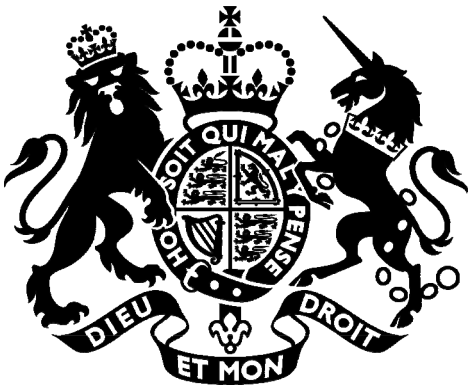
Ministry of Justice

Government response to the Justice Committee's Fifth Report of Session 2013–14

Older Prisoners

November 2013



Government response to the Justice Committee's Fifth Report of Session 2013–14

Older Prisoners

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

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Contents

Geographical Scope

The UK devolved administrations have their own approaches towards the care of older prisoners in areas where responsibility is devolved. Some of the policy areas covered by this Command Paper such as health and social care therefore only cover England. Any mention of areas relating to the work of NOMS and the Ministry of Justice apply to England and Wales.

The Ministry of Justice works with the devolved administrations to ensure a coordinated approach to the care and management of prisoners in all areas of the UK.

Introduction

This Command Paper is published in response to the Justice Select Committee's Fifth Report of Session 2013–14, entitled *Older Prisoners*. I welcome the focus of the Committee on the significant and growing issue of older prisoners. I welcome the provisions within the English Care Bill (currently before Parliament) that will, for the first time, make certain where responsibility for social care lies. However, I also believe that the provision of social care for prisoners is an area in which a strategic approach is needed, whether or not this is underpinned by the provisions of the Bill.

As the Committee points out, older prisoners are the fastest growing age group of our prison population. We appreciate the Committee's recognition of the good work that is already carried out in this area. For example, there are day centres with a specific regime for older prisoners and courses for staff and prisoners leading to national qualifications. We will learn lessons and extend this best practice across the prison estate.

I accept that the fabric of some of our prisons and approved premises present particular challenges. Our long term strategy for improvement of the prison estate includes replacing older, inefficient capacity with modern facilities. This will lead to significant improvements over time. NOMS will work with partners in Health and Local Government to address urgent needs. They will develop a coherent approach to the appropriate placement of prisoners, and work to support aligning of the commissioning of health and social care services.

I have considered the Committee's recommendation to develop a strategy for older prisoners. I accept the suggestion that a national, consistently applied approach is needed across prisons and prison staff. The needs of older prisoners should be addressed by prisons as part of a wider approach to supporting all those with health and social care needs, working with health and social care commissioners and service providers to support and improve assessment and integration of care provision This would not mean setting a definition of 'old', but taking an individual, needs based approach which I believe to be the right course of action. This would, for example, incorporate younger prisoners with disabilities.

NOMS will work with partners in Health and Local Government to align the commissioning of health and social care services in prisons. Responses to recommendations two and three in this report outline a commitment to conduct a targeted physical audit of the prison estate, to identify suitable and unsuitable locations for older prisoners. These actions will inform our work to align commissioning by multiple agencies.

My department will be taking this forward with the Departments of Health and Communities and Local Government with a view to bringing in real change by 2015.

CHRIS GRAYLING MP

LORD CHANCELLOR AND SECRETARY OF STATE FOR JUSTICE

Government's response to the Justice Committee's conclusions and recommendations

Categorisation of older prisoners

1. We consider that it does not make sense to impose a rigid classification of age, whether over 50, over 60, or over 65 in defining the older prisoner population. We also note the Ministry of Justice's view that it is not possible to generalise about the older prisoner population. However, the duty to treat each prisoner as an individual should not inhibit the identification of common features among the older prisoner population that can inform policy. Otherwise, the needs of older prisoners will continue to be overlooked. (Paragraph 27)

We agree that strict guidelines classifying older prisoners will be too wide-ranging. They could risk leaving younger prisoners with disabilities or other social care requirements without much needed support. However we appreciate the Committee's anxiety that the needs of older prisoners could potentially be overlooked without some age specific considerations. We will not look to categorise prisoners as old by their age, but we will look at the possibility of automatic consideration of possible age related issues. This could include referrals for social care needs assessment and placement within the prisons estate. We will undertake analysis of offender needs by age to help understand at which age it would be best to do this.

