House of Lords
House of Commons

Joint Committee on Human Rights

Mental Health and Deaths in Prison: Interim Report: Government Response to the Committee's Seventh Report of Session 2016–17

Second Special Report of Session 2017–19

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Committee reports are published on the Committee's website at www.parliament.uk/jchr by Order of the two Houses.

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Committee staff

The current staff of the Committee are Eve Samson (Commons Clerk), Simon Cran-McGreehin (Lords Clerk), Eleanor Hourigan (Counsel), Samantha Godec (Deputy Legal Counsel), Katherine Hill (Committee Specialist), Penny McLean (Committee Specialist), Shabana Gulma (Specialist Assistant), Miguel Boo Fraga (Senior Committee Assistant), and Heather Fuller (Lords Committee Assistant).

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Second Special Report

The Joint Committee on Human Rights published its Seventh Report of Session 2016–17, *Mental Health and Deaths in Prison: Interim Report* (HC 893) on 2 May 2017. The Government's response was received on 15 January 2018 and is appended to this report.

Appendix: Government Response

The Government is aware of the challenges and the needs of vulnerable people in prison, and is committed to ensuring that it provides the quality care required to support the safeguarding of all adults across the estate. Health and Justice are working in partnership to move towards a whole prison approach to health, wellbeing and safety. This is focussed on improved information sharing, better data collection and analysis to understand the mental health needs of those within the custodial estate, and a renewed focus on reforming our prisons to make them safe and secure establishments with access to health services, including those for mental health, and services to support the rehabilitation of offenders in custody.

Implementation of NHS England's Health and Justice Information System (HJIS) will link prison healthcare systems to health systems in the community, enabling the sharing of GP to GP patient records for offenders when leaving prison. When fully implemented, this will create a single primary care medical record and allow electronic prescribing and electronic discharge.

A refreshed National Partnership Agreement between the Ministry of Justice, Department of Health, HMPPS, NHS England and Public Health England will be published in April 2018. This will set joint objectives and outline how the partnership will take a whole prison approach to health, including mental health, self-harm and suicide.

As the Committee will be aware, since publication of its report, the Prison and Courts Bill was not continued with due to the General Election and the provisions in Part 1 of the Bill are no longer being introduced.

We are committed to providing decent and safe prisons. We have a duty of care to all prisoners, this includes people at risk of suicide or self-harm and those with mental health issues. We remain committed to making progress against recommendations and where the Committee has suggested legislative change, we have considered this and are confident that we can push forward with work to deliver our vision in a way that does not require primary legislation. As such we are pursuing the strongest non-statutory and administrative levers to make improvements.

1. **A statutory duty on the Secretary of State to specify and maintain a minimum ratio of prison officers to prisoners at each establishment**

The Government agrees that we need the right staff numbers to provide a secure and safe regime, which is why as part of the Prison Safety and Reform White Paper published in November 2016, we committed to an increase of 2,500 prison officers by the end of 2018. Between the end of October 2016 (the closest data point in time to when the commitment was made) and the end of September 2017, the number of Band 3 to 5 prison officers (FTE) has risen from 17,955 to 19,210, a net increase of 1,255 FTE officers.

However, that is only the start of what is needed to provide a properly rehabilitative, supportive regime that engages with prisoners properly. There is clear evidence that the relationship between staff and prisoners is fundamental in helping prisoners decide to turn away from crime and reduce the drivers of self-harm and self-inflicted death, which is why we are introducing a key worker model. For staff and prisoners this means:

- Across the closed male estate, each prisoner having a named prison officer as their key worker through the roll-out of the new Offender Management in Custody Model (OMiC). This will be a residential prison officer. Each officer will have a case load of around 6 prisoners.
- The impact of the new model in the open estate is currently being considered.
- In addition to day-to-day contact on the wing, key workers will spend 30–45 mins in one-to-one conversation each week with each prisoner in their caseload, and will discuss issues that affect them, deal with any complaints, and encourage them to engage with wider regime activities and challenge their offending behaviour.
- Each Governor will manage the levels of staff in their own establishment, tailoring the model to the needs of the population and the local regime: they will be empowered to vary the staffing regime as they see fit.

The Government is clear that we should have the right staffing levels to run safe regimes assessed at a local level on a prison by prison basis and is not persuaded that prescribing a ratio in primary legislation would be helpful. Specifying a ratio in legislation is not practical because of the nature of prison work and the varying needs of each establishment and prisoner cohort. This could cut across our work to empower governors and free them to make the right operational decisions for the local needs and circumstances of their prison. Setting a ratio in legislation might not result in meaningful interactions between staff and prisoners if undue emphasis was placed on achieving the ratio by employing prison officers in volume and this may impact on the quality of new recruits if governors have a legal obligation to fill vacancies as they arise.

