PRIVATE AND CONFIDENTIAL

Final Report submitted to the Interested Parties on 19 June 2018

Final Report

of an Independent Investigation into the Case of AD commissioned by the Secretary of State for Justice in accordance with Article 2 of the European Convention on Human Rights

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Executive Summary

On the morning of 26 June 2014 Mr AD, a 33-year-old Somali Muslim man, was subjected to a violent and unprovoked assault by Mr EF. The assault took place on the exercise yard in the Brunel Unit – a therapeutic intervention unit at HMP Bristol for prisoners with mental health problems – where both AD and EF were located. AD was beaten to the ground and the assailant kicked and stamped on his head. The assault resulted in AD sustaining life-threatening injuries, including facial fractures, skull fracture and broken teeth embedded into his mouth. AD's injuries have proved enduring, involving physical and mental impairment; he requires full-time medical care. A criminal investigation was undertaken, with EF pleading guilty to the attempted murder of AD.

At the time of the assault, the two prisoners were on the yard with a third prisoner but no staff member was present. There was one prison officer on duty in the unit that morning – there were normally two – but he was in the process of escorting one of the other prisoners back to his cell. The alarm was raised by the third prisoner on the yard and by two civilian staff whose offices overlooked the exercise yard. Two mental health workers who had been in the Unit office approached the gate of the yard but did not enter. When the officer returned he entered the yard where he saw EF standing over AD who was on the ground, covered in blood. Medical staff arrived promptly and an ambulance was called. AD was taken to hospital. EF, who was calm, was taken to the Segregation Unit.

AD had been on remand at Bristol for more than six months. He had a history of extensive contact with both mental health services and the criminal justice system. In the period before his remand to Bristol he had been treated in hospital under a section of the Mental Health Act. He was discharged on 2 January 2014 and charged with a number of offences allegedly committed towards the end of 2013. AD suffered a psychotic illness made worse by his consumption of khat, the leaf commonly chewed by people from the Somali community which acts as a stimulant.

AD was initially placed in the Brunel Unit but after four days he was moved to D wing, a 116-bed wing containing the prison's dedicated first night and induction centre. During this period he received good quality care from the mental health services in the prison. Despite this his mental health deteriorated. Transfer to a hospital setting was recommended by two independent psychiatrists (instructed by AD's legal representatives) and also, at one stage, by a psychiatrist in the Prison Mental Health Team. This course of action was not, however, followed. At the end of May 2014, after almost five months on D wing, AD was transferred back to the Brunel Unit, where he resumed taking anti-psychotic medication and his condition improved. AD was keen to return to one of the main wings and because of the progress he had made this was planned. He was kept on Brunel for a few days so that he could be

supported during a court appearance and the change of key worker. It was during this period that the assault on him took place.

On the day of the assault, EF had been in the Brunel Unit for six days having been remanded in custody, charged with the murder of his step-grandmother in a care home outside Bristol. EF had been assessed by mental health nurses at court who recommended his placement in Brunel because of potential psychosis. It is not clear whether the decision to locate EF on Brunel was discussed with the Duty Governor on the day; nor is it clear whether operational prison staff were aware of the assessment made by the mental health nurses at court.

It was noted by the prison reception officer that EF would only share a cell with his own ethnicity and not a homosexual, but the basis of his attitudes were not explored by any member of staff.

Once on Brunel, EF was assessed over the next few days by a mental health nurse who did not identify any risk that he might harm other prisoners. Nor did EF's behaviour on the unit give any indication of that he might commit a violent assault.

The psychiatric report prepared for the court dealing with EF's assault on AD concluded that the assault was directly attributable the presence of active symptoms of mental illness. EF was highly delusional and formed the view that AD was the prophet Mohammed. The assault was investigated as a hate crime by the police and undoubtedly contains elements of islamophobia, although how much of this was brought about by EF's mental illness is difficult to say.

We have made a total of 54 findings and 31 recommendations.

We have found most of the decisions reached about the care of AD while he was in HMP Bristol to have been reasonable ones although the period of remand – six

months – was, in our opinion, too long. In respect of EF, we identify a number of shortcomings in relation to the decision to place him in the Brunel Unit and the quality of assessment and management when he was there. We also identify shortcomings in the supervision of the exercise yard on the Brunel Unit on the day of the assault. The response to the incident by both prison and healthcare staff was prompt in the circumstances.

Many of the shortcomings we identify are of an institutional nature: confusion about the criteria for admission to the Brunel Unit, a lack of clarity about the application of prison policies and procedures to the unit and a variety of interpretations about the respective roles of prison and healthcare staff working there. The lack of prison staff available to work on the Brunel Unit on the morning the assault took place is also a major concern.

We received reports of allegations that prison officers were actively encouraging other inmates to attack Somali prisoners at HMP Bristol in 2014. We have found absolutely no evidence of any collusion between staff and EF in the assault on AD. However, we are concerned that, despite some commendable efforts to engage with the Somali community, insufficient priority was given by HMP Bristol to addressing equality and diversity issues in 2014.

We remain concerned too about aspects of the internal investigation conducted by HM Prison Service in the months after the assault – in particular about an allegation made by the investigator that he was asked to amend a part of his report about racial motivation for the assault. This concern remains despite the fact that one of our recommendations, V, relating to this matter, was immediately accepted by HMPPS when the draft report was submitted to them for a redaction check on 30 June 2017.

The fact that some at least of these shortcomings may not have been fully addressed in the almost four years since the assault is the main reason that I recommend an

additional level of public scrutiny is required beyond the publication of this report – through an independent public hearing.

List of Findings and Recommendations

Findings and Recommendations arising from the Care of AD

Finding 1

It is not clear exactly why AD was discharged from the Psychiatric Intensive Care Unit (PICU) at the Hazel Unit at Callington Road Hospital on 2 January 2014, but it was planned and coordinated with the police.

Finding 2

In January 2014, although AD's mental health may no longer have required compulsory treatment in hospital, he was still clearly mentally unwell when discharged from the Hazel Unit at Callington Road Hospital, run by AWP. The decision – that AD's alleged offences should be dealt with through criminal proceedings while his mental health needs were met through liaison with the Prison Mental Health Team – seems questionable. In the light of this finding, AWP may wish to conduct an investigation into this decision which falls outside the terms of reference of this Article 2 Investigation.

Finding 3

There is no record of a pre-discharge planning meeting being held about AD before he left the Hazel Unit at Callington Road Hospital. If his discharge was planned, such a meeting should have been held and the notes of the meeting sent to either Primary Care or the Mental Health Team at HMP Bristol.

Recommendation A

When patients are transferred to prison from hospital, minutes from pre-discharge meetings should be made available to the primary care reception teams in prison and the Prison Mental Health Team along with the discharge summary.

Finding 4

Given that AD had been discharged from a section of the Mental Health Act, the court had little option but to remand him into custody when he appeared before them on 3 January 2014.

Finding 5

Doctor 9, the psychiatrist instructed to write an expert report about AD's mental health, did not communicate his concerns to the Prison Mental Health Team. If he had done so, given his concerns, assessment by the appropriate hospital might have been facilitated sooner. It is, however, unlikely that AD would have been transferred to hospital in March 2014 given his presentation at that time to the Prison Mental Health Team.

Recommendation B

Independent psychiatrists commissioned by the Courts, Defence or Prosecution should be obliged to copy their report to the patient's current treating clinical team, that is, the Prison Mental Health Team.

Finding 6

The decision on 12 June 2014 that AD should remain in prison rather than be transferred to hospital was reasonable, given the improvement in his mental health and his stated preference not to go to hospital.

Finding 7

AD's period on remand in HMP Bristol – almost six months – was too long and he should have been brought to trial sooner.

Finding 8

AD's initial placement in the Brunel Unit on 3 January 2014 was appropriate.

Finding 9

AD's move to D wing on 7 January 2014 was likely to have been reasonable although there is nothing in the medical record about the decision-making.

Recommendation C

If a prisoner is located in an area that is designated for mental or physical health needs – such as the Brunel Unit – and health professionals participate with prison staff in selecting prisoners to be located in that area, then the decisions to locate them to or relocate them from such an area should be recorded in the prisoner's medical record, including the names of staff making these decisions and the rationale for these decisions.

