

Written evidence submitted by the British Medical Association (BMA) (PCB 18)

Submission to the Public Bill Committee on the Prisons and Courts Bill

About the BMA

The British Medical Association (BMA) is a professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care.

Executive Summary

The BMA supports the government's aspiration to ensure all prisoners receive equivalence of healthcare to that provided in the wider community. The Prison and Courts Bill provides a valuable opportunity to help achieve that aim, particularly through the inclusion of a duty to promote good health and wellbeing as a statutory purpose of prisons. Our recommendations to the Public Bill Committee, including support for amendments to the Bill, are included below.

- **Amendment 14 – Purpose of prisons:** We recognise the critical role that the promotion of good health and wellbeing can play in reducing reoffending. The BMA supports Amendment 14, which would create a statutory aim for prisons to provide for the health and wellbeing of offenders, and ensure that rehabilitative support continues upon release.
- **Amendment 14 – Minimum standards:** For the purpose of prisons to be achievable, it is crucial that there is a mechanism requiring the Home Secretary of State to set minimum standards to achieve the purposes and to report on them annually. We therefore support the general principle of Amendment 14.
- **Amendment 14 – Fixed staff to prisoner ratio:** In addition, Amendment 14 changes Clause One to ensure prisoners have access to healthcare and that a fixed staff to prisoner ratio is established. We believe that this would improve the availability of prison escorts enabling more prisoners to access healthcare and subsequently help to guarantee equivalence of care.
- **Amendment 15 - Chief Inspector:** The BMA also supports Amendment 15 which ensures the Chief Inspector has the necessary powers to obtain information relating to measures including: staffing levels, rehabilitation programmes, and re-conviction rates. Together with Amendments 8 and 14, this will allow prison governors to better understand the impact these measures can have on improving outcomes, and allow them to better shape services to ensure prisoner need is met.
- **Amendment 8 - Expanding the remit of the Prisons and Probation Ombudsman:** The current trend of increasing instances of self harm and suicide in prisons is deeply concerning. We believe Amendment 8, which expands the remit of the Prisons and Probation Ombudsman to include the investigation of attempted suicides, is a welcome move. This amendment has the potential to improve understanding of why suicides, instances of self harm and violence in prisons are increasing, and to use this understanding to reverse this trend.

1. Amendment Four - The Purpose of Prisons

- 1.1 The Prison and Courts Bill outlines the statutory purposes of prisons as being to protect the public, reform and rehabilitate offenders, prepare prisoners for life outside prison and maintain an environment that is safe and secure. In light of the significant health needs of offenders – including mental health and substance abuse - and the importance of good health and wellbeing in preventing reoffending, we believe that the statutory purposes of prison should include ensuring offenders receive appropriate physical and mental healthcare, as well as necessary rehabilitative support upon release. For this reason, we support Amendment 4, the amendment proposed by the MPs, Liz Saville Roberts, Hywel Williams and Jonathan Edwards, and also supported by the Royal College of Psychiatrists. **Amendment 4 is included as annex 1.**

1.2 The causes underlying offending behaviour are complex. It is clear, however, that many offenders experience significant health and wellbeing inequalities compared to the general population:

- up to 90% of prisoners have one or more of the five main psychiatric disorders (psychosis, anxiety disorder, personality disorder, alcohol dependence and substance misuse);¹
- 46% of female prisoners and 21 per cent of male prisoners report having attempted suicide at some point in their lives (compared to just 6 per cent of the general UK population);² and
- offenders are far more likely than the general population to have histories of drug or alcohol abuse.³

1.3 Despite this, individuals detained in prison are far less likely to have had meaningful interactions with community health services, meaning that their contact with the criminal justice system may be the first time their needs are identified and addressed.⁴ The time spent in prison is a crucial opportunity to address those previously unmet health needs, and by ensuring continued support after release, to ensure that positive results are not lost. This amendment represents an important step in breaking the cycle of reoffending.

1.4 Prisoners have a right to a standard of healthcare equivalent to that available in the community – “equivalence of care”. We have previously expressed concerns that the reality of providing healthcare in the prison environment means this is not always achieved. By placing consideration of health and wellbeing on an equal footing with the other statutory purposes of prisons, we believe that greater focus will be given to the issues of physical and mental health and wellbeing and make it more likely that equivalence of care will be achieved.