Suitability of the prison estate and regimes

2. While some prisons are making substantial efforts to adapt their facilities to meet older prisoners' needs, NOMS' responsibility to provide for adaptation to the physical environment of the prison to make basic living for older prisoners feasible is not universally met. In some cases it is impossible to make the necessary adaptations. (Paragraph 35)

And

3. We recommend that NOMS should conduct a comprehensive analysis of prisons' physical compliance with disability discrimination and age equality laws. As part of the ongoing changes to the prison estate, NOMS should determine which prisons simply are not able to make the adaptation necessary to hold older prisoners and it should then no longer hold older or disabled prisoners in these institutions. (Paragraph 35)

The Ministry of Justice (MoJ) and the National Offender Management Service (NOMS) are committed to ensuring that as far as possible all prisoners are sent to an establishment that meets their needs. However the individual characteristics of some prison buildings mean that adaptations cannot always be facilitated.

Prison Governors are already required to comply with disability discrimination and age equality laws. However, we agree that a formal analysis of the estate is required. We will develop a process for conducting an assessment of current accommodation for prisoners with specific needs. This will need to be a targeted approach, consistent with the levels of need likely to occur. For example certain areas of establishments will not need to be

assessed as they are staff only areas. This assessment should be completed by the end of 2014.

We also agree that older prisoners with identified needs and those with disabilities should not be sent to unsuitable accommodation, subject to operational requirements. We commit to ensure this only happens where there are extenuating circumstances: for example, where someone is remanded in custody and is subject to ongoing court proceedings. In the event that does happen we will also seek to ensure any time spent in unsuitable accommodation is kept to an absolute minimum.

4. Many older prisoners are currently being held in establishments that cannot meet their needs. We are not confident that older prisoners are assessed before their entry into prison and, if they are, whether this has any impact on allocation. (Paragraph 40)

We accept that greater clarity is needed on screening offenders for social care needs. However, once the clauses in the Care Bill come into force in 2015, social care needs assessments will be the responsibility of local authorities. NOMS will work with NHS England to consider ways in which prisoners' initial health assessments could lead to a referral to the relevant local authority for further assessment. We will also explore whether age could reasonably mean that such a referral is automatic, and if so, what that age might be.

5. We accept that for operational and practical reasons it will not always be possible to allocate older prisoners to entirely suitable prisons, but NOMS should, as a rule, not allocate such a prisoner to an establishment that cannot meet their needs. (Paragraph 40)

As far as possible, NOMS will ensure that older prisoners are not allocated to an establishment that cannot meet their needs. We are grateful to the committee for their recognition that this will be subject occasionally to operational difficulties (for example prisoners arriving on remand from court late in the evening).

We will consider our approach for the allocation of older and disabled prisoners to prisons which can best meet their needs. Our first aim is always to hold prisoners in establishments that provide the level of security required. We aim to provide accommodation that is suitable for their gender, age and legal status and provides special facilities appropriate to prisoner needs. It is also important to consider if accommodation is near to their homes (or the courts dealing with their cases), providing an opportunity to engage with resettlement services prior to release. This last aim is a key part of our plans for Transforming Rehabilitation which incorporates the designation of 'resettlement prisons'.

6. When older prisoners are unable to work, or to engage with the normal prison regime it is important that they have a regime that allows them to be as active and productive as possible. We recommend that NOMS should ensure all prisons have an older prisoner policy that provides age specific regimes for older prisoners. (Paragraph 46)

Regime specifications are not segmented according to prisoner age. However they do require providers to adapt regimes to meet the needs of the prison population, and encourage prisoner participation. There are a variety of needs and conditions which limit the ability of some prisoners to participate in a mainstream regime. Some of these conditions may be more prevalent in an older population, but this is not exclusively the case. Many older prisoners are not limited in their ability to access a mainstream regime.

