



National Offender
Management Service

Adult Social Care		
This instruction applies to:-		Reference:-
NOMS Headquarters Prisons Providers of Probation Services		AI 06/2016 PSI 03/2016 PI 06/2016
Issue Date	Effective Date	Expiry Date
06 April 2016	06 April 2016	N/A
Issued on the authority of	NOMS Agency Board	
For action by	<p>All staff responsible for the development and publication of policy and instructions</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> NOMS HQ <input checked="" type="checkbox"/> Public Sector Prisons <input type="checkbox"/> NOMS Immigration Removal Centres (IRCs) <input checked="" type="checkbox"/> Contracted Prisons* <input checked="" type="checkbox"/> Governors <input checked="" type="checkbox"/> Heads of Groups <input checked="" type="checkbox"/> National Probation Service (NPS) <input checked="" type="checkbox"/> Community Rehabilitation Companies (CRCs) <input type="checkbox"/> Other Providers of Probation and Community Services <input type="checkbox"/> NOMS Rehabilitation Contract Services Team <p><i>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons</i></p>	
For information	All staff in NOMS HQ, Prison establishments, Approved Premises Managers, National Probation Service, Community Rehabilitation Companies, Secure Training Centres.	
Provide a summary of the policy aim and the reason for its development/ revision	This PSI details changes made to NOMS Service Specifications to capture NOMS responsibilities resulting from the requirements of the Care Act 2014 and Social Services and Wellbeing (Wales) Act 2014. It provides all staff with details of the relevant elements of these Acts, which reform social care provision and clarify the responsibility of local authorities in England and Wales. These Acts ensure that social care for adults in prisons and approved premises, and for those occupying bail accommodation as a condition of criminal proceedings, is provided on the basis of equivalence to people living in the community. The relevant sections of both Acts apply to adult prisoners and young	

	offenders aged 18 and over in England and Wales regardless of where they have lived prior to imprisonment.
Contact	For matters concerning England or Wales: Health, Wellbeing, & Substance Misuse Co-commissioning Health.co-commissioning@noms.qsi.gov.uk
Associated documents	<p>The following Service Specifications can be found at: https://www.gov.uk/government/collections/noms-directory-of-services-specifications</p> <p>Early Days – Reception In Early Days – First Night in Custody Early Days – Induction Manage the Custodial and Post Release Periods Prisoner Communication Services Enablers of National Co-Commissioned Services in Prisons Residential Services in Custody Specialist Units (HSE) Nights Early Days – Discharge Rehabilitation Service – In custody External Movements and Appearances Approved Premises BASS</p> <p>PSI 17/2015 Prisoners Assisting Other Prisoners PSI 16/2015 Adult Safeguarding in Prison PSI 07/2015 – PI 06/2015 Early Days in Custody PSI 15/2014 Investigations and Learning Following Incidents of Serious Self-Harm or Serious Assaults PSI 07/2014 – AI 05/2014 Security Vetting PSI 05/2014 Safeguarding of Children and Vulnerable Adults PSI 30/2013 Incentives and Earned Privileges PSI 27/2013 – AI 11/2013 Data Sharing Policy PSI 21/2013 – AI 08/2013 Reporting Wrongdoing PSI 08/2012 Care and Management of Young People PSI 04/2012 Enablers of Health, Education and Job Centre Plus Services in Prisons PSI 02/2012 Prisoner Complaints PSI 01/2012 Manage Prisoner Finance PSI 75/2011 Residential Services PSI 64/2011 Management of Prisoners at Risk of Harm to Self, to Others and from Others (Safer Custody) PSI 47/2011 Prison Discipline Procedures PSI 32/2011 Ensuring Equality PSI 08/2010 Post Incident Care PSI 06/2010 Conduct and Discipline PSO 1300 Investigations PSO 1700 Segregation PSO 4800 Women Prisoners</p>
	Replaces the following documents which are hereby cancelled: PSI 15/2015 - AI 10/2015 - PI 11/2015 Adult Social Care which expired on 31/3/2016.
	Introduces amendments to the following documents: See section 17 for amendments

Audit/monitoring: Deputy Directors of Custody, NPS Deputy Directors, Commissioners and Controllers and CRC Contract Managers will monitor compliance with the mandatory actions set out in this instruction.

Notes: *All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to*

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1. Executive Summary

Background

- 1.1 The Care Act 2014 applies to adult prisoners and young adults aged 18 and over and came into force in April 2015; PSI 15/2015 (expired) was issued in response to the Care Act and was relevant to prisons in England. From April 6th 2016 the Social Services and Well-being (Wales) Act 2014 applies to adult prisoners and young offenders aged 18 and over in Wales, and also extends to under 18s. The Principles of Cross Border Continuity of Care within the United Kingdom seek to ensure continuity of care for individuals moving across borders, and has relevance to the movement of prisoners and others between England and Wales; see Annex B.
- 1.2 Whilst legislation in England and Wales is distinct, for the purposes of this instruction there are key similarities between the Care Act and the Social Services and Wellbeing (Wales) Act. They each reform social care provision; and each clarify the responsibility of local authorities in their respective administrations to prevent the escalation of care and support needs and to provide assessments and care and support services for adults in prisons and approved premises¹, on the basis of equivalence to people living in the community. Within this instruction reference to '**the relevant Act for England or Wales**' refers to common requirements set out in both the Care Act 2014 and the Social Services and Wellbeing (Wales) Act 2014.
- 1.3 Social care and support services are commonly referred to as care services or care and support services and these terms may be used interchangeably. From April 2016 local authorities in both England and Wales will have responsibilities for assessing and meeting the care and support needs of all adults within their geographical area – this includes responsibility for assessing and meeting the eligible social care and support needs of adult prisoners detained in prisons which are within a local authority's area and also responsibility for assessing and meeting the eligible social care and support needs of residents of approved premises within the local authority's area and / or people who move from their usual home and are within a local authorities area as a condition of bail in criminal proceedings. Adults with disabilities or long term health conditions may be eligible for social care support (including someone in a Young Offenders Institution who is over 18). Just like people living in the community, prisoners and people living in approved premises or in bail accommodation may have to contribute to the cost of their care, if they are assessed as being able to afford to do so.
- 1.4 **England only:** Statutory Guidance to the Care Act sets out the policy for England. Not all needs which a prisoner may have will be eligible for local authority support, but local authorities have responsibilities to complete assessments, to prevent escalation of needs, to provide information and advice to aid well-being and services such as aids to daily living that will prevent, reduce or delay increased care needs developing. The level of need which triggers eligibility for local authority services is set out in regulations and is applicable to all local authorities in England.
- 1.5 **Wales only:** The Code of Practice on Miscellaneous and General in relation to Part 11 of the Social Services and Well-being (Wales) Act underpins the Act and sets out the requirements on local authorities in the exercise of their social services functions in respect of those being held in prison, in Approved Premises or Bail Accommodation and on release. Supplementary Guidance sets out how local authorities should work together,

¹ Approved premises are accommodation approved by the Secretary of State which is provided to persons who are granted bail or for the rehabilitation or supervision of offenders (section 13 of the Offender Management Act 2007).

including national pathways to ensure a consistent approach to care and support arrangements for those in the secure estate. Local authorities should use these pathways, and work with their partners, to develop and implement their local care and support arrangements.

Desired Outcomes

- 1.6 Partnerships between prisons, probation services and local authorities for care and support are established and maintained.
- 1.7 Offenders, and in particular prisoners, are aware of: their entitlements under the relevant Act for England or Wales (determined - for prisoners, Approved Premises residents and those on bail to a specific address as a condition of bail in criminal proceedings - by the location of the prison or property in which they are placed); how to access needs assessments; and, when eligible, how to access care and support services.
- 1.8 Local authority services are able to operate safely and securely in prisons for the benefit of prisoners and staff; so that prisoners who may have needs as a result of illness, disability or age, or who are eligible care leavers, have equivalent access to care and support services as in the community, and are supported to live with dignity and as much independence as possible.
- 1.9 Continuity of care and support for prisoners who move or who are released is enhanced through timely exchange of information and joint planning with, and between, local authorities.