However, the Government recognises the importance of ensuring that each prisoner has a dedicated prison officer to support them–this is being delivered through the roll-out of the Offender Management in Custody (OMiC) model. We consider that the changes set out above–combined with additional investment in staff numbers–will be a significant contributor in delivering the Government's aspiration to support prisons to become safer and more secure, helping prisoners to become more productive and purposeful–all factors that contribute to the success of long-term reform.

The increase in 2,500 officers will ensure that the Offender Management in Custody (OMiC) model (the key worker model) is implemented across the estate. The OMiC model has commenced delivery in eight pathfinder sites and will be incrementally introduced into other establishments. Rollout will be predetermined by set criteria that each establishment will be required to meet. Key Worker roll out is scheduled to be completed by March 2019.

Following the roll-out of the OMiC model, additional officers will be recruited as needed to replace ongoing staff turnover and depending on future prison estate plans and prison population levels.

2. **A prescribed legal maximum to the time a prisoner can be kept in their cell each day**

The Government does not agree that there should be a prescribed legal maximum to the time a prisoner can be kept in their cell. This would limit the flexibility for regimes to vary locally for operational or logistical reasons, and a broad range of other factors.

While the Government does not support a prescribed legal maximum for the time a prisoner can be kept in their cell for the reasons stated above, it recognises the importance of meaningful activity and as part of the rehabilitative process. It is essential that prisoners spend a reasonable part of the day out of cell and this is reflected in the public sector benchmark in the associated service level agreements for Young Offenders Institutes and closed adult prisons (except the high security estate), which provides that cells should be unlocked for 10¼ hours.

The importance of time out of cell is already addressed in various places in the Prison Rules 1999. Examples include Rule 29 on physical education, Rule 30 on time in the open air, Rule 31 on work and Rule 32 on education. As part of privilege systems under Rule 8, prisoners can also receive additional time to associate. In support of the Prison Rules, Prison Service Instruction 75/2011–Residential Services–sets out that prisoners must be allowed a minimum of 30 minutes in the open air daily, subject to weather conditions and the need to maintain good order and discipline.

3. **A legal obligation for the Prison Service to ensure that each young prisoner or adult prisoner with mental health problems has a key worker**

As set out above in response to recommendation 1, we are implementing reforms to give all prisoners, and not just those with mental health problems, a key worker. All key workers will receive the mental health awareness training that is being rolled out to staff as part of the refreshed Suicide and Self-Harm Prevention training course. Since May 2017 over 11,000 staff have been trained in at least one of the modules of this training. The mental health awareness module aims to inform staff of the most prevalent mental health issues in prison, including how a prisoner's mental health might affect how they present themselves and how an officer might interact positively with prisoners presenting with mental health needs.

Each key worker will spend dedicated time every week with each prisoner for whom they are responsible, and the full range of support and care available in the prison can be discussed in these meetings if relevant.

There are already existing legal duties in this area. Article 2 of the European Convention on Human Rights, to which the Human Rights Act 1998 gives effect, includes the requirement to protect life, which in the prison context means taking active steps to prevent suicide and self-harm in custody. The Assessment, Care in Custody and Teamwork (ACCT) process to support prisoners is covered under Prison Service Instruction (PSI) 64/2011 on Safer Custody. Governors are also already under a legal duty, in Prison Rule 20, to work in partnership with healthcare providers to secure access to the same quality and range of services as the general public receives from the National Health Service. This includes provision of services to support prisoners' mental health. Building on this existing legislation, we are working to ensure Governors have a greater say in the commissioning of health services in prison. From April 2017, prison governors have had greater input into decision-making about health services in their prisons and are working closely with

health commissioners throughout the commissioning cycle. As we work with governors to improve their ability to co-commission in a more effective and informed way, we are looking at existing examples of good practice in the estate.

4. **A legal obligation that the relatives of a suicidal prisoner should be informed of and invited to contribute to the ACCT reviews (unless there is a reason that it should not be the case)**

The Government agrees that there is a need to improve family contact for prisoners who are at risk of self-harm and suicide. Prison Service Instruction (PSI) 64/2011 on Safer Custody already sets out that prisoners' families can contribute to the ACCT review process. They are a valuable source of information (as acknowledged by the process) and they should be involved in case reviews where it would be beneficial. They can be part of case review meetings with prisoners and staff, or can contribute in other ways.

Lord Farmer's recent review, 'The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime' published in August 2017 made 19 recommendations, a handful of which referred to the importance of involving families or significant others, where appropriate, in the ACCT procedure. We are in the process of incorporating these recommendations into the ACCT process over the coming months.

