



Chair, Independent Monitoring Board
HMP Durham
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Durham
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MoJ ref: SUB96074

20 April 2022

Dear Chair,

**HMP DURHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT
FOR 1 NOVEMBER 2020 – 31 OCTOBER 2021**

Thank you for your Board's report for the year ending 31 October 2021. I am grateful to you and your colleagues for your hard work in capturing these helpful observations. I was saddened to hear there were five deaths in custody during the reporting year, two of which were due to natural causes. My officials take recommendations from the Prisons and Probation Ombudsman very seriously.

I understand the Board's continued concerns about overcrowding. Further to my predecessor's response the Government has now committed to deliver 20,000 additional modern prison places, including 2,000 which are temporary by the mid-2020s. The first of the new prisons, HMP Five Wells in Northamptonshire opened in February 2022 providing 1,680 places. These additional prison places will have a positive impact on lowering the proportion of crowding within the prison estate by providing accommodation that is safe, decent and uncrowded. However, the extent to which the proportion of prisoners held in crowded accommodation will reduce will always be dependent on levels of demand in the system. Whilst the average number of prisoners living in crowded conditions at HMP Durham and across the prison estate did fall during 2020/21, as a local prison there has been a need for HMP Durham to continue to operate in excess of its Certified Normal Accommodation level. Cells are only shared where they have been deemed suitable for this purpose having been assessed to be of an adequate size and condition and certified by the Tees and Wear Prison Group Director (PGD). The challenge for HMP Durham remains in the turnover of the prisoner population and ensuring that cells are maintained to required standards. In recognition of the condition within cells, the prison has implemented the Clean, Rehabilitative, Enabling and Decent (CRED) programme which is making improvements to the prison environment as set out further in the Annex.

I acknowledge the Board's continued concern around the transfer of foreign nationals in prison to the immigration removal centre (IRC) estate. The Home Office takes the welfare of detained individuals in its care seriously and is committed to ensuring that IRCs remain safe. The IRC estate has been operating Covid-19 safety measures throughout the pandemic which has proved highly successful in reducing the transmission of the virus but has reduced the number of bed spaces available, impacting transfers from prisons. It is anticipated that control measures amended throughout March will allow a higher volume of transfers into the IRC estate, subject to the IRCs being able to operate normally and not being impacted by subsequent isolation or quarantine periods. In addition, the decision on the suitability to transfer a foreign national to the IRC estate is made on a case-by-case basis and as my predecessor has previously

set out, foreign nationals detained in prison are there because they have been assessed as unsuitable for the conditions of an IRC due to the risk they pose. However, their circumstances are reviewed every 28 days and case progression panels provide a second line of assurance by reviewing the appropriateness of ongoing detention at three monthly intervals to ensure a consistent approach. Officials at the Home Office are continuing to ensure that a foreign national's removal coincides, as far as possible, with their release from prison on completion of their sentence, but it remains the case that some can end up being detained longer than the Home Office would wish due to an unwillingness to engage in the process.

Turning to the Board's concerns about the rise in the number of people on remand or unsentenced in prison, the Ministry of Justice (MoJ) has undertaken recovery measures which have so far reduced the caseload in the Crown Court from around 61,000 cases in June 2021 to 58,400 cases at the end of December 2021. In the Magistrates' Court, the criminal caseload has fallen from 445,000 in July 2020 to 375,700 in December 2021. To continue this work the use of 30 Nightingale courtrooms have been extended beyond March 2022, as well as two new super courtrooms being opened in Manchester and Loughborough. Through the Judicial Review and Courts Bill, the MoJ is legislating to allow more cases to be heard in the Magistrates' Court and extending their sentencing powers from six to twelve months for a single triable either way offence. To help lower the numbers of those held on remand in prison, Judges are continuing to prioritise cases involving custody time limits to ensure they are listed at the first available opportunity, as well as those cases involving vulnerable complainants and witnesses (including youth cases), domestic abuse and serious sex cases. Plans for judicial recruitment are also being expanded to secure enough capacity in 2022/23 and beyond. In addition, the Board acknowledges the use of video conferencing to appear at court and it is worth noting that during the height of the pandemic up to 20,000 cases were heard virtually every week across the estate. Over 70 per cent of courtrooms are now equipped with video conferencing and to enable remote hearings to continue to be used in criminal proceedings measures have been included in the Police, Crime, Sentencing and Courts Bill to enable the ongoing public observation of hearings, strengthening the principle of open justice. With all these measures the MoJ expects to get through 116,700 Crown Court cases during the financial year 2022/23, which is 20% more than during the financial year 2019/20 prior to Covid-19. Alongside the £477 million that is being invested in the Criminal Justice System over the next three years as part of the Spending Review, these will allow the Crown Court backlogs to be reduced to an estimated 53,000 by March 2025.

Despite your concerns, it was reassuring to receive your comments that the prison provides a safe environment given the high population turnover and the challenges that the Covid-19 pandemic has presented. I note that the Board commends the Governor and staff for their efforts whilst still prioritising humane and dignified treatment for prisoners during this difficult time. I too am grateful to everyone working at the prison for their continued professionalism and the support given to vulnerable prisoners.

I note you have raised five local issues of concern in your report which the Governor will continue to keep you aware of as work continues. HM Prison and Probation Service (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 Durham.

Yours ever,



VICTORIA ATKINS MP

HMP DURHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT FOR 1 NOVEMBER 2020 – 31 OCTOBER 2021

HMPPS comments on matters raised in the report

Local Accountability

Locally at HMP Durham governance meetings are in place with all providers. The challenge experienced by the Governor at HMP Durham in holding providers to account is that tangible change by the providers can be slow despite considerable effort to progress work. However, it is recognised that recruitment and retention have been problematic for some providers and the Governor has been provided assurance that work is ongoing to address these staffing issues.