2. Amendment 14 – Minimum Standards for the Purpose of Prisons

2.1 Our members who work in secure settings report that a security first approach to delivering health services can often result in health care not being delivered in the most clinically effective way. At times, this can be the direct result of staff shortages. A lack of guards to transport and escort prisoners to external services and appointments can lead to doctors being forced to cancel inpatient and outpatient treatment in NHS hospitals, or to triage patients so that escorts are reserved for the most urgent cases. We believe that it is unacceptable for necessary treatment to be delayed in this way, with doctors forced to triage decisions. All patients who require treatment in NHS hospitals should be entitled to it in a timely manner, without doctors having to choose between them.

2.2 Amendment 14 provides for the Secretary of State to set minimum standards to achieve the purposes of prisons by setting out measures for a fixed staff to prisoner ratio and a minimum standard for access to healthcare. In the context of healthcare provision, we believe that sufficient staff numbers will reduce the likelihood of prison escorts being reassigned to other duties, and so ensure that everyone who requires external services can access them. We further believe that the setting of minimum standards for healthcare would represent a crucial step forward in achieving equivalence of care across the whole UK secure estate. **Amendment 14 is included as annex 2.**

¹ House of Commons, Briefing Paper, Number SN/SG/04334, 4 July 2016 Prison Population Statistics p. 12 <http://www.parliament.uk/briefing-papers/sn04334.pdf>

² Prison Reform Trust. Mental Health Support in Prisons. Available at: <http://www.prisonreformtrust.org.uk/ProjectsResearch/Mentalhealth> (Accessed 13 January 2016).

³ HM Inspectorate of Prisons (2015) *Changing patterns of substance misuse in adult prisons and service responses*. HM Inspectorate of Prisons: London.

⁴ Revolving Doors Agency, Probation Chiefs Association, Public Health England. (2013) *Balancing Act: Addressing health inequalities among people in contact with the criminal justice system: A briefing for Directors of Public Health*. Revolving Doors Agency: London.

3. Amendments 15 and 8 – Reporting and Investigation

3.1 We support the government’s intention to prioritise reducing reoffending, and their intention for reoffending rates to be published. We recognise that causes of reoffending can be related issues such as substance misuse, mental health problems and homelessness, which are in turn linked to the social determinants of health. Evidence suggests that between 20% and 40% of violent offenders have potentially treatable psychiatric disorders,⁵ while 29% of prisoners had experienced abuse as a child.⁶ The BMA believes that more must be done to facilitate inpatient support within the secure estate which helps address those root causes of offending. We therefore support Amendment 15 which ensures the Chief Inspector has the necessary powers to obtain information relating to staffing levels, rehabilitation programmes and re-conviction rates. Together with Amendment 8, which expands the remit of the Prisons and Probation Ombudsman in relation to the investigation of attempted suicides, assaults in prison and staffing levels, we feel this will allow prison governors to better understand the impact that these measures can have on improving outcomes. **Amendment 15 is included as annex 3 and Amendment 8 is included as annex 4.**

4. New Clause 11 – Annual Review of Prison Conditions

4.1 We have previously expressed our concerns about the increase in self-harm and self-inflicted deaths in the UK prison estate, which are currently at a record high.⁷ We have expressed similar concerns over inappropriate use of restraint and segregation, particularly on vulnerable individuals such as children and young people or mentally disordered offenders.

4.2 We therefore support new clause 11, which would require the Secretary of State to commission annual reviews of prison conditions which would include data on instances of restraint and the use of force; injuries sustained as a consequence of those instances; and instances of self-harm and self-inflicted deaths in prisons. This amendment has the potential to improve understanding of violence, self-harm and suicide in prisons, and to use that understanding to take action to reverse those trends. **New clause 11 is included as annex 5.**

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⁵ Chang, Z., Larsson, H., Lichtenstein, P., & Fazel, S. (2015). Psychiatric disorders and violent reoffending: a national cohort study of convicted prisoners in Sweden. *The Lancet Psychiatry*, 2(10), 891-900.

⁶ MoJ, Prisoners’ childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners p. 9

⁷ Ministry of Justice, Office for National Statistics (2017) *Safety in Custody Statistics Bulletin, England and Wales, Deaths in prison custody to December 2016, Assaults and Self-Harm to September 2016*. MoJ/ONS: London.

