



Ministry  
of Justice

**Victoria Atkins MP**  
Minister of State for Justice and  
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Chair, Independent Monitoring Board  
HMP Birmingham  
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Dear Chair,

**HMP BIRMINGHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT  
FOR 1 JULY 2020 – 30 JUNE 2021**

Thank you for your Board's report for the year ending 30 June 2021. I am grateful to you and your colleagues for your hard work in capturing these helpful observations, especially as you were short of Board members and Covid-19 affected your ability to gather information during the reporting year. I was saddened to hear there were seven deaths in custody during the reporting year, six of which were from natural causes. My officials take recommendations from the Prisons and Probation Ombudsman very seriously.

I understand the Board's concerns for those being released with no fixed abode. It is recognised that offenders face significant barriers to securing suitable accommodation, often linked to their lack of access to necessary funds, availability of local authority housing supply, as well as the affordability and access to the private rented sector. Overcoming these barriers is not something that the Ministry of Justice and HM Prison and Probation Service (HMPPS) can do in isolation and the department is working together with The Department for Levelling Up, Housing and Communities (DLUHC), Welsh Government and Other Government Departments, to address this issue. Since October 2018 HMPPS has had a duty to refer anyone at risk of homelessness to the Local Housing Authorities, who hold statutory responsibility for housing. To strengthen the responsibilities of prison and probation staff to make effective, timely referrals, including for remand prisoners, HMPPS implemented 'The Homelessness Reduction Act 2017: Duty to Refer (England only)' policy framework on 1 July 2021. The policy framework also outlines the process supporting the Offender Pathway in Wales. In addition, HMPPS has retained its Homeless Prevention Teams as a permanent feature to continue to develop relationships with local authorities and other strategic partners in order to embed and expand housing options for prison leavers.

Earlier this year the National Probation Service and Community Rehabilitation Companies unified to become the Probation Service, with Regional Probation Directors having responsibility for the delivery of resettlement services and key interventions being delivered by Commissioned Rehabilitative Service (CRS) providers. The Board's concern with these new commissioned services are recognised and understood. Whilst the target operating model does not fully meet the accommodation requirements for all cohorts at HMP Birmingham yet, these services are still at an early stage. The new Commissioned Rehabilitation Services have been designed to support individuals subject to Probation Supervision, and services which are delivered pre-release, including accommodation, will continue post-release to provide continuity of support. All eligible cases will receive support prior to release and will be delivered by CRS

providers based in the areas to which the individual will return. In the pre-release phase, CRS providers will deliver resettlement interventions to support sentence management activities and the CRS will be available to all individuals released from resettlement or non-resettlement prisons. In relation to those on remand, pre-release accommodation and other support will be available and will be provided by probation staff located in prisons who have transferred from previous enhanced Through The Gate roles as well as by allocated keyworkers. However, those who are not subject to probation supervision fall outside of the Offender Management Act and as such will not be eligible to access Ministry of Justice and HMPPS funded accommodation support.

I acknowledge the Board's concern about foreign nationals being held in custody beyond the end of their custodial sentence. Any foreign national who is convicted of a crime and given a prison sentence is considered for deportation. The Home Office, and in particular Foreign National Offender Returns Command, are working closely with HMPPS in order to progress deportation cases to conclusion prior to the individuals release date and every effort is made to ensure that any removal from the UK also coincides with their release from prison. The Home Office has Immigration Officers embedded at HMP Birmingham that liaise with the prison's Offender Management Unit to identify prisoners who are approaching the end of their sentence and are yet to have a decision on their case and these are escalated to the Home Office Case Working teams. The decision to detain under immigration powers at the end of a foreign national's sentence is taken on a case by case basis and published Home Office policy is clear that this detention is only ever used sparingly and for the shortest period necessary. Where a foreign national is detained this is reviewed at regular intervals and they also have the option to apply to an independent immigration judge to seek bail at any point.

Despite your concerns it was encouraging to receive your comments that the prison is the safest it has been for a number of years and there continues to be improvement and stability, with good communication between staff and prisoners. It is reassuring that the installation of the X-ray body scanner and enhanced gate security are tackling the ingress of illicit items, enabling the Governor to provide a safer working and living environment. I was pleased to note that recognition has been given to the prison's leaders and its staff for the way it has managed during the Covid-19 pandemic as well as their commitment to recover and provide a purposeful regime. I too am grateful for the dedication and professionalism of everyone working at the prison during this difficult time.