Application

- 1.10 All prison, Community Rehabilitation Company² and National Probation Service (NPS) staff working with prisoners and offenders in the community in England and Wales. This includes those involved with the co commissioning or delivery of care and support and those fulfilling a supervisory/ discipline role.
- 1.11 It is useful guidance for NHS England commissioners and providers; for Welsh Government and, Local Health Boards in Wales; for local authority commissioned providers; and for other delivery partners in custody, such as Learning & Skills providers

Mandatory Actions

- 1.12 *Probation services must give consideration to the care and support needs of offenders/defendants in the community (including pre and post-custody) and must work in partnership with offenders/defendants and local authorities where such needs exist, or may exist.*
- 1.13 *NPS must establish partnership working arrangements with local authorities to enable the residents of approved premises (including independent approved premises) to access*

² CRCs are relevant partners for the purposes of Sections 10 and 25 of the Children Act 2004, Section 6 of the Care Act (England) 2014 and Section 134 of the Social Services and Well-being Act (Wales) 2014 [Amended & Restated Service Agreement (ARSA) between NOMS and CRCs, clause 3.2 (a) (iii)]

social care assessments and, where relevant, care and support services, and to promote continuity of care.

- 1.14 Although the minimum expectation of service from local authorities is comprehensively defined in the relevant Acts for England and Wales, and in associated regulations and guidance, the way it should be delivered is not prescribed. The delivery of care and support is the responsibility of local authorities which means that commissioning and partnership arrangements may vary in range and nature for each establishment.
- 1.15 *Governors and Directors of contracted prisons must ensure that all mandatory actions in this instruction are completed and may do so by delegation of responsibilities to appropriate functional leads, in line with the scale and type of social care needs of the population in the establishment.*

Section 3 - Governance and Partnerships

- *Each prison must nominate a local lead for Adult Social Care who will have responsibility for liaising with local authorities, their providers and provider staff.*
- *Prisons must agree and complete a Memorandum of Understanding (MOU) with relevant local authorities and providers of care and support services, that documents the local arrangements in place for care and support services, including dispute procedures in line with [PSI 04/2012](#)*

Section 5 - Communication, Identification, Referral

- *Prisons must ensure that information provided by the relevant local authority about needs assessments, care and support to meet eligible needs, and how to access needs assessments and care and support is made available to prisoners.*
- *Prisons must make use of P NOMIS social care 'alerts', during custody and pre-transfer or release, in order to: highlight a prisoner's potential need for assessment or for care and support; to highlight referrals made; or to record the outcome of any assessment or the content of any care and support plan.*
- *Prisons must make use of available information to identify prisoners who may have care and support needs.*
- *Prisons must ensure that the local authority is informed when a prisoner arrives at their establishment and prison staff consider that the prisoner may have care and support needs, or when the prison staff become aware of a prisoner's possible need for care and support during their time in custody, and must keep a record of referrals made, to whom and when, and in cases where the referral is made by the prison, the content of the referral should be recorded.*
- *Prisons must inform local authorities of prisoners aged up to 25 years if they are aware that person has been in local authority care in order to enable their eligibility for services to be considered by the local authority.*

Section 6 - Enabling Assessments

- *Prisons must enable local authorities or their providers to arrange and complete needs assessments in a timely manner.*

Section 7 - Care and Support Plans

- *Prisons must identify the contribution of custodial services to the care and support plan for a prisoner in negotiation with the assessor, care service provider and with the involvement of the prisoner.*
- *Prisons must ensure that where an individual care and support plan requires care staff or others to have access to the prisoner during the night state, these access requirements are understood and agreed by the prison and service providers and are consistent with the Local Security Strategy.*
- *An individual's care and support plan must not be shared with other prisoners.*

Section 8 - Transfer and Discharge Arrangements

- *If a prisoner is in receipt of care and support, or is considered likely to require care and support services on transfer or discharge, prisons must provide timely notice to local authorities, and to care and support service providers, when a decision is made to transfer a prisoner to another establishment and must advise local authorities of planned discharge dates.*
- *Prisons must identify the contribution of custodial services and any contribution under the Prisoners Assisting other Prisoners scheme (PSI 17/2015) as part of the information provided, so that appropriate arrangements can be made for the new location.*

Section 9 - Care Plan Review

- *Prisons must contribute to reviews of care and support plans for prisoners with care and support needs.*

Section 10 - Advocacy

- *Prisons must identify and inform the local authority when they consider the prisoner appears to require an independent advocate to facilitate involvement in care and support assessments and plans.*

Section 11 - Enabling Care and Support Services

- *Prisons must enable the delivery of care and support services in line with NOMS specification Enablers of National Co-Commissioned Service in Prisons so that social care personnel are supported to deliver their services and are appropriately security vetted*

Section 12 - The Built Environment, Equipment and Adaptations

- *Prisons must consider the recommendations of care and support professionals made in relation to individual cases when making any reasonable adaptations and adjustments to buildings to ensure prisoners are enabled to live with decency and as independently as possible.*

Section 14 - Complaints

- *Prisons must enable prisoners to make a complaint about care and support services which are the responsibility of a local authority according to local authority complaints procedures.*

Other

- *Prisons must continue to provide social care services as currently agreed in their SLAs, until local authorities begin to meet any care and support needs in accordance with the relevant Act in England or Wales.*

Resource Impact

- 1.16 Governors of some establishments may need additional resources depending on the needs of the population of that prison. At present this is not possible to quantify but the impact will be monitored. Governors may contact Public Sector Prisons Business Development Group in relation to resourcing issues. Contracted providers may raise matters through contract management meetings.

Contacts

- 1.17 For further information about this guidance in relation to England or Wales please contact health.co-commissioning@noms.gsi.gov.uk

(Approved for Publication)

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2. Introduction

- 2.1 Prisoners and residents of approved premises who have needs for care and support should be able to access the care they need, and their care and support should be equivalent to that available in the community, with the exceptions that convicted prisoners are not entitled to receive direct payments in any circumstances for the costs of their care and prisoners do not have a choice of accommodation. Previously the responsibilities for meeting the social care needs of prisoners have been unclear, and this has led to confusion between local authorities, prisons, probation services and other organisations. This created historical difficulties in ensuring needs were met. The relevant Acts in England and Wales clarify local authority responsibility for care and support for prisoners to ensure that they are entitled to receive equivalent provision to persons in the community (with limited exceptions), and require local authorities to work in partnership with NOMS and health services .
- 2.2 Prisoners can often have complex health and care and support needs and generally experience poorer physical and mental health outcomes than the general population. Evidence demonstrates higher prevalence among the adult prison population of mental illness, substance misuse and learning disabilities than in the general population. The population of older prisoners (aged 50 years and over) in particular has increased in recent years and with it the incidence of age related disabilities and needs. Access to good integrated health and care and support is particularly important for these groups.

3. **Governance and Partnerships**

- 3.1 *Each prison must nominate a local lead for Adult Social Care who will have responsibility for liaising with local authorities, their providers and provider staff*
- 3.2 *Prisons must agree and complete a Memorandum of Understanding (MOU) with relevant local authorities and providers of care and support services, that documents the local arrangements in place for care and support services, including dispute procedures in line with PSI 04/2012 Enablers of Health, Education and Job Centre Plus Services in Prisons.*
- 3.3 Memoranda of Understanding should be supported by specific local information sharing agreements consistent with policies and procedures of Ministry of Justice and the National Offender Management Service and with relevant legislation. Memoranda should set out how information will be shared between prisons and local authorities and their providers, including the sharing of information about risk to the prisoner and risks the prisoner may present to others, where this is relevant, and consistent with PSI 27/2013 – AI 11/2013 Data Sharing Policy. Local authorities should provide assurance in relation to the security of information held on people who are in custodial settings. Memoranda should also set out training which may be offered by the parties to the agreement, for example training to social care staff who will be working in prisons, or training a local authority may provide to prison staff or to prisoners through the Prisoners Assisting other Prisoners scheme. Memoranda should clarify for the benefit of local authority staff and their providers how to raise security concerns or issues with prison staff. A template to assist development of Memoranda is attached at [Annex A](#). Should a prison experience difficulty in engaging its local authority in the development of a Memorandum of Understanding it should seek to escalate the matter within the relevant local authority in the first instance. If this does not prove effective then prisons should contact NOMS Health, Wellbeing and Substance Misuse Co-commissioning to support resolution and escalation (contact via Health.co-commissioning@noms.gsi.gov.uk).
- 3.4 Where possible local governance arrangements for care and support can be integrated with healthcare arrangements.
- **In England only:** The Care Act (2014) places a reciprocal duty on local authorities to co-operate with its relevant partners in relation to care and support functions. These partners include prisons and probation services. Governors, Directors and Deputy Directors of Custody are engaged in a variety of healthcare strategic and operational governance boards alongside NOMS commissioners and policy leads. NHS England and ADASS (Association of Directors of Adult Social Services in England) encourage local authorities to join these boards to promote co-ordination and integration. Many local authorities have no prisons in their area, many have one, and several have multiple establishments. Healthcare governance arrangements are also not uniform. Therefore a pragmatic ‘best fit’ approach to establishing the geographical scope of governance meetings should be taken
 - **In Wales only:** The Social Services and Wellbeing Act requires local authorities to work in partnership with NOMS, Local Health Boards and others. Supplementary Guidance requires local authorities to explore opportunities to join Prison Health Partnership Boards and to extend the terms of reference to include the delivery of care and support; local partnership boards draw together Governors/Director, the Local Health Board in which the prison is located and other interested parties. Local

authorities should also explore opportunities to join and extend the terms of reference of the Prison Health Information Network.