A requirement for every prison to have an older prisoner policy detailing age specific regimes would reduce the ability of prison governors to provide regimes which reflect the actual and specific needs of prisoners. This could obscure the requirements of individuals and exclude them from activities for which they would be suitable and would be keen to access. It could also exclude younger prisoners who may benefit from an adapted regime.

This said, we recognise that more can be done to provide adapted regimes for those who require them. Current work to better manage our population strategy is likely to rationalise prisoner pathways through the system. It will also make the population of those prisoners who have need of an adapted regime in each facility more predictable. NOMS will explore opportunities to adapt regimes in prisons where the needs of the population require it, and emulate the good practice highlighted in the Committee's report. This will include health and fitness, social and recreational activities and support groups.

Our response to recommendations 27 – 30 (below) details our proposal to introduce a wider approach covering older prisoners and other inmates with particular regime needs.

7. The integration of prisoners of different ages in prisons has potential benefits for all elements of the prison population and management. In general, we do not see that there is a need for the expansion of segregated older prisoner units or wings. This, however, places greater emphasis on the need within the general prison environment to establish day centres and regimes that provide for the needs of older prisoners. (Paragraph 52)

We agree with the Committee that segregation of older prisoners from the rest of the population is undesirable for a number of reasons. However, it may be beneficial to bring numbers of older prisoners together within the wider population. This could ensure their needs are best met in the right environment and with the right services on hand. MoJ is undertaking analysis of older prisoners' needs which will help inform our thinking in this area.

We are happy to accept in principle that day centres and suitable regimes should be available wherever possible and appropriate. However, for some prisons, space is likely to be an issue. We would also need to define the need and enthusiasm for such centres amongst the older prisoner population.

Health and social care of older prisoners

8. We recognise that some of the difficulties in accessing healthcare experienced by older prisoners mirror the experiences of healthcare of many in the community. Older prisoners, however, do experience particular barriers to accessing healthcare services. (Paragraph 59)

We accept that older prisoners often have more complex health needs than their younger counterparts. Research shows that fifty percent of prisoners aged 40 or over were classified as having a form of disability, compared to 42% of 30–39 year-olds, 32% of 21–29 year-olds, and 18% of 18–20 year-old prisoners.[1]

The Social Exclusion Report (ODPM, 2002) estimated that approximately half of prisoners had no GP before they came into custody. However, more recent research has found that 88% of prisoners said they were registered with their GP before custody.[2] Further analysis also found that for older prisoners an even greater proportion reported being registered with a GP, and a majority of older prisoners also reported receiving treatment or counselling for a health or medical problem in the year before custody.[3]

9. Cancelled hospital appointments because of a lack of communication between healthcare and prison officers are entirely avoidable and NOMS should take steps to ensure greater coordination between the two. All prisons should follow the Department of Health guidelines as set out in the National Service Framework for Older People that they should have an nurse lead for older prisoners who can develop a specialty in the provision and dedicate time towards the extra practical demands that older prisoners present as patients. (Paragraph 59)

We agree that better management of health appointments is desirable. To support this, NOMS will work with NHS England on the possibility and suitability of increasing the use of video link technology. This could allow medical consultations, where appropriate, to be conducted without the cost and security implications of transporting prisoners to hospitals.

In relation to nursing, there have been changes in the prison estate since 2001, when the National Service Framework for Older People was published, and the transfer of responsibility for commissioning health services within the prison estate moved to the NHS. These changes have meant that the emphasis for NHS commissioners has moved away from specific professional roles and workforce specifications to commissioning services which meet the health needs of the population in each prison. Health needs assessments in prison establishments are now regularly used to ensure that appropriate services are commissioned. NHS England now commissions prison health services in line with the commissioning framework Securing Excellence in Commissioning for Offender Health (2013).

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1 Cunnliffe et al. (2012) *Estimating the prevalence of disability amongst prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners* MoJ Research Series 4/12.

2 MoJ (2010) *2010 Compendium of reoffending statistics and analysis, Ministry of Justice Statistics Bulletin, November 2010: Results from Surveying Prisoner Crime Reduction (SPCR)*.