I was also pleased to read that prisoners receive fair treatment and their wellbeing is prioritised with good healthcare provision. It was interesting to read about the use of prisoner peer workers to support wellbeing and mental health and I was also encouraged by the prisons collaborative resettlement partnerships to promote reducing reoffending opportunities.

I note you have raised some local issues of concern in your report which the Governor will continue to keep you aware of as work continues. HMPPS comments in response to other issues raised in your report are set out in the attached annex.

The Justice Secretary and I appreciate the valuable role played by members of Independent Monitoring Boards throughout the estate and we are very grateful for your continued hard work on behalf of HMP Birmingham.

Yours ever,



**VICTORIA ATKINS MP**

## **HMP BIRMINGHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT FOR 1 JULY 2020 – 30 JUNE 2021**

### **HMPPS comments on matters raised in the report**

#### **Segregation**

Where any prisoner finds themselves in the Segregation Unit, prisons make every effort to continually encourage the individual to engage with the regime and be part of the prison community. Segregation is always used as a last resort and following a robust discussion between the prison and healthcare team to support the individual and meet their presenting needs, whilst ensuring safety, vulnerability and risk are managed. Due to the complex needs and behaviour of some prisoners, segregation for their own safety or the safety of others may be necessary and can delay any progressive move. Whilst it can be difficult to manage such individuals it is reassuring that the Board's report notes that HMP Birmingham provides good care and support for prisoners during segregation, along with personalised interventions.

During segregation an individual's circumstances and needs are regularly reviewed and prisons will consider whether it is appropriate for an individual to be transferred to another prison, taking into account whether they are on remand and will be required to appear at a local court and the progress other prisons could make. It is recognised that the speed at which transfers take place can be subject to space constraints in appropriate parts of the prison estate becoming available and measures to mitigate the spread of the Covid-19 virus has minimised inter-prison transfers throughout the pandemic. The complex needs of some prisoners can also present a challenge to identify a suitable location. However, where any transfer issues do occur the national allocation protocol has an escalation route through operational line management and senior management to try to resolve these.

The Board's concern that those prisoners with complex mental health issues or personality disorders need alternative provision to avoid prolonged stays in segregation is acknowledged. HMPPS takes mental health very seriously and recognises that providing the right interventions at the right time is vital to improve outcomes for people with mental health needs. Mental healthcare and treatment are delivered in all prisons, and health and justice partners have committed to providing a standard of healthcare in prisons equivalent to that available in the community. Alternative pathways are also available across the prison estate for the needs of specific individuals, such as the Offender Personality Disorder (OPD) pathway programme which provides a psychological consultancy service and formulation based approach as part of the Core Offender Management service. Although HMP Birmingham does not have a Psychologically Informed Planned Environment service located in the prison, appropriate individuals can be referred onto other prisons where they meet the admission criteria. In addition, where treatment cannot be provided in a prison, a prisoner can be escorted to hospital on an inpatient or outpatient basis for specialist mental health support or, if appropriate, transferred from prison to hospital under the Mental Health Act.

#### **Close Supervision Centre**

It would not be appropriate to discuss the individual circumstances of the prisoners referred to in the Board's report. However, as per Prison Service Instruction 42/20212 – Close Supervision Centre Referral Manual, the process for referral to a Close Supervision Centre (CSC) is well embedded and is reliant upon the referring prison providing the relevant information. All referrals go through the HMPPS Long Term and High Security Estate Central Management Group (CMG) who make recommendations to the CSC Management Committee for a final decision, both of which have monthly meetings. In the event that

a prisoner is involved in an incident that is so serious, or whose behaviour is significantly dangerous and/or disruptive that the prison considers that urgent removal under Prison Rule 46 is necessary for the maintenance of Good Order or Discipline or to ensure others' safety, an urgent referral process is also available. If the case is considered to be so serious, or the implications of the prisoners continued stay within the mainstream prison environment to be either unsafe or so disruptive, a transfer will be arranged into either a CSC unit or a Designated Rule 46 cell at the earliest opportunity.

Within the CSC estate prisoners are offered one-to-one, individualised and bespoke intervention via a trained Psychologist and the local multi-disciplinary team, focussing on identifying their custodial risk with a view to reducing this risk to point they can be deselected as a Rule 46 prisoner and continue their custodial journey.