- 3.5 Governors and Directors should consider the need for both strategic and operational meetings with local authorities and with their care and support service providers, driven by the scale and type of social care needs in their population. It is through these meetings that Governors can seek assurance of social care delivery and help the local authority to understand how services are performing. Governors and Directors should ensure that there is good communication between local authorities and their providers and persons responsible for relevant functions of the prison, including residential services, healthcare and safer custody, and where indicated persons responsible for other functions such as facilities management, education, chaplaincy, catering, PE and others.

4. Adult Social Care Eligibility

- 4.1 In the community, local authorities are responsible for meeting eligible care and support needs for people ordinarily resident in their area. The relevant Acts for England and Wales clarify that adults who are detained in prison or residing in approved premises in England and Wales are treated as if they were ordinarily resident in the area where the prison or approved premises is located, regardless of where they have lived prior to imprisonment. The relevant Acts also apply to people aged over 18 years in young offender institutions, secure children's homes in England and Wales and Secure Training Centres in England. Adults bailed to a particular address in criminal proceedings are, like those in prison or approved premises, treated for the purposes of the relevant Acts as ordinarily resident in the local authority where they are required to reside.
- 4.2 Where prisoners have previously been detained under sections 47 and 48 of the Mental Health Act 1983 and are transferred back to prison, their entitlement to aftercare under that Act should be dealt with in the same way as it would be in the community - apart from any provisions which are dis-applied in custodial settings, such as direct payments and choice of accommodation. In England and Wales, the Mental Health Act 1983, which is modified by Care Act 2014, will apply in determining which local authority is responsible for commissioning or providing the after-care.
- 4.3 If the person previously detained under the Mental Health Act 1983 was ordinarily resident in the area of a local authority immediately before being detained in hospital under the Mental Health Act, that local authority will be responsible for their after-care while the person is in prison and upon their release from prison. However, if the person was not ordinarily resident in any area immediately before detention, the local authority responsible will be where the person is resident or where they have been discharged (i.e. the local authority responsible for the prison to which the person has been discharged). The local authority will be jointly responsible with NHS for providing or arranging after care while the person is in prison in England. The relevant Local Health Board in Wales will also be determined by where the person was ordinarily resident immediately before being detained. Arrangements for resolving disputes relating to mental health aftercare services provided under section 117 of the Mental Health Act 1983 are set out in Mental Health Aftercare Guidance in England and Wales (2015). Disputes about ordinary residence will be determined by the appropriate Ministers.
- 4.4 Any person may have or develop needs for care and support. Only some levels of need will be sufficient to meet eligibility criteria for local authority services. It is for local authorities in England and Wales to determine, following needs assessment, whether or not an individual's needs meet the criteria for eligibility for services. The criteria for eligibility differ between England and Wales.
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- 4.5 **England only:** Eligibility for care and support in England is set out in regulations under the Care Act; it is determined in line with the Care and Support (Eligibility Criteria) Regulations 2015 and statutory guidance. The threshold for eligibility for care and support services is the same as for people who are living in the community and does not change when a person enters prison, although the way in which needs are met may change. An adult may be eligible for care and support services if the adult's needs arise from, or are related to, a physical or mental impairment or illness and as a result of the adult's needs the adult is unable to achieve two or more outcomes set out in regulations, and as a consequence there is, or is likely to be, a significant impact on the adult's well-being.

These outcomes include:

- managing and maintaining nutrition;
- maintaining personal hygiene;
- managing toilet needs;
- being appropriately clothed;
- being able to make use of the adult's home (in this case, the prison) safely;
- maintaining a habitable home environment (in this case, the prisoner's cell);
- developing and maintaining family or other personal relationships;
- accessing and engaging in work, training, education or volunteering;
- making use of necessary facilities or services in the local community (that is prison services and any required community services during temporary release) including public transport, and (prison) recreational facilities or services; and
- carrying out any caring responsibilities the adult has for a child.

4.6 **Wales only:** Eligibility for care and support in Wales is set out in regulations under the Social Services and Wellbeing Act and is determined in line with the Care and Support (Eligibility) (Wales) Regulations 2015 and the related Code of Practice.

The Eligibility Regulations set out the eligibility criteria for adults in Wales. In each case, there are four separate conditions which are required to be met:

- The first condition relates to the person's circumstances and is met if the need arises from the kind of circumstances which are specified in the Regulations, for example physical or mental ill-health.
- The second condition is met if the need relates to one or more of the outcomes specified in the Regulations, for example the ability to carry out self-care or domestic routines.
- The third condition is met if the need is such that the person is not able to meet that need alone, with the care and support of others who are able or willing to provide that care and support; or with the assistance of services in the community.
- The fourth condition is met if the person is unlikely to achieve one or more of their personal outcomes unless the local authority provides or arranges care and support to meet the need in accordance with a care and support plan.

5. Communication, Identification, Referral

Communication

- 5.1 Prisons *must ensure that information provided by the relevant local authority about needs assessments, care and support to meet eligible needs, and how to access needs assessments and care and support is made available to prisoners.*
- 5.2 Local authorities have duties under the relevant Acts for England and Wales that include ensuring that people in their area are aware of the availability of care and support, how to access it and how to raise concerns about themselves and others who have a need for care and support. *Prisons must work with local authorities and healthcare providers to ensure that this information is available to prisoners, for example by facilitating access to local authority information, advice and assistance services; through leaflets and posters; or verbally during interviews etc.* Communication should be sensitive to the private nature of needs, such as the need for assistance with toileting.
- 5.3 *Prisons must make use of P NOMIS social care 'alerts', during custody and pre-transfer or release, in order to: highlight a prisoner's potential need for assessment or for care and support; to highlight referrals made; or to record the outcome of any assessment or the content of any care and support plan.*

Identification

- 5.4 *Prisons must make use of available information to identify prisoners who may have care and support needs.*
- 5.5 Local authorities can expect prisons and/or healthcare providers to prisons to advise them when prison staff are aware of individuals who may have care and support needs – in England this is set out in the Care and Support Statutory Guidance issued by the Department of Health; in Wales this is set out in the Part 11 Code of Practice (Miscellaneous and General). This is in addition to the responsibilities that local authorities have to consider processes for identifying people in custodial settings who have or are likely to develop care and support needs. Prison staff may lead on identification or may make arrangements with the prison healthcare service provider to discharge this responsibility. Available information to support identification may arise from reception interviews, the Basic Custody Screening Tool record (mandated in local prisons only), or any other relevant record, for example that the prisoner is a Care Leaver or has mobility issues, or that the prisoner has been in receipt of social care services prior to imprisonment. Information on care and support prior to imprisonment may accompany the individual to prison, or may be noted on the Prisoner Escort Record (PER). Prisons and health care providers to prisons may choose to work with the local authority to develop local tools in order to screen for social care needs, but this is not mandated centrally in England or Wales.
- 5.6 In addition to needs which are apparent on reception to custody, prisoners may develop needs at any point during their period of imprisonment, for example following a period in hospital or as a result of increasing age. Prison staff should work closely with healthcare staff and others, such as learning and skills providers to ensure that those who develop needs are also identified.