Finding 10

AD received a generally good level of attention from medical staff while he was on D wing.

Finding 11

The way medication was dispensed to prisoners on D wing and its recording was inadequate, making it difficult to know whether prisoners were taking their medication.

Recommendation D

The way medication is dispensed to prisoners on the wing should be reviewed, as should the system of recording whether medication is dispensed to prisoners and taken by them.

Finding 12

It is possible that AD's mental health was adversely affected by use of illicit substances while on D wing.

Finding 13

In terms of AD's care at HMP Bristol, there are few Prison Service records relating during the period he was on D wing but he did not seem to benefit from many regime activities. Staff at the prison did not make any contact with AD's family to discuss his care at any time before the assault took place on 26 June 2014.

Finding 14

It was sensible to return AD to the Brunel Unit at the end of May when his mental health deteriorated.

Finding 15

The plans made for discharging AD from the Brunel Unit in June 2014 and its timing were reasonable ones, given the progress AD made during his period as a resident from May 30 2014 and the challenges he faced.

Findings and Recommendations arising from the Care of EF

Finding 16

No consideration at all was given to categorising EF as a Category A prisoner when he arrived at HMP Bristol on 20 June 2014. Because of his alleged offence, EF should at least have been considered for Category A status. While it is unlikely he would have been made Cat A, the process might have flagged up a need for additional security measures in his first few days at Bristol Prison – for example, restrictions on association or additional levels of supervision.

Recommendation E

Prisoners charged with or convicted of any of the eligible offences should be given proper consideration for Category A in line with PSI 05/2013. An auditable system should be in place demonstrating that consideration has been given and recording briefly the decision-making rationale.

Recommendation F

In eligible cases, a police report – the MG5 – should be sought to provide information about the alleged offence in order to inform the categorisation decision and decisions about the likely risk posed by a prisoner.

Finding 17

Admission to the Brunel Unit, while formally a joint decision authorised by operational prison staff, was in practice almost always decided by the healthcare provider, Avon and Wiltshire Mental Health Partnership NHS Trust (AWP).

Finding 18

We have not been able to establish whether the allocation of EF to Brunel on 20 June 2014 was signed off by the Duty Governor; but to all intents and purposes, the decision to place him there was made by the Avon and Wiltshire Mental Health Partnership NHS Trust (AWP) mental health duty nurse following the recommendation by the Court Assessment and Referral Service (CARS) team. The respective roles of health and prison staff in deciding on placement in the Brunel Unit were not clear.

Recommendation G

It needs to be made absolutely clear to staff at HMP Bristol that decisions about admissions to the Brunel Unit require the involvement of both prison and health care staff.

Recommendation H

Decisions to locate on Brunel Unit should be documented both on SystmOne and NOMIS with the names of the persons making this decision; the available evidence in making the decision and the decision-making process recorded clearly.

Finding 19

The Person Escort Form (PER) was not properly completed by escort staff when EF was transported from court to HMP Bristol and does not list the documents that arrived with EF at the prison on 20 June 2014.

Recommendation I

The format of the Person Escort Form (PER) should be reviewed in order to ensure that it clearly identifies the documents which arrive with a prisoner and which do not.

Finding 20

On balance, it looks likely that a hard copy of the mental health assessment report compiled by AWP's Court Assessment and Referral Service (CARS) team did not arrive with EF at HMP Bristol on 20 June 2014 and was not seen by operational prison staff before he was allocated to the Brunel Unit. It seems likely that some of the information contained in the report was communicated to prison staff via telephone but it is not clear exactly what was communicated.

Finding 21

We have not been able to establish whether the Court to Prison form – a handwritten summary of the Court Assessment and Referral Service (CARS) report – arrived with EF on 20 June 2014.

Finding 22

The Reception Nurse at HMP Bristol, who worked for Bristol Community Health, did not have access to the RIO electronic records system on which the Court Assessment and Referral Service (CARS) assessment was available. This was because RIO was available only to staff of the Avon and Wiltshire Mental Health Partnership NHS Trust (AWP).

Recommendation J

Reports prepared by the Court Assessment and Referral Service (CARS) team should be sent in hard copy to the Reception Nurse at HMP Bristol who should also have access to the RIO record system.

Finding 23

The Court Assessment and Referral Service (CARS) report adequately identified EF's risk of potential psychosis in a person who was alleged to have committed a homicide. The resulting risk of harm to others that EF posed to others could have been more explicitly expressed in the CARS report.

Recommendation K

Court Assessment and Referral Service (CARS) reports on individuals charged with grave offences of violence should contain a clear summary of likely risk to self and others.

Recommendation L

The Prison Service Instruction PSI 2015-20: The Cell Sharing Risk Assessment should be revised to give greater emphasis to the application of the CSRA process to all unsupervised areas within prisons and not just cells; and this should be reflected in associated training for prison staff.

Finding 24

EF's comments to the Reception officer that he did not want to share a cell with a homosexual or someone from an ethnic minority should have been explored with him, with alerts made active on NOMIS and communicated to staff on the Brunel Unit.

Finding 25

The assessment made by prison and healthcare staff of the risk of serious harm that EF posed to others at the time of admission was inadequate.

Recommendation M

Where available, the Police MG5 form as well as a CARS report should be used when making decisions about the ongoing risk management of persons charged with

homicide who have been identified as currently suffering from acute psychosis or possibly suffering from acute psychosis.

Finding 26

At the very least, the criteria for admission to the Brunel Unit were badly-worded and capable of multiple interpretations. At worst, they reflect a fundamental lack of clarity about the role that the unit played at HMP Bristol.

Finding 27

Staff from both the Prison Service and AWP generally considered the Brunel Unit was suitable for high-risk prisoners.

Recommendation N

If the Brunel Unit is to accommodate high-risk prisoners, a review of appropriate levels of physical, procedural and dynamic security should be undertaken by HM Prison and Probation Service and NHS England and the necessary staffing and funding resources provided.

Finding 28

We do not agree with the internal investigation's finding that EF should have been segregated on arrival but, given how little was known about him, a higher level of control should have been placed on his movements and activities within Brunel until a more thorough assessment of his risk to himself and others could be completed.

Finding 29

There were no indications in the mental health assessment that EF posed a threat to other prisoners although the assessment was unable to identify EF's underlying mental health condition and was inadequate. AWP may wish to conduct their own investigation into this.

Finding 30

Despite the seriousness of EF's alleged offence and his potential psychosis, no consideration seems to have been given to transferring him to a secure hospital.

Finding 31

The mental health assessment of EF during his six days on Brunel did not make the most of intelligence from his family and more information should have been elicited from them.

Finding 32

A more explicit focus on assessing whether EF might harm others as well as himself might have brought risks to light.

Recommendation O

When prisoners give consent, interviewing family members should usually be an essential component of mental health assessments.

Recommendation P

Information from criminal justice agencies should be considered as part of mental health assessments.

Finding 33

There was no overt hostility between EF and AD prior to the assault on 26 June 2014.

Finding 34

EF seems to have given no indication in the days leading up to the assault that he was likely to attack other prisoners in general or AD in particular.

Finding 35

It is not clear if EF was discussed at the weekly Brunel Review meeting on Wednesday 25 June 2014 or if such a meeting was held.

Findings and Recommendations about the Incident on 26 June 2014

Finding 36

i) The allocation of three staff to the Brunel and Segregation Units on 26 June 2014 was unacceptable.
ii) It is unacceptable too that the full staffing complement was on average available only one day a week in the previous month with three rather than five staff on almost a third of mornings.

Recommendation Q

Staffing levels for the Segregation and Brunel Units should be reviewed and every effort made to ensure that the correct number of staff is allocated and certainly no lower than four.

Finding 37

Exercise is an entitlement for prisoners and we do not see it was wrong to allow it on 26 June simply because of the shortage of staff – but only provided that the decision about how many prisoners to allow out was risk-assessed, and the exercise adequately supervised. The risk assessment of EF was largely based on the fact that he had hitherto caused no problems on the exercise yard.