3 Unpublished further analysis of Surveying Prisoner Crime Reduction Study (SPCR) Sample 2, see MoJ (2010) *2010 Compendium of reoffending statistics and analysis, Ministry of Justice Statistics Bulletin, November 2010: Results from Surveying Prisoner Crime Reduction (SPCR)* for published headline figures.

10. The unmet mental healthcare needs of older prisoners are extensive. The way to combat this is to raise awareness and enhance training among all those in the prison community – to recognise where mental health problems exist and to refer appropriately. We commend the organisations that provide awareness training inside prisons and we urge NOMS to encourage officers to obtain relevant training and consider integrating it into standard prison officer training. (Paragraph 63)

We welcome the Committee's recognition of the good practice that already exists in this respect, such as the training on dementia run by Age UK and the Alzheimer's Society in HMP Dartmoor and Exeter.

The recommendation to incorporate awareness training is accepted in principle. NOMS will look to work with NHS England developing training packages. A mental health awareness model is currently delivered to all new entrant officers through Prison Officer Entry Level Training (POELT). There is also already a recognised training package called Mental Health First Aid (MHFA), which is aimed at non-clinicians. NOMS will work with the Department of Health to assess the suitability of the MHFA package.

11. In a situation in which clinicians believes that medical treatment warrants a clinical hold of a prisoner, it should not be a challenge for them to obtain it. As long as there are no overriding security concerns then effective provision of healthcare should guide NOMS in the timings of moving ill prisoners. (Paragraph 65)

We fully accept that prisons should work closely with healthcare providers to facilitate timely access to healthcare, and that medical holds are one tool to achieve this. However we do not agree that increased use of medical holds in local prisons is an effective and efficient way of improving health outcomes. NOMS will continue its work with the NHS during 2014–15 to commission pathways for healthcare treatment which are aligned with prisoner pathways through the justice system and back to the community. Through NOMS reconfiguration of the prison estate we aim to create more predictable flows of prisoners which will facilitate this approach.

12. The failure to connect the community healthcare and prison IT systems has a tangible and negative impact on the healthcare outcomes of older offenders when they enter prison, and when they leave prison it disrupts continuity of care. It frustrates prison healthcare teams and exacerbates the pressures placed on them. We share the Minister's enthusiasm for the more effective transfer of information between those who provide services for offenders during their sentence and after they leave prison. This would be of particular benefit to the treatment of older prisoners with chronic and complex health needs. The NHS Commissioning Board and NOMS should work together to connect the prison healthcare IT systems with the NHS in the community, taking into account security concerns. We intend to monitor progress on this matter. (Paragraph 70)

In relation to health care, the majority of these concerns will be answered by a proposed new Health and Justice Information Services IT system that is currently under development by NHS England. This will enable health case management information to be transferred between different places of health care provision both in custody and into the community. In addition, NOMS and NHS England have a shared partnership commitment to ensure continuity of care from custody to community. This has been

reinforced within the Department of Health's Mandate to the NHS.[4] In relation to social care, these kinds of arrangements are yet to be developed, and will be taken forward as part of our wider work on developing policy on prisoner social care.

Changes coming in as part of MoJ's Transforming Rehabilitation Programme will ensure that all prisoners receive statutory supervision when leaving prison. This will include a new 'through the gate' resettlement service. It will help to ensure referrals to health treatment and social care in the community are followed up, and that access to other services is supported. In addition, the estate is being reconfigured to include 'releasing prisons' which will see most offenders returned to a prison near their own community (and local authority) within the last three months of their sentence, enabling better links to be made.

13. The lack of provision for essential social care for older prisoners, the confusion about who should be providing it, and the failure of so many authorities to accept responsibility for it, have been disgraceful. We welcome the fact that clarity of responsibility is provided in section 69 of the Care Bill. Prisoners, like all those who are resident in the local authority in which a prison situated, will qualify for the provision of social care should an assessment of their needs meet eligibility criteria which will be established by regulation under clause 13(6) of the Bill. Clarification is needed as to how local authorities with large prison populations will be assisted with the funding which will be required for them to provide social care. (Paragraph 79)

We also welcome the clarity that the clauses in the Bill will bring. We will be working with our partners in the Department of Health, NHS England and local authorities over coming months to develop policies on how this will work in practice. This will lead to the implementation of cross agency guidance.