Annex 1.

Amendment 4

Liz Saville Roberts
Hywel Williams
Jonathan Edwards

Clause 1, page 1, line 14, at end insert—

“(e) provide for the wellbeing and healthcare of offenders, including treatment for drug and alcohol misuse and assuring access to continued relevant support upon release.

(f) liaise with the Probation and other relevant services to ensure coordinated rehabilitation of offenders.”

Member’s explanatory statement: This amendment ensures that it is within the purpose of a prison to ensure offenders receive the appropriate physical and mental healthcare, as well as necessary rehabilitative support upon release.

Annex 2.

Amendment 14

Richard Burgon
Yasmin Qureshi
Nick Thomas-Symonds

Clause 1, page 2, line 7, at end insert—

“(2A) The Secretary of State must by regulation set minimum standards required to achieve the purpose as detailed in section (A1). () Minimum standards in subsection (3) set under these regulations must in particular include, but shall not be restricted to, the following—

(a) overcrowding of prison cells,

(b) prison staff to prisoner ratio,

(c) access to appropriate and education,

(d) access to health care,

(e) access to time in open air,

(f) weekly time spent in locations other than cells, and

(g) Equality Act 2010 requirements.”

Member’s explanatory statement: This amendment requires the Secretary of State to set minimum standards to achieve the purposes of prisons.

Annex 3.

Amendment 15

Richard Burgon
Yasmin Qureshi
Nick Thomas-Symonds

Clause 2, page 5, line 20, at end insert—

“(2A) The Chief Inspector may require any person to provide information on—

(a) the adequacy of staffing levels,

(b) the nature of education and literacy programmes, and

(c) the effectiveness of rehabilitation programmes and re-conviction rates.”

Member’s explanatory statement: This amendment ensures the Chief Inspector has the necessary powers to obtain information relating to staffing levels, education programmes, rehabilitation programmes and re-conviction rates.

Annex 4.

Amendment 8

Liz Saville Roberts
Hywel Williams
Jonathan Edwards

Clause 4, page 9, line 14, at end insert—

“(f) investigating—

- (i) attempted suicides,
- (ii) the number and nature of assaults on staff or prisoners, and
- (iii) the adequacy of staffing levels to prevent such behaviour;

(g) investigating the content and effectiveness of rehabilitation programmes and liaison arrangements with the probation and other relevant agencies to ensure that such rehabilitation continues after a prisoner’s release from custody.”

Member’s explanatory statement: This amendment expands the remit of the Prisons and Probation Ombudsman in relation to the investigation of attempted suicides, assaults in prison and staffing levels as well as powers relating to the investigation of rehabilitation programmes and liaison arrangements.

Annex 5.

New Clause 11

Richard Burgon

Yasmin Qureshi

Nick Thomas-Symonds

To move the following Clause—

“Annual review of prison conditions The Secretary of State shall commission an annual review of prison conditions and lay the report of the evaluation before each House of Parliament, the evaluation shall include, but not be limited to the following—

- (a) instances on which prison officers use force on prisoners;**
- (b) injuries sustained by prisoners through the use of force by prison officers and the severity of injuries sustained;
- (c) prisoner deaths resulting from the use of force by prison officers;
- (d) instances of prisoner on prisoner assault ;
- (e) instances when prisoners self-harm;**
- (f) self-harming prisoners;**
- (g) prisoner suicides;**
- (h) other non-natural deaths in custody;
- (i) deaths resulting from a lack of appropriate medical treatment;**
- (j) injuries sustained by prisoner officers through contact with prisoners and the severity of injuries sustained;
- (k) instances of prisoner on prison officer assault.”

Member’s explanatory statement: This new clause ensures the Secretary of State reviews prison conditions with reference to known protected characteristics of prisoners under section 149(7) of the Equality Act.

Annex 6.

Amendment 30

Stuart C. McDonald

Clause 4, page 9, line 6, at end insert—

“() Investigating cases where a person is detained in immigration detention facilities for longer than 28 days.”

Member’s explanatory statement: This amendment includes as a function of the Prisons and Probation Ombudsman to investigate where a person has been held in immigration detention for more than 28 days.