To ensure consistent delivery of this policy, we are sharing good practice through a series of learning bulletins issued to establishments and in particular, a dedicated learning bulletin on engaging families in supporting prisoners, including through the ACCT process, will be issued shortly. Following the recent review of ACCT, we are working on a redesigned form and revised supporting policy, and these will emphasise the importance of family engagement.

There will, however, be cases where family members do not want contact with a prisoner, or where it would not be in a family member's best interests to be involved (including for example, where a family member has been a victim of an offence by the prisoner and/or a perpetrator of an offence against a prisoner). There will also be cases where family is a negative factor in an at-risk prisoner's life and involvement may increase their distress and hinder the support process. A legal obligation would need to take account of these complexities and may not be helpful in all cases as routine family participation towards ACCT reviews will not always be appropriate or desirable in providing the best support to a prisoner in response to their individual situation and needs.

While we are aware of some instances where there are failures in family contact, we also have examples of good practice. We do not think this represents a strong enough basis for new legal obligations.

5. **A legal obligation to ensure that all young offenders or prisoners with mental health issues that place them at risk of suicide are able to make free phone calls to a designated family member or friend.**

The Government is already working to improve prisoners' ability to keep in touch with family members by implementing recommendations made by Lord Farmer in his report 'The Importance of Strengthening Prisoners' Family Ties to Prevent Offending and Reduce

Intergenerational Crime'. The report by Lord Farmer, made a similar recommendation for the development of opportunities to enhance communication between prisoners and their family/significant others.

As outlined in the response to recommendation 4, we recognise that for many prisoners, family contact can provide a significant amount of support to those at risk of suicide and ways in which to improve access to family contact for prisoners include improvements to the way important phone numbers are made available to prisoners.

In addition, there are already measures in place so that where there are urgent legal or compassionate circumstances and a prisoner has insufficient funds, staff have discretion to allow calls to be made at public expense. This is set out in Prison Service Instruction 49/2011–Prisoner Communication Services. In addition, we recognise that family contact may not always provide the best support for prisoners, and prisoners are allowed to call the Samaritans for free. We are continuing to work closely with the Samaritans and have increased their grant for 2017–18 which will support continued delivery of the Listeners Scheme, which provides peer support for prisoners in crisis.

A legal obligation would also need to acknowledge that there may be reasons why prisoners should not contact family members, for instance where a family member is also a victim. Legislation would therefore be unlikely to improve on our current plans.

A new Family/Significant Other Policy Framework is to be published in April 2018 to ensure that Governors facilitate Prisoner and, family/significant other engagement to support prisoner's well-being, safety and to prevent suicide.

6. **Where a prisoner needs to be transferred to a secure hospital, a legal maximum time between the diagnosis and the transfer.**

The Government shares the Committee's concerns about the transfer of prisoners to secure hospitals. The Department of Health published best practice guidance in 2011 to achieve urgent transfers within 14 days. NHS England is currently undertaking a clinically informed review of waiting times for transfers between prisons and secure hospitals with a view to publishing revised guidance, expected in April 2018.

We are working urgently with the Department of Health and NHS England to identify improvements that can be made to the process to ensure that people are moving through the secure health care system to the most appropriate place, including returning those who no longer require treatment safely back to prison in timescales appropriate to their needs. We agree absolutely with the intent that prisoners should have access to the right treatment in the right place at the right time but do not consider that a statutory time limit for secure transfers will best deliver this policy intent.

NHS England is working with prisons to move patients within the secure estate (to low, medium and high secure services) and also working to provide single points of access and assessment for transfer as part of a NHS England 10-point action plan to improve Mental Health Transfers of care under the Mental Health Act 1983.

HMPPS has issued a learning bulletin aimed at senior management, safer custody staff, wing staff, segregation staff and healthcare staff which summarises the process for transferring prisoners to and from secure hospitals and gives guidance on managing risk and supporting individuals prior to and following transfer.

7. **A mechanism to ensure the Secretary of State's accountability to Parliament for overcrowding.**

Under section 5 of the Prison Act 1952, the Secretary of State is already required to issue an annual report on every prison and to lay the reports before Parliament.

This requirement is discharged through the HMPPS annual report laid before Parliament each year, which routinely includes data on overcrowding as part of its annual report, and which sets out the percentage of prisoners in the estate held in overcrowded conditions. The annual report also covers the extent to which prisons are maintaining an environment that is safe and secure.

All prisons have a set operational capacity within which they are expected to operate. We make sure that this capacity is set to reflect the provision of safe and decent accommodation and the operation of suitable regimes within prisons.

Current levels of crowding in prisons are carefully managed both by the establishments themselves and their Prison Group Directors at a regional level. No prison will be asked to increase capacity unless it has been certified as safe and decent to do so.

The Government is committed to transforming the prison estate in England and Wales and is investing in the estate to deliver up to 10,000 new places. This includes pushing ahead with plans to close prisons and open new accommodation in this parliament.

