



**UNLOCK**  
The National Association  
of Reformed Offenders

## **The Victims Levy: Undermining rehabilitation**

**A report on the effect of  
Prison Service Instruction 48/2011  
and the case for its rescission**

UNLOCK Policy Paper October 2011



[www.unlock.org.uk](http://www.unlock.org.uk)

**UNLOCK, the National Association of Reformed Offenders** is an independent charity and membership organisation, aiming to achieve equality for people with criminal conviction previous convictions.

We believe in a society in which reformed offenders are able to fulfil their positive potential through equal opportunities, rights and responsibilities.

**UNLOCK's Mission Statement:**

Driven by the needs of reformed offenders, UNLOCK works to reduce crime by helping them overcome the social exclusion and discrimination that prevents them from successfully reintegrating into society.

UNLOCK empowers reformed offenders to break down barriers to reintegration by offering practical advice, support, information, knowledge and skills. It also acts as their voice to influence discriminatory policies, behaviours and attitudes.

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## Introduction

**This paper argues that the imposition of the victims levy undermines rehabilitation, is unfair and will serve to create more victims in its attempt to help existing ones.**

**Consider the case of Jane [not her real name], who is subject to the levy in accordance with PSI 48/2011.**

**This PSI claims legitimacy from the provisions of the Prisoners' Earnings Act 1996.**

**NB It should be noted that this paper does not discuss prisoners' earnings, levies or policies which may or do apply to prisoners in closed prisons.**

## Jane's Case:

Jane is married with two children. She is serving a four-year prison sentence. She is bright, articulate, reliable, highly capable and an exemplary prisoner. She has been carrying out unpaid voluntary work in the community and is now eligible to seek paid employment.

Impressive at interview, Jane has been offered a position working for a large company with the opportunity to continue on release. She will be working 22 hours per week (the maximum her employer would offer). She has also gained a college place to further increase her future prospects.

**Jane will earn £140 per week after tax & NI. The 40% victims levy will deduct £48 leaving her with a balance of £92. Her travel costs for work, college and home total £90 leaving her with just £2 with which she must pay for her food and drink at work and all other personal costs.**

Jane will be expected to effectively work for no money and by taking up employment she will no longer be able to take childcare resettlement leave – she cannot get the time off work or afford travel.

Jane has already made financial reparation to her victim (her employer) through a confiscation order imposed by the court. She has also made further reparation by volunteering for a charity in the community.

The 40% levy will mean she cannot help out with childcare costs at home, she cannot buy college materials, she cannot begin to help her family pay off the confiscation order (her husband is repaying the loan taken out to cover it) and she must continue to rely on her family to send her money to buy basic provisions.

Jane is not alone – this story is typical of the 450 people affected by the levy.

## Background

1. As announced in the Government Green Paper *Breaking the Cycle*<sup>i</sup>, Justice Secretary Ken Clarke is leading the government towards a rehabilitation revolution and has ambitious plans to make prisons places of industry where inmates undertake a full working week. He is actively seeking to engage private companies to provide opportunities for them to do so, and in a joint letter to the *Financial Times*<sup>ii</sup>, a number of business leaders supported this notion saying that prisoners' talents are being wasted and employers should give them a chance to prove themselves.
2. In anticipation of more prisoners becoming employed, the Prisoners Earnings Act 1996<sup>iii</sup>, having sat dormant for five years, has now been 'commenced'<sup>iv</sup>, coming into force on 26 September 2011. Prison Service Instruction 48/2011<sup>v</sup> was simultaneously issued, effective from the same date.
3. This instruction applies to prisoners working outside of open prisons for outside employers – around 450 in number according to the Ministry of Justice (MoJ). In general terms the PSI deducts a levy of 40% of prisoners' net earnings over £20 to be paid to Victim Support. Net earnings are considered here to be the amount left after income-tax, national insurance, court order payments and child maintenance have been deducted. The scheme will, according to the MoJ, raise a million pounds per year for Victim Support.
4. Employers will no longer pay prisoner employees directly; they will have to pay wages into the National Offender Management Service (NOMS) Shared Services bank account. NOMS will allow the first £20 to remain free from levy (if net earnings are £20 per week or less, no deduction will be made), then deduct 40% from the remainder and return the balance, plus the £20, to the prisoner's own bank account a few days later.
5. The 40% level is applied regardless of individual income and unavoidable expenses.