Referral and Urgent Needs

- 5.7 *Prisons must ensure that the local authority is informed when a prisoner arrives at their establishment and prison staff consider that the prisoner may have care and support needs, or when the prison staff become aware of a prisoner's possible need for care and support during their time in custody, and must keep a record of referrals made.*
- 5.8 *Prisons should not seek to determine eligibility for care and support services, but must refer cases if they believe an adult may have care and support needs. A person who appears to have a need for care and support must be referred for assessment, even if they may not meet the relevant eligibility criteria set out in Section 4. Prison staff should seek the full involvement of the prisoner with the referral and gain the consent of the prisoner to making the referral, but prison staff may proceed with a referral even when consent is withheld, if they consider that the individual is either unable to make an informed decision on this matter or is placing either themselves or others at an unacceptable level of risk by not giving consent.*
- 5.9 Each local authority will have a referral process for needs assessment for care and support which may commence with a written referral, a telephone call, provision of information on-line, or other arrangements. The local authority should provide information to prisons on the agreed process for referral.
- 5.10 The referral can be made in different ways, but in all cases the prison should ensure that it is aware of referrals and that these are recorded. *A record must be kept that the referral was made, to whom and when, and in cases where the referral is made by the prison, the content of the referral should be recorded.*
- 5.11 If a prison is for any reason unable to make a record of a referral (for example a self-referral of which the prison was unaware) then the prison can reasonably be expected to be contacted by the local authority or their agent where the referral outcome indicates a need for further assessment, and a record can be made following that contact. Where the local authority has commissioned prison based healthcare services to deliver assessments on its behalf, the prison based healthcare services may accept the referral directly. Where the prison based healthcare services have agreed locally to complete initial identification of care and support need, the healthcare service may complete the referral.
- 5.12 Prisoners also have the right to self-refer for assessment in England and may self-refer in Wales. The self-referral process should be clear through the information, advice and assistance service provided by local authorities, or their providers, which will differ dependant on the local authority. It might consist of providing standard leaflets, with a section or simple form for prisoners to complete and instructions on how to contact the relevant local authority. Alternative options might include running a regular drop-in clinic which prisoners could access, or enabling prisoners to call a dedicated PIN phone number, to enable a telephone assessment to be carried out. Arrangements put in place by local authorities are expected to be negotiated locally with prisons to reflect the requirements of the relevant Act for England or Wales and the regime, and to reflect the needs of the local population.
- 5.13 The prison's role is to enable the local authority processes for self-referral for care and support needs assessments by prisoners based on information provided by the local authority. The local authority system for self-referral should be accessible and ensure that independent assistance with self-referrals is available, if required. Clear information should be available from the local authority on assessment and eligibility, how to access financial information and advice, as well as what assistance may be available locally to provide preventative care.

- 5.14 Local authorities are also responsible for making plans for children and young people in Young Offender Institutions, Secure Training Centres or other places of detention as well as children and young people in the youth justice system, who are likely to have eligible needs for care and support as adults and who are approaching their 18th birthday. Prisons holding prisoners aged under 18 years will need to identify these young people and ensure that a child to adult transition assessment takes place and for the local authority to be duly notified by the prison. This will include situations where a young person is moving to the adult custodial setting.
- 5.15 It is important for prisons, local authorities and their partner organizations, to recognize that care leavers may be adults or children depending on their age. Care leavers mean those young people who leave the care of the local authority i.e. former looked after children. Young people formally leave care at age 18 years but a local authority retains some responsibility for its former looked after children beyond their 18th birthday. A care leaver's eligibility for services from the local authority varies depending on factors such as the duration and timing of that care and whether the child is owed a duty under the Care Act or the Social Services and Wellbeing (Wales) Act. *Prisons must inform local authorities of prisoners aged up to 25 years if they are aware that person has been in local authority care in order to enable their eligibility for services to be considered by the local authority.*
- 5.16 Prisoners should not experience any delays when they are in urgent need of care and support. *Priority must be given to meeting any urgent and immediate needs which may put the prisoner at risk, including assistance with toileting, nutrition, severe mobility issues and managing medication.* Urgent and immediate needs may be apparent on reception to custody or may arise suddenly as a result of an illness or event. Needs may be highlighted via Prison Escort Records, court reports or court based services; on arrival in custody needs may be identified via reception interviews, during Basic Custody Screening interviews (local prisons only), through day to day contact between any prison staff and prisoners, or by other prisoners or non-directly employed staff.
- 5.17 It is for the local authority to provide services to meet urgent eligible needs for which they are responsible, including needs for equipment. How this is provided should be negotiated with the prison and take into account the role of the prison and its population – for example, in a local prison, prisoners will arrive without prior notice from local courts. If an urgent need to adapt buildings is indicated, this should be considered by the prison and consideration may need to be given to moving the prisoner to a more suitable location. In the event of urgent needs arising and local authority services not being available, prisons will need to seek assistance from healthcare services or exceptional arrangements may be put in place on a case by case basis for prison staff or contracted agency staff to provide care and support.

6. Enabling Assessments

- 6.1 *Prisons must enable local authorities or their providers to arrange and complete needs assessments in a timely manner.*
- 6.2 A decision as to whether to search or escort or supervise a prisoner when enabling assessments is determined by the current risk assessment for that prisoner. In some cases prisoners may present a risk to social workers completing assessment and it is the responsibility of the prison to manage this risk appropriately.
- 6.3 If a prisoner refuses an assessment the local authority is not required to carry out the assessment unless:
- The person (prisoner) lacks the capacity to refuse and the local authority believes that the assessment will be in their best interests or;
 - The person (prisoner) is experiencing or is at risk of abuse or neglect.
- 6.4 *If a prisoner refuses an assessment and prison staff believe there is any level of risk of abuse, or if a prisoner's needs are such that the absence of a care and support service might be considered neglect, prison staff must request from the local authority that an assessment be completed and ensure a record is kept of the details of this request.*
- 6.5 Where abuse or neglect are suspected please refer to PSI 16/2015 Safeguarding Adults which sets out arrangements for England and Wales.
- 6.6 Local authorities may complete assessments using their directly employed staff or may commission or arrange for others ("trusted assessors" in England and "suitably qualified assessors in Wales") to provide assessment services. In custody, as in the community, social care assessments should be a collaborative process that involves the person concerned. The assessment has to consider the person's needs and desired outcomes and how care and support could improve the wellbeing of the person. All assessors are required to be appropriately trained.
- 6.7 The assessment process may look very different at different establishments (as it is the responsibility of individual local authorities), so it is not possible to identify a standard or typical enabling service which prisons will be required to deliver. However some generalised assumptions about the format the assessment process is likely to take are set out below.
- 6.8 Timings for an assessment are assumed to vary depending on both (a) the provider and (b) the prisoner's individual circumstances (c) the nature of the assessment. An assessment may require up to one or two hours at one sitting. However, depending on the individual prisoner, there may need to be two to three shorter meetings rather than one longer one. The assessment is likely to take more time where the assessor is less familiar with the prison, or is an Occupational Therapist who may be looking at issues around adaptations for a more severely disabled prisoner. The assessment is likely to include basic questions about the offender's financial situation.
- 6.9 *Assessors must be provided with induction training before working in a prison.* An assessor who already works at the prison may be familiar with the prison, for example a healthcare member of staff operating as 'trusted' or " assessor, or a social worker that does all or most of the prison work. Such an assessor may not need time to view the offender's

living accommodation (cell) or consider access requirements to other areas of the prison. However, assessments may be completed by staff who are not familiar with the prison. In such cases the person should be given access, as required on a case by case basis, to any areas that the offender uses, or should be able to use, and which pose problems for them in some way (such as toilets, showers, refectories, training/education areas).

- 6.10 Suitable facilities and equipment will need to be provided to support the assessment meeting. The basic requirement is an appropriately private room that is big enough not just to accommodate the prisoner and social worker, but also any peer supporter or independent advocate or other who needs to be there.
- 6.11 Additional requirements to facilitate the assessment may include access to a phone and computer/internet access, as there may be tools and records that the assessor may wish to access. Where assessments are carried out by the local authority, consideration may need to be given, in line with the Local Security Strategy, to the Governor/Director authorising social workers to bring computer equipment or recording devices into prisons.