8. **A mechanism to ensure the Secretary of State's accountability to Parliament for maintaining specified staffing levels.**

The Government is clear that we should have the right staffing levels to run safe regimes, but is not persuaded that setting out specified staffing levels in primary legislation would be helpful. As established earlier, different prisons will have different needs for their prison population which may change over time. Retaining flexibility over staffing levels will mean that Governors continue to be responsible to make decisions for the local needs and circumstances of their prison. The requirement in section 5 of the Prison Act 1952 for the Secretary of State to issue an annual report to Parliament remains in place, and staffing levels are covered as part of the HMPPS Annual Reports.

If HM Chief Inspector of Prisons identifies significant and urgent issues relating to staffing levels during an inspection, then the Chief Inspector can use the urgent notification process to write directly to the Secretary of State who will respond promptly within 28 days on the immediate action taken and plans to address the concerns raised by the Chief Inspector. Both letters will subsequently be published.

9. **Proposal to amend the purpose clause in the Bill to make explicit that one of the aims of prison is to treat prisoners with humanity, fairness and respect for their dignity.**

As the Committee will be aware, prison measures were not contained in the Queen's Speech, although we can take forward our most pressing priorities without legislation.

The Government believes unequivocally that prisoners should be treated with humanity, fairness and respect for their dignity and believes that these principles are clearly set out in and protected by our existing legislative framework. These existing obligations include duties of care in tort law to ensure prisons are safe, along with obligations under health and safety law, as well as human rights law (both domestic law and international obligations). Many of the minimum requirements which contribute to ensuring that prisons are run in a decent way, compatible with obligations under the Human Rights Act 1998, are also set out expressly in the Prison Act 1952 and particularly in the Prison Rules 1999. For example, they include rules on checking cells and cell conditions (section 14 of the Act and rule 26) the provision of wholesome, nutritious food (rule 24), hygiene (rule 28), beds and bedding (rule 27), and clothing adequate for warmth and health (rule 23). It is also a general principle of public law that a public authority must act fairly.

All prisons are subject to independent scrutiny by the Chief Inspector of Prisons and prisons also have Independent Monitoring Boards, which examine all aspects of prison life to ensure that prisoners are treated with humanity, fairness and respect for their dignity. HM Inspectorate of Prisons is also the co-ordinating body for the National Preventive Mechanism (NPM) required by OPCAT (the United Nations' Optional Protocol to the Convention against Torture).

In addition to this, the Prisons and Probation Ombudsman carries out independent investigations of any complaints a prisoner may have.

It is of course vital to treat prisoners with humanity, fairness and respect for their dignity, but it is not necessary to include such a provision in the Prison Act 1952. This is because the requirements of such a regime already exist in both primary and secondary legislation including broader legal obligations under the Human Rights Act 1998, the Equalities Act 2010, and public law.

Other Issues and Emerging Findings Raised in the Interim Report

Further to the proposals above for changes to legislation that the JCHR considered in its report, it reflected on nine further issues and themes that had started to emerge while they were part way through their enquiry. The following observations are as below and include the Government's response against these statements.

10. **The increased provision of Liaison and Diversion services is positive but questions remain about whether these are being rolled out quickly enough and whether community mental health provision is adequate to support individuals with mental health conditions.**

Providing appropriate intervention and treatment at the right time and in the right place is vital to improving outcomes for people with mental health issues and other vulnerabilities. We are working across Government to help people access the services they need from the moment they come into contact with the criminal justice system.

In England Liaison and Diversion (L&D) services are currently being rolled out in police stations and courts across nearly 70% of the country. NHS England is leading a cross-government programme to expand these services to the whole of England by 2021.

L&D services are not treatment services, but an assessment and identification service that makes necessary referrals to treatment and informs criminal justice practitioners about the health issues identified, for use in their decision making.

L&D plays an important role in addressing a number of key Government priorities including the Government's response to the Five Year Forward View on Mental Health which stated that the Ministry of Justice will work with NHS England, the Department of Health, Public Health England and the Home Office to develop a complete health and justice pathway to deliver integrated health and justice interventions in the least restrictive setting, appropriate to the crime which has been committed.

11. **Too often people who are acutely mentally unwell, such as Dean Saunders, are inappropriately being sent to prison as a 'place of safety'; there is an urgent need to resource and make better use of community alternatives to prison for offenders with mental health conditions, particularly those who are currently given short sentences (in this category women receive shorter average sentences than men for the same offences).**

We agree that individuals suffering with poor mental health should receive treatment and support and have taken significant steps to improve and inform the approach of both health and custodial services in identifying and supporting prisoners following the case of Dean Saunders. This includes developing new policies on the ACCT process and the closer inclusion of mental health professionals for those prisoners that need it.