Finding 38

There was a lack of clarity among staff about whether the Local Security Instruction about Exercise Yards applied to the Brunel Exercise Yard or not. In our view, a Local Security Instruction is just that – it applies to the prison unless otherwise specified.

Finding 39

Given the absence of closed circuit television and the shape of the Brunel Unit exercise yard, physical presence on the yard is the only way of ensuring constant surveillance. In order to comply fully with the strict terms of the Local Security Instruction, the officer on duty should have based himself on the yard with the

prisoners during exercise. This would have meant he was unable to undertake other duties during this period.

Recommendation R

Closed circuit television should be introduced to cover the Brunel Unit exercise yard, although it should not routinely be used as an alternative to the physical presence of an officer on the yard.

Finding 40

There were significant differences of view among prison staff about whether healthcare staff could be expected to help supervise prisoners or assist in returning them to their cells. This difference of view reflects broader uncertainties about the respective roles of prison and healthcare staff on the Brunel Unit.

Finding 41

The officer on the Brunel Unit was placed in a very difficult position on 26 June 2014 and did what he thought was best for the prisoners in his care. While his actions were in line with custom and practice in the Unit, this was contrary to policy designed to ensure the safety of prisoners.

Finding 42

It would have been better for prisoners to have remained on the yard under supervision or for an officer from the Segregation Unit to attend if prisoners were to be returned to their cells before the end of exercise.

Recommendation S

There is a need for a clarification of the respective roles of healthcare and operational staff on the Brunel Unit so that all staff understand whether healthcare staff can be asked to play a part in the supervision of prisoners and/or the locking and unlocking of prisoners in their cells.

Recommendation T

Incident logs prepared in all serious cases of self-harm or violence should be timely and identify which members of operational prison staff and healthcare staff are involved in responding to the incident and the actions they take.

Finding 43

The administrative staff who witnessed the assault could have shouted out of the window which looked out on the yard but the effect this would have had on the assault is of course uncertain. They raised the alarm quickly which was the appropriate response.

Recommendation U

The training of non-operational administrative staff working at Bristol should be reviewed to ensure that they know how to respond to incidents such as the assault.

Finding 44

It would not have been appropriate for healthcare staff to have intervened on the yard before prison staff arrived on the scene.

Finding 45

There is no evidence that there was any unnecessary delay in responding to the incident once the alarm had been raised. The response by prison staff and healthcare staff was good and the treatment received by AD was timely and appropriate.

Findings and Recommendations about Race, Religion and Diversity

Finding 46

While EF was undoubtedly suffering from mental illness, the assault was motivated by hostility towards Muslims, although the extent of the hostility which was due to the mental illness is difficult to determine.

Finding 47

Apart from the Muslim Chaplain/Imam, staff at the prison considered that the assault was racially rather than religiously motivated.

Recommendation V

HM Prison and Probation Service should investigate whether improper pressure was placed on Governor 2, the governor conducting the internal investigation.

Finding 48

More could have been done by prison staff to challenge EF's racist attitudes but we have no evidence that staff colluded in any way at all with these, nor with the assault on AD.

Recommendation W

Guidance and training for staff on completion of Cell Sharing Risk Assessments should emphasise that racist and homophobic remarks by prisoners must always be explored and challenged in line with PSI 2015-20: The Cell Charing Risk Assessment.

Recommendation X

Resources should be made available to the Brunel Unit to enable better communication with prisoners whose first language is not English.

Finding 49

Despite some commendable efforts to engage with the Somali community, insufficient priority was given by HMP Bristol to addressing equality and diversity issues in 2014.

Recommendation Y

HMP Bristol should work with Stand against Racism and Inequality (SARI) and other appropriate partners in the community to draw up an action plan to improve the

management of equality and diversity issues within the prison and to organise necessary training.

Recommendation Z

A review should be conducted by the Governor of the effectiveness of the complaints system at HMP Bristol, in particular in respect of complaints by black and minority ethnic prisoners and Muslim prisoners, both about discrimination and other matters. Assistance from Stand against Racism and Inequality (SARI) should be sought in undertaking the review.

Findings and Recommendations about Investigations

Finding 50

There is no written record of a hot debrief taking place after the incident.

Recommendation AA

A hot debrief should be held and a short record made when a serious incident takes place.

Finding 51

We cannot find evidence of any investigation into the assault being undertaken by HMP Bristol.

Recommendation AB

When a serious incident takes place in any prison, the prison itself should undertake a fact-finding exercise to establish what happened and what urgent steps might be needed to prevent a similar incident occurring. This requirement should be written into the establishment's contingency plans as a post-incident action.

Finding 52

A disciplinary investigation does not seem the best way to identify lessons from incidents such as the assault on AD.

Recommendation AC

Investigations into serious incidents commissioned by an HM Prison and Probation Service Area Office should not be framed as disciplinary investigations but as fact-finding inquiries. Where findings indicate a case for disciplinary action, a separate process should be initiated.

Finding 53

It would have been better if a joint investigation had been undertaken by NOMS and AWP.

Recommendation AD

In future, serious incidents of violence or self-harm should be investigated jointly by HM Prison and Probation Service and the health provider or commissioning body.

Finding 54

The internal investigation has been badly mismanaged. The report was not shared with relevant parties in a timely fashion and the length of time taken to respond to it (more than two years) was far too long.

Recommendation AE

A further element of public scrutiny is needed in this case.

Glossary

ACCT	Assessment, Care in Custody and Teamwork Plan. The care-planning system used to help to identify and care for prisoners at risk of self-harm or suicide.
Association	Prisoners' recreation and association period when they are outside their cells
AWP	Avon and Wiltshire Mental Health Partnership NHS Trust who provided mental health services at HMP Bristol
CARS	CARS is the Avon and Wiltshire Mental Health Partnership NHS Trust's Court Assessment and Referral Service. CARS staff are based within courts and police custody suites and offer assessments for individuals with mental health issues, providing reports to inform sentencing decisions, appropriate diversions from custody and liaison with treatment providers.
Category A	The highest security categorisation for prisoners. The category of prisoners whose escape would be highly dangerous to the public or the police or the security of the state and for whom the aim must be to make escape impossible.

Category B	The category of prisoners for whom the very highest conditions of security are not necessary but for whom escape must be made very difficult. If they were to escape this would pose a large risk to members of the community.
Code Blue	A code for calling a medical emergency over the prison radio network when a prisoner has particular symptoms such as difficulty breathing or is unconscious. When Code Blue and Code Red are activated, nursing staff should attend and an ambulance be called by the Control Room.
Code Red	A code for calling a medical emergency over the prison radio network when a prisoner has particular symptoms such as severe loss of blood. When Code Red and Code Blue are activated, nursing staff should attend and an ambulance be called by the Control Room.
HMPPS	Her Majesty's Prison and Probation Service. The executive agency of the Ministry of Justice that assumed responsibility for prisons in April 2017, replacing the National Offender Management Service (NOMS).
Hospital Order	A Hospital Order is made under section 37 of the Mental Health Act (MHA). See MHA.
Incentives and Earned Privileges Scheme (IEP)	The system by which prisons grant privileges which to prisoners in addition to their minimum entitlements,

	subject to their reaching and maintaining specified standards of conduct and performance. In 2014 there were four levels: basic, entry, standard and enhanced. Basic level is for prisoners who have demonstrated insufficient commitment to rehabilitation and purposeful activity, or behaved badly and/or who have not engaged sufficiently with the regime to earn privileges at a higher level.
khat	Khat is the plant Catha Edulis, the leaves of which are chewed as a social custom across North East Africa and the Arabian Peninsula. It has a stimulant effect on the nervous system, similar to an amphetamine and is hallucinogenic. For people who suffer from a mental disorder with symptoms of psychosis such as schizoaffective disorder, stimulants are highly likely to cause a relapse of psychotic symptoms and a further episode of the disorder. Khat has been classified as a class C drug since 24 June 2014 in the United Kingdom. Mental health professionals advise people who suffer from mental disorder with symptoms of psychosis such as schizoaffective disorder or schizophrenia to abstain completely from stimulant drug use in order to maximize their chance of avoiding future relapse of psychosis.
Mental Health Act 2007	
S35	The section under which a Magistrates or Crown Court may, under certain conditions, remand a defendant to hospital for a medical report to be prepared.