### **Segregation Transfers**

Prison Service Order 1700 – Segregation, is clear that all continuous periods of segregation are counted consecutively; *'For prisoners who have transferred direct from one segregation unit to another, the 42 days in continuous segregation is calculated by including time spent in segregation in the previous establishment'*. The reviews undertaken by the West Midlands Prison Group Director and by HMP Birmingham are initiated on the cumulative calculation and the same approach is taken for prisoners who have transferred. Priority has also been given to scheduling of the Segregation Monitoring and Review Group meeting at HMP Birmingham, which are now held on a quarterly basis with the IMB invited to attend.

### **Autism and Learning Difficulties**

The previous Lord Chancellor commissioned HM Inspectorate's of Prisons and Probation to conduct an independent Call for Evidence on neurodiversity in the criminal justice system which was published on 15 July 2021. The report identified current gaps in provision, areas of good practice and provided recommendations as to how improvements can be made, including increased awareness raising and staff training. HMPPS is working closely with MoJ neurodiversity policy leads to examine the provision, including encompassing commitments made in the National Disability Strategy and the National Autism Strategy which were also published in July 2021. Processes are in place to identify, record and track prisoners with neurodiversity (including autism and learning difficulties) on reception and during secondary screening for referral to the mental health team at HMP Birmingham. Scoping of the current screening and data storage procedures is taking place nationally with a view to standardise this across the prison estate. All policies reviewed and developed will also have an Equality Analysis, which will ensure consideration of all protected characteristics, including people who are neurodivergent. In addition, NHS England and NHS Improvement are currently exploring the potential to commission the rollout of the Secure Estate Autism accreditation run by the National Autism Society. This will provide an autism-specific kite mark quality assurance programme and the model has been tested in a number of prisons already.

HMPPS Learning and Development is also launching a new training package, the Custody and Detention Apprenticeship, which is due to be rolled out to all new prison officers joining HMPPS during 2021/22. This training has been designed to provide Prison Officers with the confidence and competence to complete their role and during their Apprenticeship topics about mental health and personality disorders are covered. All HMPPS employees also have access to an online e-learning platform which includes 'Neurodiversity – Autism & ADHD' training. This e-learning aims to provide clarity on what Autism and ADHD is, understanding why individuals may behave the way they do and gives support strategies and practical guidance to assist staff with their daily interactions. In addition, the healthcare team at HMP Birmingham can access local learning disability services and learning disability expertise as required and a specialist nurse for learning difficulties is now in post to support prisoners. All prisoners with an

identified Learning Disability (LD) are placed on the LD register which enables an annual health check and health action plan to be completed.

### **Time Out of Cell**

HMPPS has been prioritising the work on how to effectively combine keeping prisoners and staff safe from Covid-19 with delivering full, decent, purposeful regimes. Collaborating with Public Health Bodies, more and more prisons are safely reducing Covid-19 controls allowing regimes to improve which is shaping the experience of prisoners. Prisons are continuing to work hard to recover from the challenges of Covid-19 and HMPPS is committed to ensuring that regimes being delivered going forward achieve a locally defined balance between safety and sufficient quality and hours of regime with a focus on work and education.

Locally it is recognised that Covid-19 severely restricted time-out of cell for all prisoners, however, the recovery via the [National Framework for Prison Regimes and Services](#) has enabled consistency of a safe regime as the prison progressed through the stages of recovery. Plans are now being developed at HMP Birmingham for Stage 1 recovery which will provide further increases in the time out of cell offered to each prisoner and will enable equitable access to all activities, based on individual need.

### **Personal and Social Skills**

HMPPS is committed to ensuring that time can be well spent in prisons through delivering a varied, engaging and purposeful regime offer. It is right to include the recognition of the importance of developing personal and social skills. One of the ways in which this is being promoted is through the increase in enriching activities. These can help prisons achieve a fuller regime offer in a more resource effective, innovative way by recognising everyday opportunities to build hope, purpose, responsibility, community and the development of critical life skills into the daily routine. These also prevent long periods of inactivity, which are known to create frustration, impact wellbeing, and may lead to violence.

Prisons already deliver various enriching activities and are being supported in the further development of these as part of transitioning to fuller regimes post-Covid-19. The new Future Regime Design programme is focusing on how prisons can build back better regimes, using learning from Covid-19 and wider evidence to inform both the shorter term as restrictions ease but also longer term. The aim is to refocus regimes so that prisoners can consistently access the right kind of activity, at the right moment for their time in prison, in a way that best supports their rehabilitation. These regimes will focus on quality and quantity, by considering the impact on the individual as well as the time spent in an activity or out of cell.