## Direct effect of the levy

6. Based on the new minimum wage (effective from October 2011), UNLOCK calculates<sup>vi</sup> this will mean that a person working a 37.5 hour week and earning £200.47, will have a victim levy of £72.19 deducted. (For illustration purposes, no allowance has been made for child maintenance or court order payments, though where existing they would need to be taken into account prior to the levy being applied).
7. The amount returned to the prisoner will be £128.28 out of which s/he will have to pay their travel costs for home visits, other ROTL (Release on Temporary Licence), meals during working hours, travel to and from work, and all other requisites they might need.
8. Those working fewer hours, or with high travel or other costs, may find that there is insufficient money left with which to meet them, and even be placed in a situation where expenditure exceeds income resulting in an inability to afford either to attend work or go on home leave.
9. NB Prisoners undertaking voluntary work (a pre-requisite to becoming eligible for paid work) have all travel costs met by the prison as well as a packed lunch when they go to work. These are discontinued when paid employment is taken up.

## What do prisoners say?

10. UNLOCK undertook its own investigation into what the levy would mean in financial terms and talked with some of the prisoners affected by it. As a result, we wrote to Ken Clarke to challenge the PSI and the levy it imposes<sup>vii</sup> describing what we believe its impact will be on individual resettlement plans and the ability of prisoners to afford to go out to work.
11. Whilst waiting a response, we wrote an article, published in *insidetime*,<sup>viii</sup> informing prisoners of the scheme and inviting them to share their views about how the levy would affect them.
12. The responses we received painted a worrying picture – wholly endorsing what we had already posited the case to be in our initial challenge to Ken Clarke. The overwhelming feelings expressed were ones of anger, betrayal and hopelessness.
13. Achieving the eligibility status necessary for working outside of an open prison requires a certain level of exceptional behaviour, passing a parole or categorisation board hearing, levels of personal achievement whilst serving a sentence, and prisoners taking responsibility for planning their own resettlement.
14. Earning a wage helps restore self-esteem and dignity; it enables prisoners to give something back to their families who have supported them financially though imprisonment, to support children, to save money for, say, a rent deposit, for furniture and clothing, for mothers to provide a home so that their children can be returned to them from care, and for individuals to have the means to support themselves whilst seeking work and/or until benefit payment might be received (the discharge grant of £46 has to last until any benefits may be received). Having their hard-earned wages – meagre though they may be – taken away, feels like, as one prisoner described, “a slap in the face.”
15. Extracts from letters have been included below though names and prison locations have been withheld.

### 16. Hopelessness and fear:

*“As a life sentence prisoner I have to have a home to live in for me to get released. Part of my sentence plan is resettlement. Now with 40% of my wages being taken, I will not be able to afford to go on as many ROTLs as I simply won’t be able to afford it.*

*I have no home so my wages I try to save to put a bond down & to pay the rent & buy furniture. Also I’m not sure yet as to whether my employer will be willing to pay my wages to the government so I hope I won’t lose my job.*

*I’ve never said that I wouldn’t pay, but I do feel that 40% is just too much. I’m on minimum wage, how am I going to afford to carry out my release plans? I don’t want to fail, I’ve worked hard for where I am today. I just feel like all my hard work is being taken away from me. I’ve turned my life around, now I feel like “will I be able to survive out there” after 13 years of being in prison. It is a very scary thought.”*

### 17. Loss of accommodation – the taxpayer will pick up the bill:

*“I have been doing outside paid work for some months now and have been able to pay off a large debt. I’m now at the stage where I can start saving for my release, first month’s rent,*

deposit, furniture, clothes etc, but thanks to Ken Clarke this won't happen and I shall now be looking at getting grants at a cost to the tax payer which I am.

On average I earn £240 a week and take home £190. After Mr Clarke has plundered my wages I shall receive £132 which may seem okay, but the running cost of my car is £70 a week thanks to the cost of fuel, £30 for food, and £20 for town visit. So I'm now left with £12. Zero incentive and now no opportunity to save. I should add that between now and my release in February I shall pay just over £1,000 to Ken Clarke, or my first month's rent and deposit."

#### **18. Destitution on release:**

"I have served almost a full decade in prison and I currently have absolutely no money and no home to return to upon my release therefore it has always been my plan to get to the open prison estate to gain some outside employment in order to save some decent money for my release to pay for accommodation, clothing, food, transport and to help me gain permanent employment in order to stay out of crime forever. This new measure will take this option away from me and now because of Kenneth Clarke I will be leaving prison destitute, penniless, homeless, desperate and unable to support myself without any money to rent accommodation and without any money for transport to find a job and travel to any sort of work!"