S36	The section under which a Crown Court may under certain conditions remand a patient for treatment.
S37	The section under which a Hospital Order can be imposed by a court as an alternative to a prison sentence. Evidence is required from two registered medical practitioners before the court stating that the defendant is suffering from a mental disorder that is of a nature or degree that requires hospital treatment; that hospital treatment is necessary for the health or safety of the individual or the safety of others and that a bed and treatment for that disorder is available.
S48	The section under which a person on remand in prison can be transferred to hospital
S49	The section under which the Secretary of State can impose restrictions on the discharge of a prisoner who has been transferred to hospital
S117	The section under which a patient is entitled to after-care following a period in psychiatric hospital
NOMIS	The Prison Service's electronic record-keeping system
NOMS	National Offender Management Service. The executive agency of the Ministry of Justice which was responsible for prisons from 2004 until 31 March 2017 when it was replaced by HM Prison and Probation Service (HMPPS).

olanzapine	Anti-psychotic medication
Orderly Officer	The prison officer responsible for the day-to-day running of a prison
patrol state	When all prisoners are locked in their cells
Personal Officer	A Personal Officer is a designated prison officer who is a prisoner's first point of contact within the prison and who is supposed to take a particular interest in the prisoner's wellbeing.
PICU	Psychiatric Intensive Care Unit
PTSD	Post-traumatic stress disorder (PTSD) is an anxiety disorder caused by very stressful, frightening or distressing events.
RIO	The medical record system used by AWP in 2014
schizoaffective disorder	Schizoaffective disorder is a relapsing disorder with episodes of psychosis (loss of contact with reality due to abnormal perceptions, for example hearing voices that others do not perceive; or fixed false beliefs that are not shared by others in the same community, for example that world events are controlled by or specifically relate to the individual) and concurrent mood disorder.
SystmOne	The medical record system used in HMP Bristol in 2014

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PART ONE THE INVESTIGATION

Chapter One How we conducted the Investigation

The Investigation was carried out by Rob Allen, former Director of the International Centre for Prison Studies. He was assisted by Will Thurbin, a former Governor from the HM Prison Service. A clinical review was conducted by Dr Christine Brown, a Consultant Forensic Psychiatrist, and is annexed to this report.[1] Administrative support was provided by two PAs in the Article 2 Secretariat.

The Investigation was commissioned on 31 March 2015 by the National Offender Management Service on behalf of the Secretary of State for Justice. On 1 April 2017 the National Offender Management Service (NOMS) became HM Prison and Probation Service (HMPPS). The terms of reference for the investigation are:

- to examine the management of AD by HMP Bristol from his reception on 3 January 2014 until the incident on 26 June 2014 and any relevant intelligence, and in light of the policies and procedures applicable to AD at the relevant time;

- to examine the management of EF by HMP Bristol from his reception on 20 June 2014 until the incident on 26 June 2014 and any relevant intelligence;

[1] Annex 2

- to examine relevant health issues during the periods spent in custody at HMP Bristol by AD and EF, including mental health assessments, and their clinical care up to the point of the incident on 26 June 2014;

- to consider evidence that the assault was racially motivated, to examine any related issues concerning the management of race and equalities issues at HMP Bristol and to make recommendations as to how this might be improved in order to ensure the safety of prisoners.[2]

In the initial stages of the investigation, Will Thurbin and I met with the family of AD on 8 June 2015 and visited HMP Bristol on the same day. We visited AD on 21 July 2015 although he does not have capacity to participate directly in the investigation. Dr Brown and I interviewed EF on 1 April 2016. We met again with AD's family on 28 June 2016.

We analysed an initial set of documents which were disclosed to us. This included the "Final Investigation Report into the Circumstances where EF was able to seriously assault AD at HMP Bristol on the Brunel Unit Exercise Yard on 26 June", completed by Governor 2, the Governor of another prison in the South West, on 15 May 2015;[3] and the annexes to that report. (I refer to this throughout my report as the "internal investigation"). We made an initial request for further documents to HMP Bristol on 12 June 2015. There was a delay in the investigation while we awaited the appointment of a Clinical Reviewer. Dr Brown was commissioned on 17 November 2015. There was a further delay in obtaining documents that we wished to consult. We were unable to consult all of the documents which we wished to see because some are no longer available.[4]

[2] The initial letter commissioning the investigation is at Annex 1.
[3] Annex 4
[4] A list of documents requested but not obtained is at Annex 18.

We regret the length of time that it has taken to finalise this Article 2 Investigation report and the distress and anxiety which this has caused to AD's family.

On 6 July 2017, we were provided with an action plan produced by HMP Bristol in response to the internal investigation report prepared by Governor 2. Although we had submitted our draft report to the Secretary of State for Justice on 30 June 2017, I determined that it was necessary to revise the draft to take account of matters in the action plan which were relevant to our findings and recommendations.

We undertook face-to-face interviews with a total of 24 individuals. These included EF and 20 current and former members of staff who work or worked either for HM Prison Service or for the organisations providing healthcare at HMP Bristol, namely Avon and Wiltshire Mental Health Partnership NHS Trust (AWP) and Bristol Community Health (BCH). We interviewed SARI 1 of Stand against Racism and Inequality (SARI), a community-based organisation in Bristol that provides support and advice to victims of hate crimes; and Governor 2 who conducted the internal Prison Service investigation.

Our interviews included a meeting with one of the prisoners who was in the Brunel Unit at the time of the assault and who was on the exercise yard on 26 June 2014 shortly before the assault took place. However, he had no recollection of the events. The other two prisoners who had been on the yard that day could not be located. In addition, Dr Brown spoke to two psychiatrists about their involvement with AD.

We were unable to interview Governor 6, the Duty Governor on 20 June 2014, the day that EF arrived at HMP Bristol. Governor 6 has left the Prison Service and was unwilling to be interviewed in person by this Article 2 Investigation, although he provided written answers to a set of questions we put to him by email.[5]

[5] Annex 3

The officer on duty in the Brunel Unit on the day of the assault, Prison Officer 1, was also initially unwilling to be interviewed in person but provided written answers to a set of questions. Prison Officer 1 told us that "he had 4 months off with Stress/PTSD following this incident, it triggered a sequence of events in my life that I do not want to relive."[6] However, he eventually agreed to be interviewed in January 2018.

We have made 54 findings and 31 recommendations.

[6] Email Prison Officer 1 to Rob Allen 23 April 2017 Annex 3

Chapter Two HMP Bristol

HMP Bristol is a Victorian Category B local prison holding male adults and young adults. It is located in the South-West region of HM Prison and Probation Service (HMPPS), which until 1 April 2017 was named the National Offender Management Service (NOMS). The prison comprises five main wings. D wing is a 116-bed wing which contains a dedicated first night and induction centre.

The Brunel Unit, which was formerly the prison's Health Care Centre, has 12 cells for prisoners with complex mental and physical healthcare needs. It is located next to the 13-bed Segregation Unit. The Brunel Unit and the Segregation Unit are managed jointly, with five staff deployed flexibly across the two units during the core day.

In 2014 healthcare at Bristol was provided by three different organisations. Physical health was provided by Bristol Community Health and MedCo Secure Health Services. The mental health provider was Avon and Wiltshire Mental Health NHS Partnership (AWP).

PART TWO BACKGROUND AND THE EVENTS IN DETAIL

Chapter Three Background to AD's imprisonment in HMP Bristol from 3 January to 26 June 2014

Personal History

AD was born in 1976 in Somalia but there is uncertainty about his personal and family history because he has given inconsistent accounts to various professionals. According to information contained in a psychiatric report prepared in March and April 2014, AD's mother died when he was six although AD's brother – who lives in Bristol – wrote in a witness statement in September 2014 that their mother was still living in Somalia.[7] AD told the psychiatrist that he was brought up by his father's second wife and has seven brothers and two sisters.[8] AD told the psychiatrist that he came to the UK illegally in 2005 when he was 29 although AD's brother said that AD sought asylum in 2004, fleeing the war in Somalia. He was granted indefinite leave to remain in the UK in 2007. AD was also known by the name of AD2.