Estimates based on the increasing age profile of prisoners suggest that approximately 3,500 prisoners at any one time will have care and support needs which meet the national eligibility criteria. We are currently refining this estimate through a survey of prisoners. Funding provision that recognises the additional costs will be provided to Local Authorities.

14. The Secretary of State for Health must now work with NOMS and the Minister for Prisons and Rehabilitation to develop criteria which effectively resolve the Law Commission's concern that local authorities do not understand the level of care that prisons provide and the specific needs of prisoners. (Paragraph 80)

As mentioned above, MoJ and NOMS will work together with the Department of Health, NHS England and our partners in local authorities to develop statutory guidance to support the implementation of the clauses in the Care Bill in 2015. Initial engagement with key stakeholders has commenced. Further development is due to occur in the coming months.

[4] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213131/mandate.pdf

15. Clarifying statutory responsibility for social care is a welcome step in improving the provision of social care for older prisoners. It is not, however, a sufficient guarantee for effective outcomes. We consider that NOMS should prepare guidance for prisons in liaising with local authorities' social care teams, and should issue a Prison Service Instruction specifying the extent to which it expects officers to carry out basic social care. (Paragraph 83)

And

16. Some local authorities will face considerable pressure on resources in meeting their new responsibility in the provision of care for older prisoners. While the provision of funding for the service is welcome, there is potential for disparity in the service provided by different local authorities. We recommend that NOMS should set out the minimum standards of care it expects for older prisoners with severe social care needs. It should also guide prisons in their coordination with local authorities. NOMS should consider placing social workers in prisons to work with older prisoners and others with social care needs, as in the effective model that we saw at HMP Isle of Wight. (Paragraph 84)

We accept that there should be minimum levels of care. The Government is bringing in a new national eligibility threshold, which sets a minimum expectation for all care users, which will include those in prisons. In addition, NOMS will develop guidance for staff in prisons to clarify their contribution in supporting Local Authorities in their provision of care and support for older prisoners in a way which is consistent with the role of a Prison Officer. NOMS will make expectations clear to prisons as part of the commissioning process for 2014/15.

Provisions in the Care Bill address the potential for disparity in levels of service between different local authorities. It will be for each local authority to consider how best to meet need within a prison, and the role that social workers will play.

17. Whatever precise model is adopted, assessment of health and social care needs on entry into prison and subsequent review that follows prisoners through their sentence up to and including release rationalises resources and is an effective way of unifying the complex needs of older prisoners. Such assessments should be provided for all prisoners who enter prison at an advanced age, and who age whilst in prison. (Paragraph 89)

All new prisoners receive both a needs assessment and a health assessment on entering prison. In addition, NHS England and NOMS have a partnership commitment on integrated health & social care in place. This will address integration of assessment and reviews. NOMS will look to work with NHS England to build mechanisms into this for referring prisoners on to local authorities for a full social care needs assessment. We are also happy in principle, for this to include an automatic referral for all new prisoners, and for all serving prisoners, over a certain age (subject to what the evidence tells us is appropriate). However an assessment of the costs and benefits of an age trigger for health and social care assessments would be needed before any commitment to an automatic age trigger for either health or social care assessment.

NOMS and NHS England are committed to working together to improve continuity of care between prisons and the community. They also aim to maximise the integration of health and social care services for prisoners.

18. The Prisons and Probation Ombudsman noted in his report into end of life care that NOMS were undertaking work into developing new guidelines in the use of restraint in clinical environments. This provides an opportune moment to assess whether the balance between security and compassion is sufficiently achieved. It is right that prison management should give guidance about the removal of restraint in cases of terminal illness and we recognise the pressure that prison officers would be under to remove a prisoner's restraints, potentially at the expense of security. The pendulum seems to have swung too far by excluding the exercise of judgement by experienced prison officers in these situations. (Paragraph 94)

NOMS recognises the need to achieve the balance between security and compassion when using restraint in clinical environments. Existing NOMS policy allows escort staff to act immediately and independently in response to medical emergencies, informing the prison of their actions and obtaining advice from the prison on further action. In a non-emergency situation, the escort is able to consult with the relevant operational manager of the prison and to put in place a considered response that is proportionate to the situation. NOMS' escorts policy is currently under review, and this issue will be explored further as part of that.