#### **19. Increased personal debt to pensioner father:**

"I managed to persuade my dad to buy me a motorcycle so that I could get to work with the promise that I would pay him back when I started working outside. He spent over £1,000 including the bike and insurance. He is a man on pension credits. How am I supposed to go back to him and tell him that I won't be able to pay him back anytime soon, and oh by the way Dad could you loan me another £100-£150 for my first 3 weeks work? (knowing that I won't be able to pay that back either because when I do start getting paid I'm only going to be left with just over £100 to pay for my breakfast, lunch and dinner every day, petrol money, insurance money, town visit money and lastly my home leave fares which cost in the region of £80 per month as I have to travel to Devon on the train for my home leave."

#### **20. Prisoners children suffer even more:**

"Up until now I was saving for my resettlement into the community. I have 2 children I send money home for clothes and uniforms and I will be unable to do this now. The prison is in the middle of nowhere, I spend a lot on travel just to get to and from work. I also was putting money away for rent up front and bond on a house for flat for release. I am now, due to this huge 40%, unable to do this and I don't know what I will do. Others and myself have all said no-one is reluctant to pay an amount to victims support groups, but at 40%, there's no resettlement anymore. I will not be able to afford ROTL anymore to see my children every month like I have been doing."

#### **21. Alarming, though unsurprisingly perhaps, some prisoners feel that loss of the opportunity to live lawfully using savings, they will have little option but to return to crime to pay their bills. The prisoner re-offending rate suggest that the majority of prisoners do precisely that:**

"I would also like to ask Kenneth Clarke how does he expect prisoners to stay away from crime if they are leaving prison penniless, destitute and in extreme poverty? Surely the government is well aware that the initial first few weeks and months after release are the most important for an ex prisoner in need of some form of initial monetary support in order to prevent

*re-offending, by implementing this new measure the government will be forcing people straight back into crime due to the fact that they will be leaving prison with absolutely nothing.*

*There are many category-D prisoners at this establishment and every single one of those prisoners is of the opinion that they will refuse to work if this new measure is implemented and many prisons that I have spoken to have also stated that they will now have no choice but to commit crime upon their release in order to survive during their initial days of release. “*

## **22. Waste of time working – the scheme will backfire on the government:**

*“When I learned about this 40% I didn’t realise how much it wouldn’t make it worth it. I’m not able to start work til October and that will give me 3 months to save the best I can. I don’t see that the point will be now as will be very little to save, over 50% including tax & insurance will be missing then the obvious costs of travel and food plus costs of clothing. I can agree that a deduction is fair but maybe if it means so much why not take 5-10% off everyone’s wages in the country rather than take what the prisoner has worked hard for just like the rest of the workers in the UK. There are many other services in prison that don’t cost the prisoner anything but cost the tax payers plenty so why change things for the worse.*

*The point is we’re meant to be encouraged not discouraged. Think hard and think fast otherwise the whole thing will backfire. What’s the point of me working 12 hour dayshifts when I’m not going to benefit?”*

## **Prisoners’ families become victims due to levy**

### **23. A wife’s response:**

*“My husband, James [not his real name], was sentenced to 5 and half years in prison in March 2010. He is now serving his sentence at HMP [location withheld]. In August of this year he started his home leave and comes home every Sunday and for between 3 – 5 days once a month. In October/November he will be eligible to go outside the prison and find employment either part time or full time.*

*James has a POCA for £15,000 (which we are struggling to pay) which will be paid to the victims of his crimes and is now being made, due to this law, to pay towards the victims of other people’s crimes, how is this fair?*

*He was looking forward to being able to help his family financially for the first time in 18 months but now this law has come into effect this will probably be no longer possible.*

*We have a large mortgage on our house which I have struggled to pay but only with the help from my parents. We have a son that is in his 2nd year at University and our youngest daughter has just started her 2nd year of A Levels and is hoping to go to University in September 2012 to study nursing. I have struggled financially all the time James has been in prison and with the help of family, friends, benefits and various forces charities have just about been able to keep my head above water so I too was hoping that James would be able to help me out later this year.*

*What it will mean for us is that I will still have to rely on my family to help me to pay my mortgage and on the various charities and benefits to help me to live every month. Also, because James is able to go outside the prison I have extra expenses in that to pick him up from the prison when he comes home and take him back at the end of his visit which adds to my fuel bills. James currently works driving the prison minibus on most days and I have to send him money to enable him to buy food while he is out doing this job for £10 per week. If I did not do this he would not eat as often as he is outside of the prison at meal times.*

*James is still working outside of the prison when he is able because at least he will be able to pay for his own meals and perhaps his own transport and this at least will ease a small portion of the burden on me and the family. James has spoken to a lot of his fellow prisoners who have stated that they would not work because it is just not worth it for them. Surely this is not going to help prisoners rehabilitate and will also lead to more benefits having to be paid out to the families at home to enable them to make ends meet?*