To clarify regarding the two examples raised, Governors remain responsible for enabling education provision with their establishments. As per the Governance Framework for the Education contract, Governors chair monthly performance meetings with their local provider supported by the regional learning and skills contract management team. There is also an expectation that Governors use Quality Improvement Groups to oversee the full delivery of learning and skills across their prison, both contracted and in-house services. To support both meetings, new performance metrics have been developed for learner progress and attendance and Governors continue to be held to account through monthly performance information provided to Executive Directors and PGDs. Prison Healthcare providers are accountable to NHS England and Improvement, who have been responsible for commissioning health services for people in prison and other places of detention since 2013, other than in a small number of privately managed prisons. However, a Local Delivery Board (LDB) meets on a monthly basis that is attended by health providers and is chaired by the Governor or their representative. Changes that impact upon the providers contract would have to be agreed by NHS England and Improvement Commissioners, but the LDB provides a forum to enable any projects, challenges or developments to be discussed and is the first stage in the Prison Health Partnership Governance structure to unblock delivery. Whilst nothing has been raised to date at a regional level to suggest any problems within HMP Durham, any aspects that cannot be resolved would be escalated to the regional Health Partnership Board as the next stage in the Governance structure.

Accommodation

HMP Durham has accessible cells on A wing and cells on B wing, E wing and the Healthcare centre which were compliant with the requirements of the Disability Discrimination Act 2005 (now replaced by the Equality Act 2010). In addition, an access lift is provided to the Healthcare centre due to its upper level location. It is acknowledged that the opportunities to increase the number of these cells has been limited due to the available funding from the national bid process being prioritised at HMP Durham on improvements to local heating systems and security within the Separation and Care Unit (SACU). The Victorian design of the prison is also a recognised challenge for adaption, particularly to modern heating systems and adequate control implementation, but heating improvements are in progress to F wing with installation of a new boiler plant. E wing has also been identified for a funding bid during 2022/23 to make further improvements. The on-going CRED programme is also making good improvements to in-cell conditions, such as those on B1 landing, with the rolling programme continuing throughout 2022 including replacement of poor lighting. In addition, ongoing work is taking place to replace broken toilet screens and funding has been provided to provide curtains to individual cells overseen by the local residential team.

Healthcare Provision

Despite the unprecedented challenges Covid-19 presented, it is acknowledged that the Covid-19 control measures to keep staff and prisoners safe and the outbreaks of Covid-19 which occurred within HMP Durham impacted the ability to deliver some health services fully. These particularly impacted those services provided by visiting clinicians such as Optometry, Physiotherapy and Podiatry, as well as dental services which has largely been limited to urgent care as experienced in the community. As the Covid-19 restrictions in the community have now ended and as measures in prisons ease as regimes open, providers will be expected to deliver recovery plans that address patient need and positively impact upon waiting lists. The General Practitioner (GP) and Advance Nurse Practitioner (ANP) model has already been revised with adapted processes implemented in January 2022, including the use of clinical triage, investigations and observations followed by review appointments. This has resulted in there no longer being a waiting list to see a GP/ANP since February 2022 and the healthcare team is confident this is sustainable going forward due to the revised model.

It is also recognised that late arrival from court does have an impact on both first and secondary health screening and whilst Healthcare staff endeavour to complete first night health screening on all new arrivals into HMP Durham, it has become difficult when they arrive late in the evening up to midnight. This can reduce the ability to undertake the secondary screening, with priority needing to be given to those who did not get a full Reception screening, as well as attempting to fit these around other important assessment which prisoners need to undertake such as induction and education assessments. Work has been undertaken to review and revise the operational processes through reception and NHS Commissioners will continue to work with the healthcare provider to monitor the impact on secondary screening rates and will review this within the formal contract meetings and Quality Visit schedule.

Segregation Health Reviews

HMP Durham is a part of a project to develop care provided within SACUs which has identified the need to strengthen leadership and to integrate across agencies to improve the quality of care delivered. It is recognised that multi-disciplinary working is vital in the management of the complex presentations of individuals within the SACU and NHS England and Improvement Commissioners are in the final stages of allocating additional funding for two 0.5 Full Time Equivalent nursing posts. The purpose is to test and evaluate the effectiveness of incorporating two Clinical Lead Band 6 roles for a 12-month period within the HMP Durham SACU which are dedicated to building consistency and integration including engaging with Good Order or Discipline reviews.

Health Performance Indicators

Health and Justice Indicators of Performance are nationally mandated for reporting performance within the prison estate and it is acknowledged that the recording of prisoners missing three days or more of medication is no longer included. The receipt of medicines indicator was removed after a review in 2017/18 as the data extraction was unreliable and did not reflect actual dose omissions. However, as part of the contract management process, commissioners expect providers to report incidents to ensure oversight and remedial activity. Healthcare providers therefore need to have reporting systems in place so that where such an issue arises this would be recorded as an incident, actioned and reported. Commissioners receive this information through contract reports and would instigate follow-up assurance activity where this is required to ensure compliance. There are no plans to change the indicators used for medicines management and the approach being used is aligned with how omitted doses are managed in other settings such as care homes and hospitals.

Education Qualifications

Governors are responsible for commissioning education content based on the needs of their population and the provider is required to deliver the provision commissioned by the Governor. Where the Governor judges that further support or more accredited provision is required to provide qualifications for the local population then the Governor can request the provider to deliver this. It is recognised that in order for the

regime at HMP Durham to recover post Covid-19, in line with the [National Framework for Prison Regimes and Services](#), the provider will need to recruit to fill vacancies. Once the regime at HMP Durham is fully open and the other criminal justice agencies are operating to pre Covid-19 levels, the Governor will be able to commission the provider to review the provision for qualifications.