19. Release on compassionate grounds remains a difficult decision for Governors and in some cases the Minister. The extension of palliative care suites is a way to provide effective care within prison, but such provision is not universal. NOMS should provide for more prisons to create palliative care suites. NOMS should add as a criterion to be taken into account in considering the release on temporary licence on compassionate grounds for terminally ill prisoners, whether effective care can be provided in the prison in which they are held or in another suitably located prison. (Paragraph 99)

There has been a growth in the number of palliative care suites available in prison over recent years. NOMS will work with the NHS to review current capacity to provide these services. We accept in principle the recommendation to increase provision. This would be in line with evidence of need, where it is practicable for prisons to provide for this. We will look to develop best practice on what this would look like.

For release on temporary licence, there are no plans to amend the current policy. This already allows compassionate release to be considered under either the early or temporary compassionate release provisions. This would cover cases where prisoners require medical care or treatment that cannot be provided whilst they remain in prison, but which can safely be provided outside the prison setting.

Resettlement

20. We welcome the resettlement services for older prisoners that are currently provided, especially those which we saw at HMP Dartmoor and HMP Isle of Wight. Services which provide comprehensive plans are the ideal way to provide for successful resettlement, and it is these services that are most important to older prisoners, rather than those relating to employment which may not be relevant and ignore other needs. NOMS should extend provision of resettlement services that are targeted at older prisoners wherever an older prisoner population exists. All older prisoners who are released after a long period of incarceration must have a resettlement and care plan. (Paragraph 107)

The Care Bill includes clauses that will ensure continuity of care between local authorities. When someone is released from a prison located in one local authority, back to their community in another local authority, their care provision will continue. As part of guidance to support the Bill, NOMS will work with their partners in local authorities to see how prisons can support this.

The changes proposed under the Transforming Rehabilitation Programme will include the requirement for every prisoner to have a resettlement plan in place before they are released. There will be a new 'through the gate' service together with the extension of statutory supervision to include all those leaving prison. This will mean that prisoners will be more supported as they return to their communities.

21. Approved premises are in principle the right place to hold older prisoners who have no home to go to following a long sentence for serious offences because they provide accommodation from which they can begin to rebuild their lives. The difficulties which are faced in securing accommodation are particularly acute for sex offenders; problems are compounded by limiting places in approved premises to high risk offenders and licence conditions and housing agency policy limit options for where older prisoners can live. It is a matter of concern that approved premises may be unable to receive older prisoners because they are not compliant with disability requirements. Probation trusts must take steps to ensure that all approved premises meet disability and age equality requirements. (Paragraph 113)

Approved premises are fundamentally short-term risk management facilities for high-risk offenders. As such they are not a solution for long-term accommodation needs for older prisoners. However, NOMS will explore the possibility of making some small-scale improvements to Approved Premises. This should better enable them to meet disability and age equality requirements.

22. We do not doubt that efforts are made to avoid releasing older prisoners to no fixed abode but still occur frequently. Release to no fixed abode undermines all work that has been made towards resettlement and will do nothing to assist older prisoners not to reoffend. Older prisoners, who may be frail and vulnerable, should not be released to no fixed abode because there has been no housing referral, or it has been delayed. NOMS must ensure that all older prisoners who require accommodation are referred to housing agencies within good time. The Government should bring forward proposals to ensure that, as in Wales, no prisoners are released to No Fixed Abode. (Paragraph 118)

Prisons are set exacting targets to ensure that no prisoners are released without accommodation. Targets vary according to establishment but are typically around 85%. In 2012, all prisons exceeded their target for ensuring settled accommodation on release

We cannot legally keep prisoners in prison beyond their release date, even if no accommodation is available for them in the community. However prisons have a responsibility to help ensure that prisoners have accommodation on release – irrespective of their age – and work towards that end with a range of other services. Prisons and Probation Trusts work closely with local housing authorities to ensure that existing tenancies are sustained where possible. They also aim to make sure that applications for social housing and homelessness assessments are made appropriately, and at the right time before discharge.