*I am also of the view that to a degree I am a victim of James' crime as I have done nothing wrong and I am also being made to pay for his crimes and to this end I am considering making a claim myself from 'the pot', I am not sure I would achieve anything though."*

## **Effect on employers**

24. Evidence suggests that prisoners are no longer incentivised to apply to go to open conditions; those already there say that they will refuse to go to work rather than work for nothing. This raises an important issue for employers. In addition to facing the somewhat dubious instruction to pay an employee's wages into a government bank account, which some are reluctant to do, they are very likely to find themselves with an employee who is less than motivated to want to do a good job. Arguably, absenteeism will grow and employees lose their jobs when they become unreliable.

### **25. One prisoner wrote:**

*"The majority of prisoners here at Springhill are doing labouring jobs on building sites, earning no more than minimum wage through recruitment agencies. This work can be very physically demanding and I can't see myself or anyone else even turning up for this work when we have had around 65-70% of our earnings taken in taxes before we even see anything."*

### **26. Employers seeking legal advice: job offer in jeopardy:**

*"I have just been accepted onto the resettlement scheme here at [prison name withheld], but have yet to be notified as to the date that I will be able to accept paid work. I had obtained the offer of a job before the levy was announced and took the opportunity of meeting with my prospective new employer during my last town visit to apprise him of the new situation.*

*Needless to say he was not enamoured when I told him that since he did not operate BACS he would have to drive the 16 odd miles to the nearest branch of RBS Bank to pay my wages in. He was even more aggravated when I asked him to deposit cash as I could not get any estimate from the prison as to how long it will take NOMS to clear a cheque. Matters got worse when I told him that he will be expected to sign a Memorandum of Understanding with the prison and pay my wages to a third party (NOMS).*

*Being a cautious chap he stated that he would not be able to comply with these requests until his Solicitor had seen the memo and approved it on his behalf, and confirmed that it was in order to make the payment to someone other than me. From his existing knowledge he told me that I would at least have to give him written instruction to do this, incorporating a full indemnity against any loss or adverse claim which his solicitor would have to prepare. Needless to say his humour did not improve when he asked me who was to reimburse him for this considerable expense and I had to tell him that the cost would be his in consideration for the privilege of employing me.*

*Anyway, he closed the meeting by asking me for time to think everything over, leaving me with the distinct impression that I might be prudent to seek a job elsewhere. As I am a struck off solicitor on the wrong side of sixty you can appreciate that suitable jobs in this area for me are at a premium and I am not confident that I will be able to find alternative employment should he change his mind."*

## The Government's rationale

27. The government has a policy aim of making prisoners work a full week across the prison estate. The PEA provides that governors may make levies on prisoners' earnings, though precisely what for and at what level is not specified. However, imposing a levy to be used for the benefit of victims of crime is central to government intentions.
28. Meanwhile, PSI 48/2011 has been brought into force. This PSI *only* affects prisoners in open resettlement prisons, working outside for outside employers. Nevertheless, it appears that the government is adopting the principle of a victim levy without differentiating between the very different circumstances applying to those in closed prisons and those in open resettlement prisons.
29. On our challenge to Ken Clarke on the implementation of the levy, UNLOCK received a written response from Crispin Blunt, Parliamentary Under-Secretary of State for Justice<sup>ix</sup> stating:

*"I recognise the importance of eligible prisoners being able to work in the community for external employers prior to their release as a way of providing valuable resettlement opportunities and so better preparing prisoners to lead law abiding lives at the end of their custodial sentence. Whilst recognising this, however, **we are also determined to balance this approach with the public interest with prisoners making reparation**, including through the PEA.*

*Our approach, including the level of deductions, is therefore designed to balance the provision of funds for reparation with the disincentive effect that the levies could have on prisoners working. Any prisoner who is thinking of withdrawing from work outside prison will be encouraged to consider the implications of that decision on the resettlement progress as well as from any financial angle.*

*Whilst we recognise that prisoners saving money can be of benefit on release, this must be balanced with the need for prisoners to make reparation for the crimes they have committed."*

## Why this rationale is wrong

30. UNLOCK argues that rather than achieving "a balance", the results are off the scales of what is reasonable and what is fair. Our consultation with serving prisoners supports this argument. We conclude that rather than being in the "public interest" to impose the levy, the reverse is true. Our findings suggest:
- i. It is not in the public interest that prisoners would choose to stay in prison rather than go out to work with the consequential loss of tax and national insurance revenue and increased cost of keeping them inside prison.
  - ii. It is not in the public interest that prisoners are prevented from helping to support their own families financially whilst still imprisoned. Many families face financial hardship and rely on welfare benefits when the bread-winner is imprisoned which, after all, is at tax-payers' expense, and some of which would be unnecessary where a prisoner could contribute.
  - iii. It is not in the public interest that prisoners leave prison without the means to pay a rent deposit for accommodation or pay bills - it simply means that local councils must supply accommodation and people are dependent on welfare benefits.