7. Care and Support Plans

- 7.1 *Prisons must identify the contribution of custodial services to the care and support plan for a prisoner in negotiation with the assessor, care service provider and with the involvement of the prisoner.*
- 7.2 *Prisons must ensure that where an individual care and support plan requires care staff or others to have access to the prisoner during the night state, these access requirements are understood and agreed by the prison and service providers and are consistent with the Local Security Strategy.*
- 7.3 Following a needs assessment, if the prisoner has eligible needs the local authority along with the prisoner, care and support providers, and in some cases other professionals such as specialist social workers or healthcare staff, will prepare a care and support plan which sets out how the identified needs will be met and will set out how those eligible needs will be met by the local authority (or its contracted services). A prisoner's care and support plan is a confidential document, but can be shared with services with the consent of the prisoner, including any others involved in the care and support of the prisoner. The care and support plan can be provided to those who need to see it for the purposes of carrying out their statutory functions even without the prisoner's consent. A care and support plan to which prison staff have access can be shared with the functional head responsible for the Prisoners Assisting other Prisoners scheme. *An individual's care and support plan must not be shared with other prisoners.*
- 7.4 Prisoners should be encouraged to consent to sharing their full care and support plan with prison staff. If a prisoner is not willing to consent to sharing the full details of the plan, then consent may be given to sharing the parts of the plan which relate to the provision of custodial or other services (such as Learning & Skills) or services from other prisoners. If the prisoner does not consent to sharing any of the plan information, then it is good practice for prison staff to request sight of the plan from the local authority and explain to the prisoner that if the prison staff are not aware of the care and support plan, that may limit the contribution to the care and support the prison is able to provide and will exclude any contribution to care under a Prisoners Assisting other Prisoners scheme.
- 7.5 Care and support plans may be shared by local authorities and their providers without consent when:
- the prisoner lacks the capacity to consent as defined in the Mental Capacity Act and the local authority or their agent believes it will be in their best interests;
 - the prisoner is experiencing or is at risk of abuse or neglect;
 - others may experience harm as a consequence;
 - others need to see it for the purposes of carrying out their statutory functions.
- 7.6 Care and support plans will rely on the delivery of custodial services and may supplement these services with local authority services. For example prisons will need to continue to provide meals for a prisoner, but local authorities may provide the prisoner with assistance with eating. Or the prisoner may need to attend the gym for specific remedial exercise and care services might provide assistance with movement. The care and support plan may also indicate requirements to prevent the escalation or worsening of needs.
- 7.7 The care and support plan may also indicate services which might reasonably be provided by voluntary sector services or by other prisoners where a scheme is in place for prisoners to provide assistance to other prisoners (see PSI 17/2015 Prisoners Assisting other

Prisoners). A care and support plan may also identify the times of the day when particular services or interventions should be provided (for example assistance with continence or medication). The care and support plan may include the provisions of aids or adaptations to the built environment (see section 11 below).

- 7.8 Where a person is not eligible for services they will receive written information relevant to their needs.
- **In England**, where, following an assessment, a person does not meet the threshold of eligibility for services, the local authority is required to provide him or her with written information about what can be done to meet or reduce needs and what services are available; and information about what can be done to prevent or delay needs from developing or getting worse.
 - **In Wales**, the local authority is required to provide a written copy of the assessment which will record the actions to be taken by the local authority and other persons to help the person achieve their outcomes. This applies to those needs which are to be met through the provision of care and support and those met through community based or preventative services, the provision of information, advice and assistance or by any other means which are not eligible for a care and support plan. It will also include a statement about how the identified action will contribute to the achievement of the personal outcome or otherwise meet needs identified by the assessment.
- 7.9 End of life care extends to prisoners. Prisoners may receive palliative care in a hospital or hospice or care home or move to an alternative prison with a more suitable environment. However, the location of prisoners within the prison estate is determined by NOMS. The Secretary of State may at any time release a prisoner on licence if he or she is satisfied that exceptional circumstances exist which justify early release on compassionate grounds.
- 7.10 Responsibility for end of life services rests either with the NHS or local authority, or both, and will be determined by a health and social care assessment and the use of a Decision Support tool for any prisoner with complex health needs. NHS England (Health & Justice) and Local Health Boards in Wales are respectively responsible for prisoners in England and Wales who are eligible for Continuing Healthcare (CHC).
- 7.11 Prisons may need to consider reasonable adjustments to services, and to buildings (see section 12 below), taking into account advice from social care workers.
- 7.12 It is not the intention of the relevant Acts in England and Wales that prisoners are able to act as formal carers for other prisoners, although they may contribute to aspects of care and support. Please refer to PSI 17/2015 Prisoners Assisting other Prisoners.
- 7.13 Prisoners cannot be compelled to accept care and support services. If a prisoner refuses care and support services the prison will need to carefully consider the risks this presents to the prisoner, staff and the wider regime. Where there is a significant concern over the wellbeing of the prisoner, prison Governors are advised to seek advice from local authority adult safeguarding teams. Please refer to PSI 16/2015 Safeguarding Adults.

8. Transfer and Discharge Arrangements

- 8.1 *If a prisoner is in receipt of care and support, or may require care and support on transfer or discharge, prisons must provide timely notice to local authorities, and to care and support service providers when a decision is made to transfer a prisoner to another establishment and must advise local authorities of planned discharge dates.*
- 8.2 *Prisons must identify the contribution of custodial services and any contribution under the Prisoners Assisting other Prisoners scheme as part of the information provided, so that appropriate arrangements can be made for the new location.*
- 8.3 Local authorities are responsible for continuity of care for offenders receiving care and support. This includes responsibility to make arrangements for any care which may be required during transport. If a local authority is arranging care for an individual and that individual moves to another local authority area, whether moving between prisons, to approved premises, or being released to the community, the 'sending' local authority providing care should liaise with the 'receiving' local authority now responsible to ensure continuity of care. When moving to a different local authority area, the receiving authority is required to provide care and support on the basis of the sending authority's assessment and resultant care and support plan, until the receiving authority has undertaken its own assessment and prepared its own care and support plan. If no service is provided in the new area then the sending local authority has a responsibility to continue to meet needs for required care until a service is provided. Where movements are cross border, the principles set out at [Annex B](#), which have been agreed between the responsible authorities in the United Kingdom will apply.
- 8.4 *Prisons must therefore inform local authorities and their providers of decisions to move or release prisoners to enable a local authority to meet its duties for continuity of care, subject to security restrictions for Category A, E-List or Restricted Status prisoners, or for other prisoners where this information creates unacceptable risk.* Local authorities should review an individual's care and support plan each time they enter custody from the community, or are released from custody.
- 8.5 Where a prisoner is temporarily absent from an establishment (for example in order to attend court, or under ROTL arrangements), social care provision for the prisoner will remain the responsibility of the local authority which has responsibility for the area of the originating prison. Service requirements during temporary absence should be arranged as part of the care and support plan. Care plans should not normally require a full review following prisoner external movements.
- 8.6 Given the difficulties associated with determining some offenders' ordinary residence on release from prison or departure from approved premises, it is good practice to ensure early involvement of all agencies in resettlement planning, including the Community Rehabilitation Company (CRC) delivering the *Through The Gate* resettlement services and the agency with overall responsibility for the management of the offender (either the CRC or the National Probation Service - NPS). The aim is to ensure that the resettlement plan is sustainable in the local area where the individual will reside and implemented in a timely manner.
- 8.7 Formal *Through the Gate* resettlement arrangements commence 12 weeks prior to release and provide an ideal opportunity for the resettlement service provider to work in conjunction with the Offender Manager (either CRC or NPS) to consider any care and support needs and work collaboratively with the Local Authority to plan for release. It is important to note

that some offenders will require management under the Multi Agency Public Protection Arrangement (MAPPA) process - with MAPPA referrals usually being made 6 months prior to release. Local Authorities have a duty to cooperate with MAPPA and therefore the individuals responsible for assessing the care and support needs and developing a care and support plan - should one be appropriate - would be expected to do so in consultation with MAPPA in relevant cases, and to do so in advance of the *Through the Gate* arrangements being commenced.

9. Care Plan Review

- 9.1 *Prisons must contribute to reviews of care and support plans for prisoners with care and support needs.*
- 9.2 Local authorities are responsible for monitoring delivery of services against care plans and local authorities or their providers are required to review care and support plans regularly, and to involve in the review the recipient of care, and any person that the recipient asks the authority to involve. Local authorities will have locally determined approaches to reviews. Timings for reviews of assessments will depend on whether the individual's situation is stable or if his/her circumstances or needs have changed.
- **In England**, planned reviews are likely to be triggered within 6 weeks of implementation of a new care and support plan, with a minimum of annual reviews for an on-going care and support plan
 - **In Wales** the Care and Support Plan is required to contain the date of review which should be agreed with the individual; however the date cannot exceed 12 months for an adult.
- 9.3 As a guide, the main triggers for review by a local authority are likely to be:
- Planned reviews by the local authority;
 - Move to new prison (when a review is required under DH guidance and Welsh Government's Code of Practice Part 4 on Meeting Needs)
 - Change to a prisoner's condition, for example following a period in hospital;
 - Leaving prison to live in the community or in approved premises.
- 9.4 A review of a stable case, where things are working well, is likely to take around 30 minutes; if things have changed, the timings for the initial assessment may apply. However, these are indications only, as assessments by social care professionals will be proportionate to an individual's needs and circumstances.
- 9.5 Authorisation from Local authorities, or their providers, is required to change a Care and Support Plan and any proposed changes require discussion with the prisoner. The local authority should liaise with other local authorities in England or Wales, offender managers and Community Rehabilitation Companies regarding care and accommodation when that is appropriate.