A tall, slim man of black African origin, AD's first language is Somali. As a Muslim, AD prayed five times a day although he told a psychiatrist that he considered himself a "bad Muslim as he smokes".[9] AD was also a regular user of khat, the leafy plant containing stimulant drugs which speed up the mind and body but can have an adverse effect on mental health.

[7] Witness statement Mr GD Annex 12
[8] Report by Doctor 9 Annex 6
[9] Report by Doctor 9 para 27 Annex 6

When AD was received into Bristol Prison in January 2014, he was 38 years old and had been frequently involved with both the criminal justice and mental health services over the previous ten years.

AD's contact with criminal justice and health services 2004 to 2014

By 2014, AD had five convictions for 15 offences, four of which were offences against the person, nine property offences, one relating to possessing an offensive weapon and one failing to comply with court orders.

AD was first convicted in 2004: having been arrested for attacking a stranger with a plank of wood, he was bailed but failed to comply with the conditions and was remanded in custody. He was found to be psychotic while in prison and was admitted to a medium secure unit – a closed psychiatric hospital where he could be treated. He responded to medication and was discharged. A year later, AD was given a Hospital Order rather than a prison sentence, following an offence of wounding and possession of a knife, because he was deemed to need treatment. He told the psychiatrist that the offence involved a fight with a Somalian who laughed at him. In 2010 he received a conditional discharge for nine counts of criminal damage after breaking items in his flat including the television; he told the psychiatrist he had been "sick of the TV talking against me".[10] In 2010 he was also arrested for a sexual assault on a female member of the public and received another Hospital Order.

In 2011 AD was detained at the low security Wickham Unit in Blackberry Hill Hospital, Bristol, on a Hospital Order after a conviction for common assault and two further offences of battery. AD said that these two offences involved a woman

[10] Report by Doctor 9 para 40 Annex 6

accusing him of touching her. AD spent 18 months in hospital, during which time he threatened to stab another patient with a knife.

AD was discharged on a Community Treatment Order in August 2013 and resided in supervised accommodation. His mental health deteriorated in part as a result of his use of khat and failure to take prescribed medication. In October 2013 AD smashed the window of his brother's house and is reported to have taken advantage of his brother financially by getting him to pay for taxis to his house and meeting bills in cafes. At this point the increased risk of violence AD was presenting to others was felt "unlikely to be related to his mental health and was considered to be due to poor anger management and his abuse of khat".[11]

On 12 December 2013, after staying out all night, AD smashed a cup over the head of a member of staff in the supervised accommodation, threw a breeze block out of the window and went outside carrying a knife. The police were called. AD chased an officer in the street, threatening him with a knife and finally head-butting him before he was tasered. He was detained in police custody and recalled under Section 37 of the Mental Health Act to Hazel Unit Psychiatric Intensive Care Unit (PICU) at Callington Road Hospital in Bristol. The 12-bedded unit is designed to provide more intensive therapeutic input to service users than an acute ward.

On 19 December 2013, AD concealed a lighter and khat in his room and three days later absconded from escorted leave. On 26 December he caused damage to the unit clinic and threatened staff and was restrained and secluded. The same response was made next day when, in another unprovoked incident, AD threw a stereo at staff. On 30 December 2013, AD cornered a female member of staff and raised his fists.

[11] Report by Doctor 9 para 70 Annex 6

On 2 January 2014, AD was discharged from hospital. The Order under the Mental Health Act was revoked, AD was arrested and charged with criminal damage, common assault, affray and assault on a constable – offences relating to the incidents on 12 December 2013. AD was remanded in custody by Bristol Magistrates Court on 3 January 2014. The trial date was initially set for 24 January 2014 at Bristol Crown Court.

The Clinical Review finds "no record of a section 117 pre-discharge planning meeting held on Hazel PICU that had been sent to either Primary Care or the Prison Mental Health Team". The Prison Mental Health Team did receive a discharge summary from Hazel PICU and his consultant Doctor 10 spoke to the team to within 72 hours to confirm his medication plan and monitoring".[12]

The discharge summary prepared by the Callington Road Psychiatric Hospital noted that "when unwell AD presents with auditory hallucinations, persecutory and grandiose delusions, and marked thought disorder, as well as elated mood, irritability, sexual disinhibition and pressured speech. He further represents a risk of violence and sexual assault."[13] However, according to Doctor 9, a letter dated 3 January 2014 from the Consultant Psychiatrist at the Hazel Unit at Callington Road, Doctor 10, states that AD "should be managed in the same way as any other individual under the same circumstances", as Doctor 10 at that point had no concerns about his mental health.[14]

Summary

Between 2004 and 2014 AD had a long history of mental health problems and

[12] Clinical Review page 14 Annex 2. S117 refers to the section of the Mental Health Act which concerns the aftercare arrangements for patients discharged from hospital.
[13] Report by Doctor 9 para 68 Annex 6
[14] Report by Doctor 9 para 4 Annex 6

offending behaviour, exacerbated by the use of khat. While he showed some response to treatment, his behaviour presented difficult challenges for the psychiatric services. When they discharged AD from their care in January 2014, it was felt by them that his offending behaviour was not directly caused by his illness and therefore the proper response should be through the criminal justice process.

Chapter Four AD's early days in HMP Bristol, 3 to 7 January 2014

When AD was received at HMP Bristol on 3 January 2014, he was accommodated in the Brunel Unit "due to coming straight from Callington Rd hospital"[15]. His medical record states that "due to paperwork received via CARS[16] and police custody to admit to Brunel Unit overnight and assess am {i.e. the following morning}".[17] In fact AD was assessed by two nurses on the evening he arrived on 3 January. As a result of his presentation and history the decision was taken to locate him on Brunel in cell H1-11. He was admitted at 19.00." The medical record noted "query difference in name on RIO and system one". These are the two electronic record-keeping systems in use at the time. RIO dealt with mental health while SystmOne deals with physical health. AD was known by the name AD2 on RIO and AD on SystmOne.

The assessment on the evening of 3 January noted him to be a very polite and pleasant young man who was "clearly feeling unwell"[18]. A Reminder/Alert is noted NOT TO BE SEEN BY LONE FEMALES-Priority High". It was noted on NOMIS – the National Offender Management Information System used to keep records about prisoners – that "AD is a high risk to female due to assaulting nursing staff and very inappropriate behaviour".[19]

Over the next few days AD was seen by a number of medical practitioners and allocated a key worker, Nurse 7. Nurse 7 told us that AD was a complex case, "in

[15] NOMIS Transfer Report AD Annex 9

[16] CARS is the Avon and Wiltshire Mental Health Partnership NHS Trust's Court Assessment and Referral Service. CARS staff are based within courts and police custody suites to assess individuals with mental health issues, provide reports to inform sentencing decisions, appropriate diversions from custody and liaison with treatment providers.

[17] Patient Record AD 3 January 2014 Annex 6

[18] Patient Record AD Annex 6

[19] NOMIS Transfer Report AD Annex 9

the sense that he arrived at Bristol Prison heavily, heavily overly-medicated and sedated".[20] A plan was put in place to reduce his reliance on medication. AD's former consultant psychiatrist at the hospital was involved in this process.

While on Brunel, AD was not easy to manage, being noted as a rather demanding individual wanting extra food and tobacco on demand.[21] On 4 January, he was suspected of smoking something other than tobacco – he was strip-searched and his cell was searched. Nothing was found but the television was removed from the cell. On 5 January, it was noted that AD was warned a number of times about his continual bell-ringing and tapping of the hatch but "he is just not taking this information on board"[22]. AD continued to make demands on staff and by 6 January had been made a "lodger" on Brunel; his placement there was temporary pending the availability of a single cell on the first night centre. On 7 January AD was moved to D wing.

Summary

AD spent the first four days after admission to HMP Bristol on 3 January 2014 in the Brunel Unit. Although heavily medicated, he was a demanding prisoner, noted as representing a high risk to female staff. A plan to reduce his reliance on medication was put into effect. On 7 January, AD was moved to D wing which contains a first night and induction centre.