HMPPS works closely with health and social care partners to ensure our prisons provide the best possible care and support for individuals who are unwell. There is an ongoing need to strike the right balance between the protection of the public and the care and support needs of each individual.

We know that many women offenders have mental health problems which can be exacerbated by custody and that in general women respond less positively than men to a custodial setting. We are developing a strategy for female offenders to improve outcomes for women in the community and custody.

As outlined in a previous response, it is important that we intervene early to support people with health needs, including mental health. L&D places clinical staff at police stations and courts to provide assessments and referrals to treatment and support. These services provide critical information to decision-makers in the justice system, in real time, when it comes to charging and sentencing these vulnerable people, so that decisions and sentences can be tailored to meet their needs. This means that, where appropriate, the offender may

be diverted away from the criminal justice system altogether, away from charge, or from a custodial sentence to a community sentence with a treatment requirement (including mental health treatment requirements).

Alongside this we are also working with the Department of Health, NHS England and Public Health England to increase the use of sentences with mental health, drug or alcohol treatment requirements. We are developing a Community Sentence Treatment Requirement 'Protocol' that will set out what is expected from all agencies involved and ensure improved access to mental health and substance misuse services for offenders who need them (see Annex A for further detail on the 'Protocol'). The aim is to improve physical health, mental health and wellbeing outcomes for offenders in the community and in prison, reducing the number of vulnerable people in prison and addressing the underlying causes of offending. An announcement around the Protocol is expected early in 2018.

12. **Prisoners serving IPP (imprisonment for public protection) sentences**

Prisoners serving IPP sentences who have mental health needs are managed in the same way as all other prisoners and all prisons have procedures in place to identify, manage and support people who are at risk of harm to themselves. We have increased resources to undertake this work. We are developing pathways into mental health treatment, which will be offered to offenders at all stages of the criminal justice system (arrest, community sentence, prison and on release). Health services, including mental health, are a fundamental part of the rehabilitation regime. We want offenders to be free from substance and alcohol misuse, be well enough to engage with rehabilitative programmes and to be safe.

Prison Service Instruction 64/2011 on Safer Custody requires staff to be alert to risks and triggers which may escalate a prisoner's risk (or likelihood) of violence, self-harm and/or suicide. Triggers include mental health, sentences (particularly long or uncertain ones), parole (particularly if unsuccessful) and recall. We have published an additional learning bulletin specifically on the risks associated with life and IPP sentenced prisoners and suggested actions to address these in December 2016. This Learning Bulletin is available to all staff through the Safety intranet page.

We are focused on giving IPP prisoners the support and opportunities to reduce their risk and progress when they are reviewed by the Parole. This ongoing work is continuing to achieve results. During 2016/17, 46% of all IPP prisoners considered by the Parole Board were released and 24% recommended for a move to open conditions. The IPP population in prisons stood at 3,162 at the end of September 2017. This is reduced from 3,353 at the end of June 2017, and 3,528 at the end of March 2017. The decision to release IPP prisoners is not one that is taken lightly. The Parole Board base their consideration on a robust assessment of risk and will only decide to release if it is clear that the risks presented by individuals can be safely managed in the community on licence.

Part of the wider programme of work to increase opportunities for IPP prisoners to progress include psychology-led case reviews of those who have not achieved a progressive move to open conditions or release despite two or more parole reviews following the expiry of their minimum tariff period. This work is ongoing and provides a fresh look at these

cases in order to offer those managing them advice and guidance on pathways forward. This work is helping to derive clear themes as to why these individuals are consistently failing to progress.

Allowing for prisoners being recalled from the community, there are no new IPP prisoners coming into the system following the abolition of the sentence in 2012, and the population is declining. However, public protection remains the paramount issue and IPP prisoners are only released if the independent Parole Board assesses their risks to be safely manageable in the community.

13. **Training for prison officers has been reduced and leaves many ill-equipped to identify and address mental health problems among prisoners. This is a serious issue which needs to be tackled.**

We are supporting prisoners with mental health needs by investing in our workforce. We expect the most important and effective measures to be the investment of £100 million for recruitment of 2,500 new staff, and the introduction of new offender management arrangements in prisons under which each key worker will have particular responsibility for a small number of prisoners.

The Key Worker role implemented as part of the Offender Management in Custody (OMiC) model will help ensure that prisoners are better supported to attend scheduled health and mental health appointments and assessments to support their recovery. It will also mean that their dedicated officer will be able to build a relationship with them and will be in a better position to respond to changes in their behaviour or their mental well-being.

A refreshed mental health awareness module has been included in the current Suicide and Self-Harm (SaSH) awareness training which is being delivered to new staff as part of their induction training, and as refresher training for existing staff. Establishments are currently delivering this training and have stretching but achievable targets.