10. **Advocacy**

- 10.1 *Prisons must identify and inform the local authority when they consider the prisoner appears to require an independent advocate to facilitate involvement in care and support assessments and plans.*
- 10.2 Under certain circumstances, individuals (including prisoners) are entitled, under the relevant Acts in England and Wales, to the support of an advocate during needs assessments and care and support planning and reviews of plans to facilitate their involvement.
- 10.3 **England only:** The need for an independent advocate is indicated if the person would have substantial difficulty in being involved in the assessment or review process. This means the person could not understand or retain relevant information, or use or weigh up information as part of the process of being involved, or be unable to communicate their views, wishes or feelings without substantial difficulty.
- 10.4 **Wales only:** The need for an advocate is indicated if the person may need additional support to ensure that they understand what is available to them in respect of their care and support needs and how to access this support. Advocacy may be provided by family, friends or the person's wider support network. However, for those in the secure estate it is recognised that this primary advocacy source will not always be available. In such cases, local authorities are required to ensure that an independent advocate is made available.
- 10.5 The provision of an independent Advocate is the responsibility of a local authority where there is no other appropriate person available to represent and support the person's involvement (who is not the person's professional or paid carer). *Where prison staff believe there may be a need for an independent Advocate, the prison must inform the local authority of this as the case is referred, and make a record that this information has been provided.*
- 10.6 *Other prisoners must not act as formal or independent advocates for other prisoners.* Prison staff should not act as formal or independent advocates for prisoners. Only staff agreed by the local authority should act as independent advocates under the relevant Acts.
- 10.7 However, prisoners may benefit from informal support during assessment, care planning and review processes and with the consent of the individual, this informal support may be provided by prison staff, including custodial, healthcare or education staff. Where there is a scheme in place for Prisoners Assisting other Prisoners, a peer support service may also provide informal support to prisoners with these processes. At all times, prison staff and peer supporters should be sensitive to the personal nature of discussions of personal and medical care needs and be mindful of the relevance of PSI 17/2015 Prisoners Assisting other Prisoners.

11. Enabling Care and Support Services

- 11.1 *Prisons must enable the delivery of care and support services in line with NOMS specification Enablers of National Co-Commissioned Service in Prisons so that social care personnel are supported to deliver their services and are appropriately security vetted.*
- 11.2 Prisons are responsible for ensuring that providers of care and support services are encouraged and supported to deliver their services in prisons and in doing so, maximise the benefits and outcomes for prisoners. Prisons should ensure that: information is exchanged between prisons and providers; that prisoners are moved, searched and supervised in accordance with risk and; that threats to security, order and control of the establishment are identified and managed.
- 11.3 *Social care personnel working for local authorities or their providers who are delivering care and support services to offenders must be appropriately security vetted.* The minimum requirement is a NOMS Enhanced Level 1 check plus a Disclosure and Barring Service (DBS) check. For personnel working in the High Security Estate there is an additional requirement for a Counter Terrorist Check (CTC) to gain entry. *All personnel must comply with the requirements set out in NOMS policy on Security Vetting – see PSI 07/2014.*
- 11.4 For personnel working for local authorities or their providers who are carrying out assessments of prisoners, the minimum requirement is a NOMS Enhanced Level 1 check plus a valid DBS certificate and for those working in the high Security estate a CTC check. Where vetting has been undertaken by Shared Services Connect Limited (SCCL), the Vetting Contact point in each prison establishment is required to verify the level of vetting held.

12. The Built Environment, Equipment and Adaptations

- 12.1 *Prisons must consider the recommendations of care and support professionals made in relation to individual cases when making any reasonable adaptations and adjustments to buildings to ensure prisoners are enabled to live with decency and as independently as possible.*
- 12.2 Whether and how an individual's needs are met is strongly influenced by the built environment. There is likely to be demand to invest in modifying the prison estate in response to the care and support needs of prisoners and to enable the efficient delivery of care and support services. *While this is not fundamentally different from current requirements for prisons under the Equality Act 2010, both the detailed evidence of needs and the professional advice from social care professionals must be taken into account.*
- 12.3 Local authorities in England are required by regulations supported by guidance to provide at their cost equipment (e.g. hoists) and personal aids (e.g. to assist mobility); this is up to the value of £1,000. While local authorities in Wales have a similar duty they have discretion to charge for equipment and personal aids if they choose. Where specific equipment is offered it may be necessary for this to be risk assessed for security and safety prior to deployment in a prison, and it may be necessary to request alternatives where there are concerns or if equipment is misused. Local authorities may wish to consider sharing with Security and Safer Custody departments the details of those types of equipment which the establishment's population might most commonly require - in order to speed the process of risk assessing equipment which it proposes to issue to named prisoners.
- 12.4 In general the responsibility for minor adaptations and fixings rests with the prisons. In cases of very severe needs it may be necessary to undertake larger scale building work, or to relocate prisoners to adapted or specialist cells either within the prison or at another establishment. Where significant scale or high cost work is indicated by a social care assessment, prisons should share the relevant recommendations with MoJ Estates Directorate and seek specialist advice from MoJ Estates and the local authority. Costs of works may be met from NOMS or prison budgets, or by MoJ Estates in line with current arrangements.

13. Safeguarding Adults

- 13.1 This Instruction should be read alongside PSI 16/2015 which sets out policy and requirements to Safeguard Adults in Custody in respect of both England and Wales. The availability and provision of social care services is an important part of ensuring that prisoners are protected from abuse and neglect. Failures in care and support can lead to safeguarding issues for individuals. If there are concerns in relation to the general availability of care and support services in a prison in England or Wales, this should be raised with NOMS Health, Wellbeing and Substance Misuse Co-Commissioners (see front page for contact details). Concerns in specific cases should be referred to locally agreed prison and social care governance meetings in the first instance.

14. Complaints

- 14.1 *Prisons must enable prisoners to make a complaint about care and support services which are the responsibility of a local authority according to local authority complaints procedures.*
- 14.2 Local authorities are responsible for dealing with complaints about services for which they are responsible. Local authorities should provide information accessible to prisoners on how to make a complaint and how that complaint will be dealt with and should provide information on how matters can be escalated to the Local Government Ombudsman in England or the Public Services Ombudsman for Wales. Each prison's responsibility is to ensure this information is available to prisoners.
- 14.3 If a complaint is made to the prison about services which are the responsibility of the local authority, as distinct from the contribution which a prison may be making to meet an individual's care and support needs or other prison responsibilities set out in this instruction, then the prison should pass that complaint to the local authority with the consent of the prisoner, or should advise the prisoner on how to make the complaint directly to the local authority.
- 14.4 If the complaint is in relation to both services which are the responsibility of the prison and services which are the responsibility of the local authority, then the prison should address the complaint in relation to prison services and process the complaint about local authority services as above. The partnership governance may have a role in considering issues arising.

15. Inspection and Regulation

- 15.1 In England and Wales, care and support provided by a public sector prison, and by a private prison where the care is contracted directly by the Ministry of Justice as a contribution to delivery of an individual care and support plan, is not regulated by the Care Quality Commission (CQC) or Care and Social Services Inspectorate Wales (CSSIW), but is open to inspection by HM Inspectorate of Prisons (HMIP).
- 15.2 **In England**, care and support provided by or on behalf of a local authority is monitored by the local authority and regulated by CQC; the provider of the regulated activity is required to be registered with CQC.
- 15.3 **In Wales**, care and support provided within a public sector or private prison by or on behalf of a local authority is not *regulated* by CSSIW³. However CSSIW has the responsibility to inspect the quality of care and support provision commissioned and provided by local authorities in Wales. With regard to prison settings CSSIW's focus therefore relates to the quality standards and governance arrangements for the provision of care and support⁴.
- 15.4 HMIP will work in partnership with relevant regulation and inspection bodies for England and Wales to inspect prison care and support. In England, the scope of CQC regulation extends to regulated activity only; regulated care and support includes personal care but does not include the conduct of assessments. However in Wales the scope for CSSIW is the quality of care and support. HMIP may inspect any element of services in England or Wales.
- 15.5 All partners are required to cooperate with, and respond to, health and wellbeing issues within HMIP, CQC, CSSIW or Health Inspectorate Wales inspections and reports, Independent Monitoring Board (IMB) reports, Coroner's reports to prevent other deaths and PPO investigations. Where relevant recommendations are made by HMIP, it is expected that Directors of Adult Social Services will respond to these recommendations and that local authorities will work in partnership with the Governor/Director, the healthcare provider to the prison and other partners to take forward action plans arising from inspections and reports.