[20] Interview with Nurse 7, page 2 Annex 3
[21] NOMIS Transfer Report AD 5 January 2014 Annex 9
[22] Ibid

Chapter Five AD on D Wing 7 January to 30 May 2014

AD's mental and physical health continued to be monitored while he was on D wing, with reviews by a psychiatrist on 9 January, 23 January, 13 February, 27 February and 20 March and regular consultations with his key worker on at least a weekly basis.

On 23 January AD is noted as saying that he wanted to stop all his medication but agreed to stick with the plan to reduce it over time. He hoped to be released when he appeared in court the following day. If not, he planned to start working within the prison and hoped for a move to B wing.[23] In the event, AD was remanded in custody until 28 March 2014. This was subsequently extended with a plea and case management hearing scheduled for 25 May 2014 and a trial in June.

Nurse 7 noted on 27 January that AD "has started education courses and appears to be functioning well within the prison system".[24] Four days later it is noted that he "reported attending exercise and association and mixes well with other inmates and staff".[25] AD went over to the Brunel Unit for groups three times a week, although withdrew from the Monday group at the end of February because he could not read.[26]

AD was assigned a Personal Officer, Prison Officer 3. A Personal Officer is a prisoner's first point of contact within the prison and who is supposed to take a particular interest in the prisoner's wellbeing. One of very few entries on NOMIS states that Prison Officer 3 was "unsure of how much he understands as he can be

[23] Patient Record AD 23 January 2014 Annex 6
[24] Patient Record AD 27 January2014 Annex 6
[25] Patient Record AD 31 January2014 Annex 6
[26] Patient Record AD 25 February2014 Annex 6

very vague and distant at times. I have attempted to find out if this is a result of mental illness or the effects of the medication he is on but no one seems to be able to say with any certainty. AD is however a (usually) undemanding man who does not cause any problems or give staff any concerns".[27]

During February and March, AD refused to take any anti-psychotic medication despite strong encouragement to do so by the medical staff who saw him. On 11 March, AD said that he no longer wished to attend the groups on the Brunel Unit as he found them boring and did not like being around people with mental health problems. Regular reviews did not find any relapse in AD's mental health, despite his unwillingness to take medication.

On 27 March, on the instructions of his solicitors AD was visited and assessed by Doctor 9, an independent Consultant Psychiatrist. Doctor 9 task was to produce an expert report assessing whether AD was fit to plead to the charges he faced and stand a two-day trial – and to make a recommendation about possible sentence. He did not observe any overt, psychotic symptoms but believed that AD "suffers from psychotic symptoms".[28] Doctor 9 reached the view that AD was "unfit to plead and stand trial "and "will continue to deteriorate and will lose touch with reality more if he does not start taking the medication"[29]. Moreover, Doctor 9 thought that AD should be transferred to hospital where he could be required to comply with treatment and take medication. He was referred to Fromeside Regional Secure Unit for a further assessment.

At the end of March, AD reported some difficulty sleeping. On 11 April Nurse 7 noted that "objectively he is not doing much in the day due to no jobs available" and "he

[27] NOMIS Transfer Report AD 15 February 2014 Annex 9
[28] Report by Doctor 9 para 80 Annex 6
[29] Report by Doctor 9 paras 96-97 Annex 6

does look tired with dark circles around his eyes.[30] AD asked for sleeping tablets which were prescribed for four days.

At a review on 1 May 2014, AD continued to appear well and stable in mental state. He expressed some frustration about how long his court case was taking. On 6 May, he complained he was not sleeping well and although advice was given to keep busy in the day to aid better sleep at night, AD was not doing anything such as work or education. By the 15 May, he was feeling that the voices he experienced had become louder. He was spending long periods in his cell and found himself ruminating on the past. He was not doing work education or attending the gym and "tends not to go outside in the exercise yard".[31]

On 27 May, a second independent psychiatrist visited AD on the instruction of his solicitors. Doctor 7 agreed with the assessment made by Doctor 9 in March and found AD to be "presenting with active symptoms of illness".[32]

Staff at HMP Bristol made a plan to help AD: he should apply for a job, be referred to relaxation at Brunel on Mondays, use the exercise yard more and reduce his caffeine intake. When the plan was reviewed a fortnight later on 29 May, the psychiatrist, Doctor 6, noted concerns about AD's mental state. He was disinhibited, over-familiar and delusional with the review concluding the symptoms were "consistent with the early relapse of schizoaffective disorder" – in which a person experiences a combination of schizophrenia symptoms, such as hallucinations or delusions, and mood disorder symptoms, such as depression or mania.[33] He was prescribed an anti-psychotic medication, and it was noted "low threshold for admission to Brunel" and to review the following week. It is not clear what "low threshold for Admission to

[30] Patient Record AD 11 April 2014 Annex 6
[31] Patient Record AD 15 May 2014 Annex 6
[32] Report by Doctor 7 11.1 Annex 6
[33] Patient Record AD 29 May 2014 Annex 6

Brunel means although it could signify that AD's symptoms placed him on the borderline of eligibility for the unit. AD made it clear that he did not want to return to hospital and agreed to start taking his medication.

The next day, AD's key worker, Nurse 7, was sufficiently concerned to go and see him. He had been singing and laughing and said he had forgotten to take his anti-psychotic medication, olanzapine. Nurse 7 thought that it would be in AD's best interests to be moved to the Brunel Unit "where nurses can support him in taking his Olanzapine medication."[34] AD was discussed in the Brunel's Unit's Single Point of Entry Meeting (SPEM) and it was agreed he should be located on the Unit. He was seen by a psychiatrist, Doctor 3, who was concerned that it was not clear from the records at what point AD had last taken his medication.

Summary

AD functioned relatively well during the first three months of in D wing but his unwillingness to take anti-psychotic medication resulted in a gradual deterioration in his mental health. This was not helped by the relatively impoverished regime on D wing. By the end of May, it had become clear that AD needed more assertive treatment either via transfer to hospital or a move back to the Brunel Unit. During this period AD was assessed by two outside psychiatrists who considered that he needed hospital care.

[34] Patient Record AD 30 May 2014 Annex 6

Chapter Six AD returns to Brunel, 30 May to 26 June 2014

AD was moved back to Brunel from D wing in the early evening of 30 May 2014. He was noted as seeming calm and polite and "talking to himself whilst alone in cell".[35] He started to take his medication. The next day, 31 May, AD asked to be moved to A wing which was within shouting distance of the Brunel Unit.[36] He was told that he would be staying on Brunel Unit "for the moment".[37] He was noted as being "very vocal on the unit".[38] It was noted by a Health Care Assistant that at times his prolonged shouting and singing sounded relaxed and melodic but at other times more "irate distressed and pressured".[39] It was not possible for staff to understand the content of the singing and shouting "as it is not in English".[40] An unsuccessful attempt was made to locate an Imam to speak to AD.

On 1 June, AD spent most of the morning chanting. Staff felt he may have been singing a cultural or religious song.[41] Later in the day he was moved to cell H1-09 "due to him shouting out to A wing constantly asking staff and cleaners to get him tobacco when they walk past his cell"[42]. He was told not to try to bully or harass people for tobacco. AD was given a verbal warning for misuse of his cell bell. At the end of the day, he asked if he could go back to D wing "as he did not like it on Brunel".[43] He was told that he would have to speak to Nurse 7, his key worker.