We are currently undertaking a needs analysis on mental health training requirements. This is with a view to revising the awareness package (included in the SaSH training) and rolling out a new 'enhanced mental health' training package to members of staff who have more specialised roles. The revised mental health awareness package will include all the information staff will need to identify an individual with mental health issues, know how to refer them for medical assessment and know how to support them in their everyday interactions. The enhanced package will build on this knowledge providing more in-depth information around specific mental health conditions and how to manage risk in these individuals.

The SaSH mental health awareness module will continue to be establishment based training and can be used as initial and refresher training. All new staff going through Prison Officer Entry Level Training will receive this module. The 'enhanced mental health' package will be delivered centrally and will be targeted at more specialist staff such as ACCT Case Managers and Assessors, Safer Custody Teams, Segregation and Healthcare Officers and Officers working in specialist units such as mental health crisis units and personality disorder PIPEs etc.

A needs analysis has commenced and is due to be completed by the end of January 2018. Development of the packages will commence following this with a view to piloting the new training packages in the Spring of 2018 before rolling these out across the estate.

HMPPS has also worked with Samaritans to create a new resource to support suicide and self-harm prevention work. The Suicide Prevention Learning Tool provides a new and innovative method of communicating important messages to staff in an engaging and inspiring way through a series of short films. It recognises the important role that staff play, intervening every day to support prisoners at risk, whilst also acknowledging that, for some staff, approaching someone who appears distressed can be difficult.

The learning tool aims to give staff more confidence and motivation to approach and engage with someone they are concerned about or who may be at risk of suicide, and to help them to recognise that suicide prevention is everyone's responsibility and to understand the role that they can play in reducing the number of self-inflicted deaths.

14. **The Government has made proposals for greater autonomy for prison governors and measures to make them more accountable for prisoner safety. We believe that strong leadership is vital to recognising mental health issues and reducing the number of self-inflicted deaths in prison custody.**

Governors are key to delivering our vision of reform. They are best placed to ensure the prison is safe and secure and to understand the rehabilitative needs of the prisoners in their care, taking the decisions that will result in their needs being met. A more purposeful and tailored regime will also play its part in making our prisons safer. To support Governors to design and run regimes that meet the specific needs of their cohort of offenders we are, as far as possible, devolving responsibility for prison budgets to the local level.

The budgets for the delivery of healthcare services will remain with NHS England for prisons in England. In England NHS Commissioners have the clinical knowledge and expertise to ensure that health needs are met and that the standards of services prisons offer in this respect are equitable to those available in the community. However, since April 2017, prison governors have been empowered to start having a greater input into decision making about health services in their prisons. They are working closely with health commissioners throughout the commissioning cycle, basing their input into the process on the needs of their particular cohort and their knowledge of the environment in which health services are being delivered.

In Wales, health is devolved to the Welsh Government and health services in public sector prisons are delivered by Local Health Boards. There are separate arrangements for the private prison in Wales. Governors in Wales jointly chair Prison Health Partnership Boards with the relevant Local Health Board to enable integrated delivery and to co-commission health services as required by the prison cohort. There is also a focus on ensuring equity between custody and community health provision.

Health and Justice partners agree that this offers the most effective arrangement to ensure prisoners can access the right range and quality of healthcare services in custody. HMPPS also continues to work closely with health colleagues to support the overall delivery of quality healthcare services in prisons.

We agree that strong leadership is crucial in supporting the reduction of self-harm and suicides in prisons, and in ensuring that adequate support is provided to prisoners with specific needs, including mental health needs. The suicide and self-harm prevention training (including a module on mental health awareness) referred to earlier, is aimed at all staff with prisoner contact including Governors. Regular leadership messages on prioritising safety are sent from the CEO and Executive Director of Prisons.

From April 2017, performance agreements for Governors have been agreed. Each agreement includes a directional target to decrease levels of self-harm by the end of March 2018.

15. **Equivalence of care: there is huge variation in the availability of mental health services in prisons, which do not reflect those expected in community settings, with some prisons having little or no provision of vital services such as clinical psychology.**

NHS England recently consulted on a revised specification for prison mental health services which will look to address this issue. The concern here has also been raised through the Health & Justice Clinical Reference Group and improved consistency is part of the aim of the new specification. The aim of the new specification will consider how to achieve parity with what the general public receives from the NHS. This new specification is due for publication in January 2018.

As mentioned previously, Governors are also already under a legal duty, in Prison Rule 20, to work in partnership with health care providers to secure access to the same quality and range of services as the general public receives from the National Health Service, including mental health services. We are going to further improve prison health services by moving to co-commissioning so governors will work more closely alongside NHS health commissioners to ensure that services meet the needs of the prisoners in their establishment.