- iv. It is not in the public interest that rather than save money to fund the finance gap between leaving prison and receiving wages or benefits, a prisoner may resort to criminal activity simply to survive. This would have the perverse result of creating more victims of crime.
- v. It is not in the public interest that prisoners' families are made victims.
- vi. It *is* in the public interest that people should leave prison able and willing to live law abiding lives, supported through their own endeavours, and be in the best position possible to restore their families.

## Summary

- 31. It is difficult to discern the logic applied by policy makers at the Ministry of Justice or at the Home Office when devising PSI 48/2011. A simple calculation on the back of a cigarette packet – as used by prisoners to work out how it applied to them – would have revealed its financial impact. It takes little skill to surmise from the results that prisoners would be placed in an invidious position where it wouldn't pay to work and even if they do, they will be less able to take personal responsibility for planning and sustaining a life after prison.
- 32. On the face of it, it would appear that no consideration has been made given to the level of costs that prisoners must meet once they become paid employees. These tend to take up a large proportion of earnings prisoners wages which reduces the balance available for autonomous spending or saving
- 33. Prudent and responsible financial management and saving by prisoners is not only discouraged by the effect of the levy, but made impossible. Prisoners will continue to rely on their families for money when they could be putting something back. Family relationships are put under pressure when they could be relieved. Keen employees will become resentful and unreliable.
- 34. It is difficult to see how resettlement prisons will not struggle to maintain existing employer relationships let alone instigate new ones. They are likely, it would seem, to face an uphill struggle to meet their performance targets and the positive atmosphere that exists within their walls must inevitably sour as prisoner-staff relationships become strained.
- 35. The whole ethos of a resettlement prison will be undermined and prisoners, once making the transition from passive recipients to active determinants, will struggle to achieve their potential both whilst in prison and in their future lives. Some will go back to crime to fill the gap left by the victim levy. It is ironic that by apparently supporting some victims (though quite how has not been set out), others will be created including the children of prisoners already suffering from their parents' imprisonment.
- 36. How can any of this possibly square with the Government's aim to bring about a "rehabilitation revolution"? It simply doesn't make sense.
- 37. In conclusion, UNLOCK:
  - 1) **opposes PSI 48/2011** and its imposition of a 40% levy on prisoners' earnings and
  - 2) **calls for PSI 48/2011 to be rescinded.**

## Endnotes:

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<sup>i</sup> Ministry of Justice Green Paper, [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#), Dec 2010; also see Ministry of Justice Green Paper, *Breaking the Cycle: Government Response*, June 2011

<sup>ii</sup> <http://www.ft.com/cms/s/0/847fba84-eddd-11e0-a491-00144feab49a.html#axzz1aZ3thTXq>  
Marc Bolland, Chief Executive, Marks & Spencer; Richard Branson, Chairman, Virgin Group; Matthew Davies, Chief Executive, Pets at Home; Steve Halliday, Chief Executive, National Grid; Ian Sarson, Group Managing Director, Compass Group UK and Ireland; James Reed, Chairman, Reed; Malcolm Walker, Chief Executive, Iceland Foods; James Timpson, Chief Executive, Timpson and Chair of the Employers Forum for Reducing Reoffending.

<sup>iii</sup> [Prisoners' Earnings Act 1996](#)

<sup>iv</sup> The Prisoners' Earnings Act 1996 ([Commencement](#)) (England and Wales) Order 2011, made 5 July 2011

<sup>v</sup> [PSI 48/2011](#) which imposes a 40% Victim Support Levy on prisoners working in the community, in force from 26 September 2011

<sup>vi</sup> UNLOCK [guidance](#) for prisoners subject to the levy including a tool to [calculate](#) how much money will be deducted as levy.

<sup>vii</sup> [Letter](#) from UNLOCK to the Secretary of State for Justice, Kenneth Clarke, sent hardcopy and by email, 8 August 2011

<sup>viii</sup> UNLOCK [article](#) in *insidetime* – *New Victim Levy on Prisoners'*, September 2011 issue

<sup>ix</sup> [Response](#) letter received from Crispin Blunt, Parliamentary Under-Secretary for State for Justice, 16 September 2011.