³ The current definition of a domiciliary care agency requires the personal care to be delivered in a person's "own home" On implementation of the Regulation & Inspection of Social Care (Wales) Act in 2017 the definition of 'home' will change and arrangements for the regulation of social care in Wales may be subject to change.

⁴ Similarly, in Wales, healthcare provided by a public sector or private prison is not *regulated* by Healthcare Inspectorate Wales (HIW). However, HIW has the responsibility to inspect the quality and safety of patient care commissioned and provided by NHS organisations in Wales. With regard to prison settings HIW's focus therefore relates to the quality and safety standards and governance arrangements for the provision of prison health services by the Local Health Boards (LHBs). HIW and HMIP have established a Memorandum of Understanding which defines the circumstances in which, and the processes through which, HIW and HMIP will co-operate when carrying out their respective functions in Wales.

16. Charging and Assessing Financial Resources

- 16.1 Local authorities have discretion as to whether to charge for the care and support they provide or arrange. Prisoners may be subject to a financial assessment to determine how much (if anything) they may be required to pay, as they would be in the community, towards the cost of their care and support, where authorities charge for this. Prisoners may be required to contribute to the costs of their care where they can afford to do so. Local authorities are responsible for determining and undertaking financial assessment processes and should give consideration to the best way of handling financial assessments, taking into account the resources required. In particular local authorities may consider how “light touch” assessments could be carried out where a person in prison is unlikely to be required to contribute towards the cost of their care and support. Prisoner’s earnings from work in prison are exempt from consideration during financial assessments.
- 16.2 Financial assessments are a matter for the local authority to complete with individual prisoners and are not the responsibility of the prison. However prisons may be asked to authorise the completion of financial transactions by prisoners. *Prisons should refer to [PSI 01/2012 Managing Prisoner Finance](#) when considering requests from prisoners, local authorities or local authority providers for financial instructions from a prisoner, and must ensure that prisoners do not carry out prohibited transactions.* Prisoners are permitted to maintain their financial affairs while in prison so that on discharge they may resume a regular lifestyle.

17. NOMS Specification Changes and Relevant Outputs

Social Care policy theme: Newly created service specification outputs

- 17.1 This instruction introduces two new outputs that have been added to relevant NOMS service specifications, to introduce a requirement for prisons to make and record appropriate referrals to the Local Authority, in order to trigger a social care needs assessment, where this is indicated. For details about the referral process, section 5 of this PSI.

Early Days – Reception In

Output 6a: Where appropriate, a referral is made and recorded to trigger a Local Authority social care assessment.

Residential Services

Output 3a: Where appropriate, a referral is made and recorded to trigger a Local Authority social care assessment.

Social Care policy theme: Amended service specification outputs

- 17.2 The following existing service specification outputs have been amended in order to capture the new requirements for custodial providers, resulting from the relevant Acts in England and Wales.

Early Days – Reception In

Output 14: An assessment of prisoners' health and, where relevant, social care needs is facilitated."

- 17.3 Prisons have an existing responsibility to have processes in place to refer prisoners to healthcare and provide supervision as required. Where there is local agreement between health and social care partners that healthcare assessment includes a formal assessment of care and support needs, the prison should facilitate the social care assessment in addition to the healthcare element. Where prisons (or, by local agreement, healthcare providers) are leading on the initial screening or identification of prisoners who *may* have social care needs, then the social care assessment will follow referral to local authority services for an assessment via the locally agreed pathway

Early Days – First Night in Custody

Output 10: Prisoners have additional healthcare and social care support if required

- 17.4 Prisons have an existing responsibility to have processes in place to ensure support from healthcare services for immediate needs. This amendment extends this responsibility to include access to care and support for immediate needs. Section 5 explains how needs should be arranged to be met by local authority services and in exceptional circumstances by healthcare or prison staff.

Early Days – Discharge

Output 18: Prisoners have the opportunity to access necessary medications /prescriptions and equipment issued by health and care services.

17.5 In the same way that prisoners may urgently require medication for acute medical needs, they may also require, or already have been issued, equipment provided by health or care and support services. This amendment clarifies prisons' responsibility to provide the opportunity for prisoners to access equipment from care services.

External Movements & Appearances

Output 12: Prisoners' immediate health and social care needs during external movement are addressed.

17.6 Local authority responsibility for care and support for those with eligible needs extends to ensuring the provision of necessary services when the prisoner is temporarily outside the prison. Prisons may have continuing responsibility for agreed elements of a care plan for which custodial services have responsibility during external movements. See paragraphs 6.1 – 6.10 and 7.4

Social Care policy theme: Relevant existing service specification outputs

17.7 The following is a complete list of those existing specification outputs which, in their current form, support the delivery of care and support in prisons:

Court Work other than Assessments & Reports

Output 14: Information relevant to risk and safeguarding is communicated to the receiving prison and other appropriate agencies.

Output 15: The diverse needs of defendants are taken into account when planning the timing, location and conduct of contact.

Residential Services

Output 2: Information is shared with relevant stakeholders and is recorded

Output 3: Prisoners are supported and their daily needs are met.

Output 7: Prisoners have access to living accommodation, furnishings, fittings and equipment that are safe, decent and secure and which meet individual needs, as far as practicable.

Output 10: Prisoners have access to washing facilities (not in living accommodation) for personal clothing.

Output 11: Prisoners have access to toiletries necessary for health and cleanliness.

Output 12: Prisoners have access to ablutions which meet personal hygiene needs other than those in living accommodation.

Output 16: Prisoners are available to attend the activity to which they are allocated.

Output 17: Prisoners are encouraged to participate positively in the regime.

Output 23: Accommodation is allocated based on risk and/or need, where practicable.

Specialist Units (HSE)

17.8 The above outputs from Residential Services are replicated in Specialist Units (HSE).

Nights

Output 5: Prisoners have access to ablutions which meet personal hygiene needs.

Output 6: Prisoners are able to summon assistance from within their living accommodation.

Output 13: The establishment remains safe and secure in the event of the prison being unlocked at night.

Early Days & Discharge – Reception In

Output 4: Key information on individual prisoners is identified, including their eligibility for the first night in custody services, and recorded.

Output 6: Information is recorded and shared with other departments and agencies both internal and external, and actions taken are documented.

Early Days & Discharge – First Night in Custody

Output 3: Prisoners are allocated to first night accommodation which: 1. meets national requirements 2. Takes account of their individual needs and risks.

Output 4: The immediate needs of prisoners are recorded, and where required action is taken.

Output 6: Prisoners' hygiene needs are met.

Output 8: Prisoners with complex immediate needs receive a supplementary service of one to one interactive support.

Early Days – Induction

Output 2 [*Prisoners new to custody*]: Prisoners are given appropriate information. Prisoners understand their entitlements and responsibilities while in custody.

Output 3 [*Prisoners new to a prison*]: Prisoners are given appropriate information. Prisoners understand how to access support and facilities available to them in this establishment.

Early Days & Discharge – Discharge

Output 17: Prisoners are seen by a healthcare practitioner prior to discharge.

Output 20: The escort provider receives all relevant documentation, property and medication.

Enablers of National Co-Commissioned Service in Prisoners

17.9 All outputs have been identified as relevant.

Output 1: Positive working relationships between prison staff and provider staff are promoted.

Output 2: Information is exchanged between prison and provider staff and providers are supplied with relevant prisoner information / reports as agreed.

Output 3: Prisoner contact time for service providers is maximised.

Output 4: Where internal prisoner movement cannot be facilitated by Main Movement, prisoners move under risk assessed levels of authority and supervision.

Output 5: Prisoner moves are authorised and conducted in a safe, secure and timely manner which ensures fair treatment for all.

Output 6: Prisoner searching is conducted in accordance with the Local Searching Strategy.

Output 7: Prisoners are supervised under risk assessed levels in a safe, secure and decent manner.

Prisoner Communication Services

Output 1: [*Prisoner Communications: Written*] All prisoners are able to communicate with family, friends, professional advisers and the media.