16. **The proliferation of New Psychoactive Substances has had a marked effect on prison safety and the mental health of prisoners.**

Drugs, including psychoactive substances, are damaging and potentially fatal and can lead to violence and instability in our prisons. We have responded to the increased presence of psychoactive substances in our prisons by improving our response both on tackling supply and on reducing demand. This is based on a multi-agency approach working closely with health partners and law enforcement agencies.

To reduce supply, we are working closely with police forces and the National Crime Agency to understand and disrupt the criminal networks behind the smuggling of drugs and other contraband into prisons. We have invested £3m in new regional and national intelligence teams within HMPPS, which are working law enforcement partners to develop intelligence on offenders who present the greatest threat to prison security, including those involved in the supply of drugs.

Where drugs do make their way into prisons, we have a range of robust security measures in place to detect them. We have trained more than 300 sniffer dogs specifically to detect psychoactive substances. We are the first jurisdiction in the world to have developed a drug test for psychoactive substances which has been available in all prisons since September 2016. We continue to work with our contracted laboratory to analyse data to ensure we are testing for the most commonly misused substances. In addition, we are committed to

exploring new technology and are currently looking at the effectiveness and feasibility of the use of body scanner technology (which can detect items secreted internally or held on the body) to complement existing searching methods.

Drug treatment also plays an important role in tackling PS in prisons. National Health Service England is responsible for commissioning mental health and substance misuse provision in prison. HMPPS work closely with them and their providers to enable the delivery of services and ensure that staff, prisoners and visitors are aware of the risks that psychoactive substances present.

HMPPS in collaboration with our health partners has developed comprehensive Operational Guidance on Psychoactive Substances for Prisons and Approved Premises to assist them in reviewing their approach to the issue. In addition, we have delivered two national Learning Days and a toolkit for operational staff from prison, probation and health in order to enhance their understanding and confidence in addressing the matter. NHSE have also issued new clinical guidelines for the management of drug dependency including psychoactive substances.

In the longer-term, underpinning these measures is our investment to increase the number of prison officers, which will allow us to run predictable, consistent regimes across the estate so that prisoners can engage in purposeful activity.

17. **Prisoners with mental health problems need continuity of care and access to safe housing on release from prison: the prospect that these will not be available increases the risk of self-harm and self-inflicted death at the end of their sentence as well as reoffending.**

The Government believes everyone leaving custody should have a safe and suitable home to go to on release; having somewhere to live gives offenders a stable platform from which to address their health and employability needs and reduces the likelihood of them reoffending. We are working together across Government, and together with the Welsh Government, to remove the barriers offenders face when looking to secure accommodation.

The Government is committed to halving rough sleeping by 2022 and eliminating it by 2027. The Ministry of Justice and Department for Communities and Local Government have committed to working collaboratively to develop a joint strategy, which will identify how offenders could be supported by either new or existing pilots to find accommodation on release from custody.

The evidence shows a link between having suitable accommodation and the likelihood of someone reoffending. Therefore, for those 30% we estimate who are released from prison every year without a suitable home to go to, it is important that the Government endeavours to support them and thereby reduce the wider impact of reoffending on society.

Suitable accommodation can play an important part in enabling offenders to get a job, into training, or registered with a GP. NHS England is implementing new requirements in GP contracts which enable registration prior to release from prison. This will facilitate a quicker transfer of patient and treatment information from prison to GP practices, supporting prisoners to access community healthcare services on release.

Continuity of treatment following release is critical. We are looking at what more we can do to give providers of probation services the tools they need to support treatment continuing upon release into the community. We are also exploring the potential of alcohol monitoring on licence to support the effective supervision and rehabilitation of offenders on release, by helping to prevent binge-related reoffending or recalls.

The Government is committed to preventing and tackling homelessness, and no one should ever have to spend a night on the streets. England has a strong homelessness safety net, providing protection to the most vulnerable in our society so they always have a roof over their heads.

The timely commencement of the Homelessness Reduction Act 2017 will ensure that local authorities intervene at earlier stages to prevent homelessness. It also requires local authorities to provide new homelessness services to all those affected, not just those who are protected under existing legislation.

The Act introduces a duty to refer, which requires public authorities in England specified in regulations to notify a local authority of service users, including offenders, they think may be homeless or at risk of homelessness. Our intention is that prisons, Probation (both public and private) alongside Youth Offending Teams, will be subject to this new duty. The requirement has been drafted into the commissioning framework for 2018/19 for both prisons and probation and will be supported by publication of guidance and notices distributed to both. There will be auditing and monitoring arrangements facilitated through the commissioning teams to ensure compliance with the duty. We want to ensure that a person's housing situation is considered when they come into contact with wider public services.