[35] Patient Record AD 30 May 2014 Annex 6
[36] Patient Record AD 31 May 2014 Annex 6
[37] Ibid
[38] NOMIS Transfer Report AD 31 May 2014 Annex 9
[39] Patient Record AD 31 May 2014 Annex 6
[40] Ibid
[41] Patient Record AD 1 June 2014 Annex 6
[42] NOMIS Transfer Report AD 1 June 2014 Annex 9
[43] NOMIS Transfer Report AD 1 June 2014 Annex 9

Nurse 7 saw AD the next day, although seemingly by chance. She was seeing someone else in the Brunel Unit when she heard AD banging very loudly and swearing. In a conversation through the hatch, he told her he was bored and she noticed he had no television, something she agreed to arrange for him. He also asked for tobacco. When she explained she could not provide this, AD asked to return to D wing to see his friend who would give him some tobacco. Nurse 7 explained that due to concerns about his mental health, he would need to remain on Brunel. He was not happy but appeared to accept this. Nurse 7 was concerned that AD "may be relapsing in mental state and further monitoring will be required".[44]

For the next few days AD continued to cause problems. He was placed on report – a minor disciplinary sanction – for smashing his television set on the floor, a matter (it seems) of hours after obtaining it. He did this when an officer requested that he stop shouting while the officer tried to have a conversation with another prisoner and a nurse in the cell opposite.[45] AD stated he wanted to go back to D wing. He continued to abuse the cell bell system and declined exercise and a shower.[46]

On 3 June AD had to be reminded on "numerous" occasions not to stand on the wooden bench in the exercise yard – something he was doing to try to obtain tobacco from prisoners on the yard of the neighbouring Segregation Unit.[47] In the morning, AD told a health care assistant that "he felt like killing himself if he can't go back to D wing".[48] He was warned again over the misuse of his cell bell.[49] AD was

[44] Patient Record AD 2 June 2014 Annex 6
[45] Ibid
[46] NOMIS Transfer Report AD 2 June 2014 Annex 9
[47] NOMIS Transfer Report AD 3 June 2014 Annex 9
[48] Patient Record AD 3 June 2014 Annex 6
[49] NOMIS Transfer Report AD 3 June 2014 Annex 9

placed on the Basic regime level of the Incentives and Earned Privileges scheme (IEP) following two negative entries on his record.[50]

On 4 June AD had "another poor day"[51]. He was removed from the yard after ignoring warnings not to stand on the bench. This happened again three days later but AD's behaviour slowly became more settled. The issues with tobacco did not go away but were eased when he received a supply of tobacco on 5 June. Nevertheless, when AD was reviewed by psychiatrist Doctor 3 on 5 June, the relapse of his mental illness was such that he was referred for an urgent assessment by Low/Medium Secure Services since Doctor 3 considered "transfer to hospital under Section 48 of the Mental Health Act is required"[52]. Doctor 3 wrote an urgent referral to Doctor 5, a Consultant at Fromeside Psychiatric Hospital, who agreed to see AD on 12 June 2014.[53] Fromeside is the medium secure unit in which AD would have been placed had he been transferred to hospital.

Thereafter, AD started to take part more in the life of the Brunel Unit. On 9 June he participated in one of the group work sessions (which he had previously given up on while in D wing). He attended a relaxation group and was given a television on the basis he did not hassle anyone for tobacco.[54] It was noted that if he is caught doing so, he would be placed back on the Basic regime "as it is starting to bother the other prisoners on the unit"[55]. NOMIS entries on 16, 17, 19 and 24 June refer to AD continuing to seek tobacco and Rizlas despite the warnings and threat of losing his television.

[50] Ibid
[51] NOMIS Transfer Report AD 4 June 2014 Annex 9
[52] Patient Record AD 5 June 2014 Annex 6
[53] Letter from Doctor 3 to Doctor 5 9 June 2014 Annex 6
[54] NOMIS Transfer Report AD 9 June 2014 Annex 9
[55] Ibid

Such was his overall improvement however that when Doctor 5 from Fromeside Hospital came to see AD in a review meeting, she did not feel that he required urgent transfer to hospital although the decision should be kept under review.[56] Nurse 7 reported significant improvement in AD's mental state since he was last reviewed by a psychiatrist. AD told the 12 June review that his hearing of voices was improved and that he did not want to go to hospital.

On 13 June AD was noted as having a good morning, going on exercise and attending groups. It was noted that "he seems to be interacting more and being polite".[57] He went to a service user forum – a meeting of prisoners – on 17 June. By 18 June when his case was discussed in a Brunel Unit review, AD was found to be taking his medication and "becoming more and more settled on the unit".[58] He was keeping himself clean and complying with the prison regime. The review decided that AD should stay on the Brunel Unit for the next few days at least. He had appeared in court that morning and had been told he would have to return the following Monday 23 June. It was decided at the review that the Brunel could provide support to him "at least until his court appearances have been dealt with".[59] The meeting noted "some ongoing issues about whether a hospital admission may be warranted".[60]

The following day, 19 June, a further psychiatric review was held. Doctor 6 found AD very keen to return to one of the main wings of the prison from the Brunel Unit "because there are more people to talk to".[61] In view of his sustained improvement, settled behaviour, positive engagement with staff and concordance with medication,

[56] Letter from Doctor 5 to Doctor 3 13 June 2014 Annex 6
[57] NOMIS Transfer Report AD 13 June 2014 Annex 9
[58] NOMIS Transfer Report AD 18 June 2014 Annex 9
[59] Patient Record AD 5 June 2014 Annex 6
[60] Patient Record AD 18 June 2014 Annex 6
[61] Patient Record AD 19 June 2014 Annex 6

Doctor 6 and Nurse 7 supported his return to normal location within the prison. It was suggested that this took place early the following week when he had engaged with a new key worker and been supported to attend court on 23 June. Nurse 7 was changing jobs and AD's key worker was to be Nurse 6.

Despite his more settled behaviour, on 21 and 22 June there are reports of AD laughing and talking to himself and on 24 June he woke up at 4 a.m. NOMIS notes that "he has been laughing very loudly for over 2 hours".[62]

On 25 June, the day before the assault, AD was again discussed in the Brunel review meeting. Rather than move AD off the unit, as had been planned, it was decided he should stay on Brunel while his medication was adjusted.

On the 26 June, the day of the assault by EF, AD "again woke early and has been laughing hysterically and making wailing noises. This started at approximately 4.am and has been ongoing for the last 3 hours."[63] AD was asked to be a little quieter "but he just laughed".[64] AD was due to be reviewed by the psychiatrist again on 26 June.

Summary

AD was quite unwell when he returned to the Brunel Unit and for the first few days his behaviour caused concern. Such was the deterioration in his mental health that it was decided on 5 June that a hospital place should be sought for him. However, his health improved and behaviour became more settled so a week later it was decided he should stay on Brunel, although the need for a hospital admission should be kept under review. By 19 June it was agreed that AD should return to normal location but it was thought best for the Brunel Unit to support him during a court appearance and

[62] NOMIS Transfer Report AD 24 June 2014 Annex 9
[63] NOMIS Transfer Report AD 26 June 2014 Annex 9
[64] Ibid

change of key worker. His move was subsequently deferred pending a change in medication. His behaviour remained erratic at night but had improved greatly during the day.

Chapter Seven Background to EF's imprisonment on 20 June 2014

Personal Background

One of three children, EF was born in 1980 and lived with his mother in the town of Yate, outside Bristol, for his whole life. A white man, EF was 33 when he was received at HMP Bristol in June 2014.

EF told a psychiatrist that when he was aged 11 his father was stabbed to death.[65] He suffered from anxiety and depression from his teenage years with occasional violent outbursts. He worked sporadically but developed a severe social anxiety that prevented him leaving the house for long periods. In 2013 he was assessed by South Gloucestershire Primary Care Liaison Services after his sister reported that he had become obsessed with the Bible, but was not accepted for ongoing support as it was felt there was no objective evidence of mental illness. During the first half of 2013, EF helped to care for his step-grandmother. She was placed in a care home in the summer of 2013.

The offence which led to imprisonment

At lunch time on 18 June 2014, EF visited his step-grandmother at her residential care home in Yate, outside Bristol, close to where EF lived. While in her room, after chatting with her, EF closed the door and placed a pillow over her face while she was sitting in her chair. EF told police that he pressed the pillow over his step-grandmother's face for about five minutes during which time she was struggling and trying to scratch him. She went limp and he lifted the pillow. She had a last gasp of breath, after which EF pulled her onto the floor and dragged her to the toilet where

[65] Report by Doctor 1 26 November 2014 Annex 7

he pressed the pillow on her face again. He felt he wanted to finish her off and put his knee on her throat and the pillow over her face and applied pressure for a few minutes. When a nurse came into the room, EF pretended to put on her voice to tell the nurse it was OK. He then left and cycled home.

