuring that an experienced provider presenting the best service solution at the best price had been selected. The structure of the contract and the performance management process are also designed to secure continuous improvement on the life of the contract. Improved management information allows for better: Alignment of service to business strategy; Joint working to ensure continued service satisfaction; and More sustainable service with a contract that can adapt to changes in demands from partners. So the SPS are satisfied that feedback to date suggests that the PECCS Contract reflects many of the principles of a best value solution.

APPENDIX SEVEN

THE CONTENT OF KILMARNOCK CONTRACT

Contract Sections	Details
Part I - General	1. Definitions 2. The Project 3. Project Documents 4. Statutory Obligations 5. Indemnity 6. Insurance 7. Changes to Services 8. Assignation and Sub-contracting
Part II - Provision	9. The Land 10. Planning Approval 11. Provision of the Prison 12. Supply of Equipment
Part III - Maintenance	13. Maintenance of Prison 14. Dilapidation Survey 15. Preparation For Operation of the Prison
Part IV - Pre-Operation Period	16. Contractual Opening Date 17. Phase-in Period 18. Full Operation Date 19. Extension of Time 20. Liquidated Damages 21. Engineer's Declaration 22. Cell Certification 23. Available Prisoner Places
Part V - Operation	24. Conduct of Operation 25. The Director 26. Prisoner Custody Officers 27. The Staff 28. The Controller 29. Monitoring and Inspection 30. Escort Arrangements 31. Development Plans
Part VI - Finance	32. Price 33. Variation of Price 34. Additional Prisoner Places 35. Performance Measures 36. Value Added Tax 37. Recovery of Sums Due
Part VII - Termination	38. Default by Contractor 39. Termination for Default and Authority's Step In on Default 40. Voluntary Termination 41. Force Majeure 42. Payment for Termination 43. Change of Control and Ownership in the Contractor 44. Corrupt Gifts and Payments 45. Termination Survey 46. Notice of Default Events

Contract Sections	Details
Part VIII - Miscellaneous	47. Consequential Arrangements on Expiry or Termination 48. Intervention by the Secretary of State under Section 111 of the Criminal Justice and Public Order Act 1994 49. Public Relations and Publicity 50. Confidential Information 51. Intellectual Property Rights 52. Contractor's Records 53. Independent Contractor 54. Authority to Commit and Variation 55. Service of Notices 56. Discrimination 57. Data Protection 58. Health and Safety 59. Waiver 60. Severability 61. Precedence of Terms 62. Whole Agreement/Scope of the Contract 63. Dispute Resolution 64. Schedules E, H, J and P 65. Governing Law and Jurisdiction

APPENDIX EIGHT

THE CONTENT OF ADDIEWELL CONTRACT

ADDIEWELL PRISON CONTRACT	
1. DEFINITIONS AND INTERPRETATION5	43. TERMINATION FOR BREACH OF REFINANCING PROVISIONS
2. DURATION	44. COMPENSATION ON TERMINATION FOR AUTHORITY DEFAULT
3. PROJECT DOCUMENTS	45. COMPENSATION ON TERMINATION FOR CONTRACTOR DEFAULT
4. WARRANTIES	46. COMPENSATION ON TERMINATION FOR FORCE MAJEURE
5. INDEMNITIES	47. COMPENSATION ON TERMINATION FOR CORRUPT GIFTS AND FRAUD
5A. CONTAMINATION	48. COMPENSATION ON VOLUNTARY TERMINATION BY THE AUTHORITY
6. LAND	49. COMPENSATION ON TERMINATION FOR BREACH OF THE REFINANCING PROVISIONS
7. PLANNING	
8. GENERAL DUTIES OF THE CONTRACTOR	50. GROSS UP
8A MISSION STATEMENT AND KEY PERFORMANCE TARGETS	51. SET-OFF ON TERMINATION
9. PROVISION OF THE PRISON	52. PAYMENT ON TERMINATION
10. SUPPLY OF EQUIPMENT	53. CONSEQUENCES OF EXPIRY
11. PREPARATION FOR OPERATION OF THE PRISON	54. SURVEYS ON EXPIRY
12. CONTRACTUAL OPENING DATE	55. INSURANCE
13. PHASE-IN PERIOD	56. RIOTOUS ASSEMBLIES (SCOTLAND) ACT 1822
14. FULL OPERATION DATE	57. REFINANCING
15. EXTENSIONS OF TIME	58. ASSIGNATION AND SUBCONTRACTING
16. RELIEF EVENTS	59. CHANGE OF CONTROL
17. COMPENSATION EVENTS	60. INTERVENTION BY THE SCOTTISH MINISTERS UNDER SECTION
17A. TITLE COMPENSATION EVENTS	OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994
18. LIQUIDATED DAMAGES	
19. ENGINEER'S DECLARATION	61. INFORMATION AND CONFIDENTIALITY
20. CELL CERTIFICATION	62. PUBLIC RELATIONS AND PUBLICITY
21. AVAILABLE PRISONER PLACES	63. DATA PROTECTION
22. CONDUCT OF OPERATION	64. INTELLECTUAL PROPERTY RIGHTS
23. THE DIRECTOR	65. CONTRACTOR'S RECORDS
24. PRISONER CUSTODY OFFICERS	66. DISCRIMINATION
25. THE STAFF	67. WAIVER
26. THE CONTROLLER	68. SEVERABILITY
27. MONITORING AND INSPECTION	69. INDEPENDENT CONTRACTOR
28. ESCORT ARRANGEMENTS	70. EXCLUSION OF LEGISLATION AND THIRD PARTY RIGHTS
29. MAINTENANCE	71. REPRESENTATIVES
30. SURVEYS	72. SERVICE OF NOTICES
31. PAYMENT PROVISIONS	73. DIRECT AGREEMENT
32. ADDITIONAL PRISONER PLACES	74. CONTINUING OBLIGATIONS
33. PERFORMANCE MEASURES	75. EXCLUSIVE REMEDIES
34. EURO FUNCTIONALITY	76. DISPUTE RESOLUTION
35. AUTHORITY CHANGES	77. FINANCIAL MODEL
35A CONTRACTOR CHANGES	
36. CHANGE IN LAW	
37. TERMINATION ON AUTHORITY DEFAULT	
38. TERMINATION ON CONTRACTOR DEFAULT	
38A. REPLACEMENT OF SUB-CONTRACTORS	