18. **Finally, the lack of an independent oversight mechanism to oversee the implementation of recommendations made following a self-inflicted death in prison means that currently lessons are not learnt and opportunities to save lives in the future are not taken.**

The Prisons and Probation Ombudsman carries out an independent review of all self-inflicted deaths in custody. The Ombudsman also produces thematic Learning Lessons reports to help prevent future avoidable deaths. HMPPS alerts prison Governors to the PPO recommendations and also issues reports on lessons learnt. HMPPS responds with an Action Plan on how it will take forward PPO recommendations. HMPPS also carries out an internal review of deaths in custody. In carrying out inspections, under a Protocol agreed with the PPO, HM Chief Inspector of Prisons also assesses an establishment's compliance with PPO recommendations and provides feedback to the PPO.

As well as action at an establishment level, a central learning team provides regular written communications across the estate about lessons learned from deaths, including circulating the PPO's lessons learned bulletins. We also hold regular learning days for prison staff at the learning centre at Newbold Revel.

In November of this year, the PPO hosted a seminar for senior operational staff, including Governors, Safer Custody Managers and Heads of Healthcare on lessons learned on self-inflicted deaths to present findings from previous cases and explore how things can be done differently.

Every self-inflicted death is also the subject of an inquest. Some such inquests result in regulation 28 reports to prevent future deaths from Coroners. Such reports are carefully considered and the matters of concern raised in them are addressed. Each such report receives a response from the CEO of HMPPS.

More broadly, if HM Chief Inspector of Prisons identifies significant and urgent issues relating to the health of prisoners during his inspection he can use the Urgent Notification process to write directly to the Secretary of State who will respond promptly within 28 days on the immediate action taken and outline plans to address the concerns raised by the Chief Inspector. Both letters will be published.

The Ministerial Council on Deaths in Custody also has a key role to play in improving the learning of lessons from deaths in custody, drawing on its cross-Government structure, expert membership and specialised Independent Advisory Panel to tackle multidisciplinary problems which cut across multiple agencies' responsibilities. The Ministerial Council on Deaths in Custody is jointly sponsored by the Ministry of Justice, the Department of Health and the Home Office. The Council consists of three tiers: Ministerial Board on Deaths in Custody; Independent Advisory Panel (IAP); and Practitioner and Stakeholder Group.

The Council's remit covers deaths which occur in prisons, in or following police custody, immigration detention, the deaths of residents of approved premises and the deaths of those detained under the Mental Health Act in hospital. The Ministerial Board is co-chaired by Ministers from the three departments responsible for institutions that detain individuals, and its purpose is to address the combined agenda of reducing deaths in custody. Membership of the Board includes operational leads, relevant regulatory and inspection bodies and charities.

The Government is determined to ensure the Council provides joint leadership across the custodial system to share best practice and to learn lessons to prevent future deaths in custody. The Ministerial Board is currently finalising its work programme for 2018 which is based on several of the cross-cutting areas raised in the Rt Hon Dame Elish Angiolini DBE QC's recent report on Deaths and Serious Incidents in Police Custody. One of the themes in the Board's work programme is considering methods to improve performance in custodial settings and ensure that lessons are learned. The work programme will be delivered over the forthcoming year and monitored by Ministers and members at meetings of the Ministerial Board.

Annex: Community Sentence Treatment Requirements

Background

1) Although many offenders suffer from mental health and substance misuse problems, use of treatment requirements as part of a community sentence (community orders and suspended sentence orders) is very low.

2) A study of adult offenders starting community orders in 2009 and 2010 showed that of those who received a formal assessment, 32% were identified as having a drug misuse need and 38% an alcohol problem. The same survey found that 35% of people reported having a formal diagnosis of a mental health condition.

3) Despite this, in 2016 only 5% of commenced requirements as part of a community order or suspended sentence order were Drug Rehabilitation Requirements (DRRs), 4% were Alcohol Treatment Requirements (ATRs) and 0.5% were Mental Health Treatment Requirements (MHTRs).

The Protocol

4) MoJ, the Department of Health, NHS England and Public Health England have been working to develop a protocol for community sentence treatment requirements, building on information from the Liaison and Diversion assessment.

5) This sets out what action is required by health and justice staff to ensure pathways into timely and appropriate treatment are in place, and that greater use is made of treatment requirements as part of community sentences. The protocol includes a new minimum standard of service, a new maximum waiting time for court ordered treatment which is in line with waiting times for the general population, and a new single point of contact within local services. It will give us a consistent approach, providing better and quicker access to mental health and substance misuse treatment.

Testing and evaluation

6) We are going to test the protocol in a number of areas to make sure it works and offers those offenders who need it the right support to keep them out of prison and break the cycle of reoffending.

7) Data gathered during this testing process will be fed into the evaluation process. MoJ and DH ministers will consider the results of this evaluation ahead of any further rollout.