Output 6: [*Prisoner Communications: Speech*] All prisoners are able to communicate with family, friends, professional advisers and the media.

Rehabilitation Services – In Custody

Output 8: Prisoners' resettlement into the community is facilitated through engagement with Offender Manager and community based services.

Manage the Custodial & Post Release Periods

Output 8: Resettlement needs are identified and a resettlement plan is prepared in preparation for release into the community.

External Movements & Appearances

Output 11: Prisoners are transported and held safely, decently and securely and their entitlements are met.

Output 16: Relevant information is shared between agencies and relevant stakeholders, including information on release from Court.

Approved Premises

Output 43: Diverse needs of residents, and particularly potentially vulnerable residents, are monitored and addressed.

BASS

Output 13: Service Users are motivated and supported to engage with key local services as identified in the Action Plan and, where required, referrals are made and followed up.

Output 16: Risks presented by service users are identified and managed through active engagement and collaboration with other agencies.

**PSI 15/2015 ADULT SOCIAL CARE
MEMORANDUM OF UNDERSTANDING – TEMPLATE FOR PRISONS AND LOCAL
AUTHORITIES IN ENGLAND AND WALES**

Prisons must agree and complete a Memorandum of Understanding, (MoU), with relevant local authorities and providers of care and support services that documents the local arrangements in place for social care services including dispute procedures in line with PSI 04/2012.

The services that the Local Authority and / or their contracted provider will offer, and the requirements on the establishment to enable the effective provision of this service, should be set down in a document agreed and signed by the prison Governor, the local authority and their providers, and, where relevant, the prison healthcare provider. In addition agreements on information sharing and joint working with CRCs and the National Probation Service may also be established by local authorities to support continuity of care through the gate.

It is recommended that the agreement should have a term of three years and be subject to annual review and renewal.

This template for the MoU may be used by local authorities and establishments if they wish. It is strongly recommended that the basic elements, included in this template, are included in the agreement.

For support to complete this template, please contact NOMS Health, Wellbeing & Substance Misuse Co-Commissioning Health.co-commissioning@noms.gsi.gov.uk

Suggested areas for inclusion:

Front piece

Parties to the Memorandum of Understanding

Section clearly identifies the parties to the MoU and should be signed by representatives with the appropriate level of authority, e.g. -

THIS MEMORANDUM OF UNDERSTANDING is made on

BETWEEN

HMP/YOI:
(Governor's / Director's Signature)

AND

LOCAL AUTHORITY
(Director-level Signature)

AND (if not the Local Authority)

SOCIAL CARE PROVIDER
(xx level signatory)

AND (if appropriate)[for example, where the healthcare provider is commissioned by the Local Authority to deliver some or all the social care pathway, or otherwise works in partnership to support delivery, such as by screening for social care needs as part of healthcare reception screening]

HEALTH CARE PROVIDER (xx level signatory)

Term of the MoU

Section describes the period of time the MoU covers - from (date) to (date), the timescale for review and any arrangements for withdrawing from the MoU and any notice period.

Purpose and Accountability

Section describes the statement of purpose and who will be accountable for day-to-day local management within the prison establishment and the social care service provider.

Section includes a specification for the prison establishment and a statement from the local authority of how they intend to meet the requirements of the specification.

Governance Arrangements

*In England, governance may be aligned with local or regional prison health partnership governance arrangements. Arrangements **must** be in line with the National Prison Health Partnership Agreement between NOMS, NHS England and Public Health England.*

In Wales, local authorities are required to explore the extension of prison health partnership governance arrangements to incorporate social care.

*Arrangements in both England and Wales **must** be in line with PSI 04/2012.*

Section describes local meeting structures, dispute and escalation routes.

Information Sharing Agreement

Arrangements must be in line with PSI 27/2013 – AI 11/2013 Data Sharing Policy and full Agreements referenced in this section.

Section summarises what information will be shared and how it will be shared between prisons and local authorities and their providers. It will include the sharing of information about risk to the prisoner and risks the prisoner may present to themselves or others, where this is relevant.

Training

Section describes the training which may be offered by the local authority to prison and/or healthcare staff, and the training which may be offered by the prison to local authority staff and providers.

Section describes the training which may be offered to prisoners by the local authority and the prison to support prisoners through “Prisoners Assisting other Prisoners” Schemes (PSI 17/2015).

Section addresses the sharing of information within the prison – with custodial staff and with other staff who may not be directly employed by the prison, such as the Learning and Skills staff.

Security Clearance

Section describes the NOMS security clearance requirements for local authority and provider staff.

Identification & Referral Arrangements

Section describes how local authorities will be informed of individuals who require a local authority social care assessment, including prisoner self-referral arrangements, provision of promotional materials and timescales for responding to referrals. This will include consideration of arrangements for care leavers or up to 25 years of age.

Section references use of P NOMIS social care alert.

Assessment Process

Section describes how local authority will provide assessments

Section describes how the establishment will support the range of local authority assessment processes, including timescales for providing access to a formal assessment.

Assessment Outcomes

Section describes how the recommended care and support plan will be facilitated, delivered and monitored within the prison, including review processes and multi-disciplinary working.

Section describes arrangements for those with identified needs that are ineligible for local authority care and support (prevention / re-ablement services), including review processes and multi-disciplinary working.

Section describes how the prison will enable delivery of local authority care and support plans

Transfer & Discharge

Section describes the responsibilities and processes for all parties for managing the transfer or discharge of individuals in receipt of local authority care and support.

Section gives consideration to describing arrangements for transfer or discharge of prisoners whose care and support needs have been met, fully or partially, via the contribution of custodial services and/or a Prisoners Assisting Other Prisoners scheme (operating in line with PSI 17/2015). It should also reference arrangements following discharge from hospital to the prison and the use of P NOMIS social care alerts.

Built Environment, Equipment & Adaptations

Section describes the local process for provision of reasonable adjustments and adaptations to buildings.

Section describes processes for risk assessing and issuing appropriate equipment and aids to prisoners, including arrangements where items are deemed too high a risk for the prison environment.

Safeguarding Adults

*Arrangements **must** be in line with PSI 16/2015 Safeguarding Adults*

Section describes local arrangements for the management of safeguarding issues, including how allegations against members of local authority staff or their providers are dealt with.

Advocacy

Section describes local authority arrangements for identifying and providing Advocacy Services to prisoners who need them.

Complaints

Section describes local authority complaints procedure, including timescales.

Inspection & Regulation

Section describes the local authority arrangements for responding to PPO, IMB, HMIP and Coroner's Reports and Action Plans

Financial Assessments

*Arrangements **must** be in line with [PSI 01/2012 Manage Prisoner Finance](#)*

Section describes local authority processes for assessing prisoner ability to pay towards the cost of their care and recouping care costs.

Prisoners Assisting other Prisoners

*Arrangements **must** be in line with PSI 17/2015 Prisoners Assisting other Prisoners*

Section summarises the arrangements for selecting, risk assessing, training, supervision and ongoing management of prisoner support scheme, including the provision of information, advice and guidance and those who provide identified practical support to individual prisoners.

Principles of cross-border continuity of care within the United Kingdom⁵

These principles set out how responsible authorities in the United Kingdom should ensure continuity of care for adults who receive care and support and are moving to another country within the United Kingdom.

The aims of the principles are to maintain the adult's wellbeing and prevent them from falling into crisis; ensure that the adult is at the centre of the process; and to require that responsible authorities should work together and share information in a timely manner to ensure needs are being met both on the day of the move and subsequently.

Responsible authorities should meet the adult's assessed care needs and support the outcomes they want to achieve. It is recognised that those needs may be met in a different way when the adult moves to the new country.

These principles should be applied in a manner consistent with existing legislation for the delivery of care and support in each of the four UK countries.

The principles of cross-border cooperation are:

1. Responsible authorities should ensure a person-centred process and take into account the outcomes an adult wishes to achieve.
2. Responsible authorities should work together and share information about their local care and support system and services.
3. The adult moving should be given relevant information, in an accessible format, about local care and support provision in the authority they are moving to.
4. Responsible authorities should work together to support a move across national boundaries to ensure the adult's care and support is continued during the move.
5. Responsible authorities should share relevant information about the adult's care and support needs and any other information which they believe necessary in a timely manner and with the consent of the adult involved.

Definition

'Responsible authorities' means the local authority, Integration Authority or Health and Social Care (HSC) Trust responsible for the assessment of an adult's care during the period of their move.

⁵ <http://www.scie.org.uk/publications/guides/56-cross-border-placements/>