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APPENDIX NINE

PRISONER SUPERVISION SYSTEM

Prisoner Supervision System	Details
Aims	- to assist the effective management of prisoners and; - to provide for public safety; - to provide for the operational needs of SPS; - to facilitate progression towards release; - to be fair and transparent; and - to allow the appropriate allocation of resources.
Key Elements	**1. THE ASSESSMENT RULE** Each prisoner will be assigned to one of three Supervision Levels: **High Supervision**: an individual, for whom all activities and movements require to be authorised, supervised and monitored by prison staff. **Medium Supervision**: an individual for whom activities and movements are subject to locally specified limited supervision and restrictions. **Low Supervision**: an individual for whom activities and movements, specified locally, are subject to minimum supervision and restrictions [and could include licence conditions and unsupervised activities in the community]. **Assessment Criteria** The Supervision Level allocated is determined by assessment of the individual's circumstances against ten criteria[69].

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[69] Ten criteria are: (1) Within 12 months of commencing a sentence of 4 years or over for serious violence (including murder and sexual offences) or drug related offences?; (2)Previous history of serious violent offending within past 3 years?; (3) Means and willingness to escape now or on admission have a history of such behaviour?; (4) Means and willingness to organise serious indiscipline, (including drug dealing)?; (5) Previous involvement in violence or fear-inducing behaviour (in prison) within the last year?; (6) Current substance abuse?; (7) Significant psychiatric / psychological history within the past year?; (8) Serious outstanding charges?; (9) Impulsive behaviour now or in the past year?; (10) Indication of any vulnerability in present location?

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Prisoner Supervision System	Details
	2. THE MANAGEMENT RULE **Long Term Prisoners** Defines the minimum period of their sentence that each prisoner must serve in a secure establishment before having supervised or unsupervised access to the community or commencing a preparation for release programme. In the case of determinate sentence prisoners they will be eligible to be considered for national 'top-end' when they are within 2 years of their Parole Qualifying Date (PQD). Life sentence prisoners must have no more than 3 years to serve before the expiry of the 'punishment part' of their sentence to be eligible to be considered for inclusion in the Special Escorted Leave Scheme (SEL) from 'top-ends'. **Short Term Prisoners** The sentence management procedures do not, at present, apply to short-term prisoners. Their management, and access to opportunities, is dependant on the Assessment and Management Rules that comprise the Prisoner Supervision Level System. The principle purpose of open prisons is to prepare individuals for release, which leads to the conclusion those serving very short sentences would neither require nor benefit from open prison regimes. Hence only those serving a sentence of 18 months and over will be eligible for consideration to be transferred to these establishments.
	3. INTEGRATION WITH SENTENCE MANAGEMENT The process for assessing a prisoner's required level of supervision is risk assessment. The majority of risk factors to be considered for supervision levels already form part of the Needs and Risk Assessment process for Sentence Management It is therefore logical that the supervision and needs assessment should be part of the recognised structured Sentence Management process. **Escort Arrangements** Future escorting arrangements will be broadly similar to those that currently apply to individual prisoners. Allocation to a level of escort security will be dependent on the outcome of assessment of the risk presented by the prisoner when outwith the establishment. The individual prisoner's escort security level will be independent of the supervision level appropriate within the establishment. It might sometimes be the case that the risk assessment prior to an escort of a Low Supervision Prisoner located in a closed establishment would result in allocation to High Risk Escort precautions.