In any case, older prisoners who are vulnerable can be prioritised for the provision of housing under existing arrangements in England. Strong duties exist in legislation for local authorities to secure accommodation for homeless people who have a priority need for accommodation. Certain categories of household or homeless people, such as families with children and households that include someone who is vulnerable have a priority need for accommodation. Examples of vulnerability include old age, physical or mental disability, or vulnerability arising as a result of a custodial sentence.

We understand that the Welsh Government is currently consulting on the proposal to amend the statutory priority need status of former prisoners to one of vulnerability.

The Department for Communities and Local Government is also providing a further £1 million to Crisis to build on the success of the £10.8 million Crisis Private Rented Sector Development Programme. The Programme has a clear objective to develop a new community based voluntary sector services that will meet the needs of people who are threatened with homelessness, including ex-offenders of all ages.

Under our plans for Transforming Rehabilitation, probation providers will need to engage with statutory and non-statutory local partnerships. Paying providers according to their results in reducing reoffending will incentivise them to establish these links.

23. When commissioning resettlement services for older prisoners under payment by results system, the Government must take into account the limitations of reoffending measurements, and should ensure that success is measured according to reintegration and engagement of former older prisoners with community services and society. Older prisoners are unlikely to be seeking employment. They are also, taken as a category and with some exceptions, the least likely subgroup of the prison population to reoffend; their resettlement needs are distinct from the younger population and commissioned services must reflect this. (Paragraph 123)

Under the Government's *Transforming Rehabilitation* proposals, all prisoners should benefit from resettlement services and genuine continuity of provision 'Through the Gate' from custody to the community. The provision of essential resettlement services in custody to all prisoners will be delivered irrespective of potential payment by results, ensuring that all prisoners, including older prisoners, will receive a level of resettlement services regardless of reoffending and potential employment.

In terms of the payment by results portion of payment to the providers, it is true that older prisoners are less likely to be seeking employment. However there will be some who are at high risk of reoffending and some who wish to keep working (a large minority of older prisoners stated that having a job to go to would be important in stopping them from reoffending in the future[5]). We do not think it is practical to change the incentives mechanism away from reduced reoffending for certain cohorts of offenders, and on the part of older prisoners, since we do not feel imposing a blanket age category would be helpful.

Nevertheless, we do recognise that for many of these prisoners, their resettlement needs and risk of reoffending levels will differ from others. The competition process will ensure that the chosen providers are committed to delivering quality services to all prisoners, including the resettlement needs of older offenders.

24. The failure to register an older ex-offender with a community GP after release undermines any productive work that is done to manage or improve their healthcare in prison. All older prisoners, in their preparation for resettlement, should be provided with necessary documentation and instruction to register themselves with a GP in advance of their release; when an older prisoner is unable to do this them it should be done on their behalf by resettlement services. (Paragraph 126)

The partnership agreement between NOMS and NHS England includes an undertaking to work together to support continuity of care. This could include an expectation that the health provider will support GP registration for those who have a return address in the community.

The introduction of resettlement prisons and through the gate services, as well as statutory supervision for all prison leavers, under Transforming Rehabilitation will also support better transition from care in custody to care in the community.

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[5] Unpublished further analysis of Surveying Prisoner Crime Reduction Study (SPCR) Sample 2, see MoJ (2010) *2010 Compendium of reoffending statistics and analysis, Ministry of Justice Statistics Bulletin, November 2010: Results from Surveying Prisoner Crime Reduction (SPCR)* for published headline figures.

25. The local authority to which an older prisoner is being released should be notified of their social care needs in advance of their release. Any requirements that an old or disabled prisoner may have in order to travel home from prison should be identified and the Government should provide clarification as to which local authority is responsible for supporting disabled prisoners immediately on release. We find it inconceivable that there can be any circumstance in which a prisoner who is a wheelchair user could be released without a wheelchair; NOMS must ensure that disabled prisoners retain their mobility on release. (Paragraph 129)

The Care Bill includes clauses that will ensure continuity of care between local authorities. When someone is released from a prison located in one local authority, back to their community in another local authority, that local authority will be notified and their care provision will continue. As part of guidance to support the Bill, NOMS will work with their partners in local authorities to see how prisons can support this. We will also work with our partners to see how responsibility for prisoners immediately upon release or in transit between areas could be clarified. This work should be completed alongside the launch of the Care Bill in 2015.

26. The introduction of a care passport similar that which we saw at HMP Isle of Wight is a simple and effective solution to assist in providing continuity of health and social care of older prisoners. Until there is an effective IT system that allows for efficient transfer of relevant information between prison authorities and agencies in the community, such passports should be given to all older prisoners on their release. (Paragraph 131)

We agree that once the provisions of the Care Bill are in place there will be a need for prisons and health providers to share information with and local authorities. We will work with our partners on mechanisms for doing this, and will look at the 'passport' system to see what lessons can be learned.

A national strategy for older prisoners?

27. Older prisoners have needs that are distinct from the rest of prisoner population by virtue of their severity. Such severity warrants specific means of addressing those needs, and PSI 32/2011 does not sufficiently provide for the minimum standards of care and treatment that are determined by their needs and removed minimum standards and requirements that did exist. (Paragraph 134)

28. We also disagree with the Ministry's view that the needs of older prisoners are too wide to generalise about. There is marked commonality between groups of older prisoners that can guide the development of a national strategy. (Paragraph 135)

29. The growth of the older prison population and the severity of the needs of that population, warrant a national strategy in order to provide for them effectively. Some prisons hold high numbers of older people in their establishments and have the incentive to develop an effective older prisoner policy and regime. Others do not, and the older prisoners who are held in these prisons are more likely to receive inequitable treatment as a result. (Paragraph 136)

30. It is inconsistent for the Ministry of Justice to recognise both the growth in the older prisoner population and the severity of their needs and not to articulate a strategy to properly account for this. The Ministry of Justice should produce a national strategy for the care and appropriate regime for older prisoners to provide for minimum standards that produce effective and equitable care. (Paragraph 136)

We absolutely agree that we need to focus on the changing profile of the prison population, and to ensure that there is adequate provision to meet needs, especially prisoners' needs for social care. We recognise that older prisoners will be the main group which stands to benefit from social care reforms, as will older people in the community. In terms of provision of care and support, the Government is bringing in a new national eligibility threshold which sets a minimum expectation for all care users, which will include those in prisons. This will have the effect of establishing minimum levels of care. In addition to that, NOMS will develop a consistent, national approach across prisons and prison staff, for supporting all those with care and support needs. This will include elements such as estate and regime adaptations, as well as ways of working with their Local Authorities to support and improve assessment and commissioning of social care services, based on the needs of the individual. We welcome the clauses in the Care Bill that will clarify responsibilities in this area. However there is still a lot of work to be done to lay the foundations for real change between now and 2015, which is our aim.

As mentioned in our response to recommendation 1, we agree with the Committee that blanket categorisation of prisoners by age is unhelpful. For this reason our approach for managing older prisoners will focus on addressing their individual needs. A generic 'older prisoner strategy' is not in our view an appropriate way forward.

We do however accept that older prisoners are likely to have higher levels of health and social care need and we expect them to be the main beneficiaries of the Social Care reforms. However we feel that it is important to ensure that their needs are catered for within policy for prisoners with social care needs, rather than to be separated out. That separation would mean that either they or other younger prisoners with care needs might lose the focus they deserve.

Our view is that prisoners should be managed on the basis of individual needs not on the basis of their age. We will work with key partners to develop a coherent approach to ensure that we clearly capture the potential impact on older prisoners in our existing policies and guidance.

We will work with our partners in Health and Local Government with the aim of aligning the commissioning of health and social care services in prisons. Responses to recommendations two and three in this report outlined a commitment to conduct a targeted physical audit of the prison estate, to identify suitable and unsuitable locations for older prisoners. These actions will inform our work to align commissioning by multiple agencies.

Our long term strategy for improvement of the prison estate includes replacing older, inefficient capacity with modern facilities. NOMS' development of prison population strategy will enable us to better predict and manage the allocation of older prisoners, and ensure the development of effective care pathways through the prison system for these individuals. This will provide an opportunity to develop adapted regimes in prisons with large populations of older prisoners.

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