The police arrested EF at his home later that day. EF described his reasons for killing his step-grandmother "as it was cruel for her to be living that way" and he did not want his step-grandmother to be walking around like a zombie. He had thought that before. He did not go with the intention of killing her. He was going to push her around the lake but she did not want that so "he just thought it was the best thing to do"[66]. EF told police that no-one told him to do what he did and he didn't think about what he did. EF gave a different account two days later, telling Mental Health Nurses at court that he had been told to carry out this type of act by reading books.[67] Some months later EF elaborated on this when interviewed by a psychiatrist preparing a report for the Crown Prosecution Service. He told her that he had received a special message from God instructing him to kill his step-grandmother. He received the message while reading Shakespeare.[68]

EF was detained at Southmead Police Station, Bristol, for two nights and charged with the murder of his step-grandmother.

EF's Court Appearance

The night before he was due to appear in court, a referral was made from a nurse at the police station to the Avon and Wiltshire Mental Health Partnership NHS Trust's Court Assessment and Referral Service (CARS). A note of the referral states that EF was not disclosing any thoughts of harm although there is a report that his family

[66] Defendant Interview EF 18 June Annex 11
[67] See The CARS Assessment below.
[68] Report by Doctor 1 26 November 2014 Annex 7

have said that there is a past history. The main concern is that EF had said 'God said that you have to let me go'.[69] There is also a reference to anxiety and depression on the Person Escort Record Form which was prepared by the staff escorting EF from police station to court.[70]

When EF arrived at Yate Magistrates Court, he was seen by two mental health nurses from the CARS service. The first interview lasted 15 minutes, after which EF had a meeting with his solicitor. EF appeared in Court at 11.18 and was remanded in custody to HMP Bristol. Shortly afterwards, one of the escort staff, Custody Officer 1, phoned HMP Bristol at 11.25 a.m. to "book" EF in. At roughly the same time a Suicide Self-harm warning form was completed by Custody Officer 1 which noted that EF seemed very depressed and withdrawn. Custody Officer 1 spoke about this to Operational Support Grade 1, an operational support grade who worked in Reception at the prison, when booking EF in. Between 12.05 and 12.55 the two CARS nurses saw EF again to complete their assessment.

The CARS Assessment

One of the practitioners who interviewed EF on 20 June 2014, Nurse 3, told us that "CARS do a screening report, which is a kind of A4 sided paper with kind of information about mental health history, core presentation, risk and a bit of a conclusion..." And that's shared with the Magistrates." [71] When defendants are remanded to prison the CARS prepare a so-called "court to prison form". This is a handwritten note which Nurse 3 told us gives "very brief details of… what we've observed and any risk factors and things like that, and that would have gone with him

[69] RIO Progress Notes 20 June 2014 at 07:50:00 Annex 7
[70] Person Escort Record Form 19 June 2014 Annex 10
[71] Interview with Nurse 3 page 3 Annex 3

with his .. Person Escort Record and it would have been addressed to the reception nurse".[72]

Nurse 3 told us that EF "was quite guarded… during the assessments".[73] The CARS team "didn't manage to get a lot of information from him. But we felt like ….he made some odd statements regarding kind of reading literature and kind of messages from that and messages from birds and other nature and things like that … so yeah, we did suspect that there may be something kind of going on".[74]

The CARS report notes that EF conveyed some bizarre thoughts relating to a number of themes. He stated he suffered delusions and made reference to recent feelings that "everyone was out to get him".[75] He stated that during his night in the police cell he thought he might be executed. EF said his mind was always going over so many things, unsure whether his thoughts were caused by evil spirits or God. This had become an issue since he had begun reading the Bible and online conspiracy theories. EF described seeing things in nature, birds, sending messages.

The CARS nurses discussed EF's feelings prior to the killing of his step-grandmother. He "conveyed having felt under pressure from other parties (family)" to carry out the killing, making reference to "family members describing how miserable the care home was".[76] EF said he had previously disclosed to his mother thoughts about harming his step-grandmother "and conveyed having read a number of "serious" books in which "text" had also told him to carry out this type of act.[77] EF said that when he was caring for his step-grandmother in 2013 she turned nasty on

[72] Interview with Nurse 3 page 7 Annex 3
[73] Interview with Nurse 3 page 4 Annex 3
[74] Interview with Nurse 3 page 4 Annex 3
[75] CARS report Annex 7
[76] RIO Progress Notes 20 June 2014 Annex 7
[77] Ibid

occasions and felt that evil spirits may have possessed her. She would tell him "it was not her it was the devil".[78]

The CARS report says that EF described increasing agitation when reading the newspapers and began to hate the people he was reading about".[79] He denied any current thoughts to harm himself although described having had such thoughts while in police custody overnight. He said his mental state might decline should the conditions in prison be similar (lack of ventilation, bleak environment) and stated "he may contemplate 'assisted suicide'.[80] The nurse who wrote the CARS report formed the opinion that EF "would be vulnerable during his incarceration in prison and from the information garnered from assessment today his risk of self-injurious or suicidal behaviours may increase due to the stress that this may cause him".[81]

As for any risk which EF might pose to others, the report repeated that he denies any other overt thoughts to harm others at this time, however made reference to him feeling that "evil spirits may live within everyone to some extent".[82] The report concluded by saying that EF "presented with a number of odd ideations and possible delusional type thoughts which may indicate the presence of an underlying psychosis. He is clearly under a great deal of stress at this time and his levels of anxiety and mood appear negatively affected. He would benefit from a period of further assessment of his mental state for further clarification of his presentation".[83] The report recommended that "should EF be remanded in custody today, CARS will refer him for consideration for admission to Brunel Unit within HMP Bristol as well as referral to the community mental health service within the prison".[84]

[78] Ibid
[79] CARS report Annex 7
[80] CARS report Annex 7
[81] CARS report Annex 7
[82] CARS Report Annex 7
[83] CARS Report Annex 7
[84] CARS Report Annex 7

The two nurses completed their assessment in the holding cells of North Avon Magistrates Court. EF had appeared before magistrates but had not submitted a plea and was remanded to HMP Bristol until Monday 23 June 2014 when he would appear at Bristol Crown Court for an initial hearing.

The CARS report notes that while EF had not shown any bizarre behaviours during his interview, after it had concluded he asked to speak with his solicitor on the telephone. During this call EF made reference to being informed that he would be able to leave the police station by a higher authority – God. He had attempted to leave his cell and was restrained by detention officers.

What happened to the CARS Report

The CARS report was entered on to the RIO record system. This was the health record system used by the AWP staff in 2014. This was different from the records used by physical healthcare providers, Bristol Community Health, which was SystmOne. This meant that the primary care nurse in Reception at HMP Bristol would not necessarily have had access to the CARS report.

It is not clear if a hard copy of the CARS report was given to the escort staff for them to pass to the prison Reception nurse. Nor is it clear whether the so-called “court to prison form” was completed and/or shared with the prison. We have not seen this document.

Following the CARS assessment of EF, Nurse 3’s colleague Nurse 4 spoke by phone with Nurse 6, who was the duty worker in the Mental Health Team at HMP Bristol. Nurse 6 told us that his responsibility that day was “processing all the referrals to the team; responding to any emergency calls; responding to any admissions; people coming in from court or whoever that maybe, and making sure that any risk

information is properly handed over, that people are seeing if they've got existing contact with mental health services."[85] Nurse 4 told Nurse 6 that EF had been remanded in custody on a murder charge and that he presented as vulnerable and possibly psychotic.[86] The Patient Record notes that "plan is to be admitted to Brunel Unit and complete as much core assessment information as possible over the weekend ready for court on Monday".[87] Nurse 6 also noted that he placed a call to Nurse 1, the Reception nurse, "to advise of risk factors and advocate Brunel admission". Nurse 6 also discussed the case with the Brunel manager, Nurse 2, to ensure a space was available. He also noted that he placed a call to Victor 1, the Duty Governor, to advise of this and requested a call back. No response had been received at the time of writing the entry on the medical notes which was 16.54 hours.

Summary

Before the offence which led to his remand to HMP Bristol, EF had no previous convictions and limited contact with mental health services. Following his arrest for the alleged murder of his step-grandmother, professional concerns about EF were mainly focused on his vulnerability and the risk that he might harm himself. The mental health nurses in the CARS team who assessed EF identified the possibility of psychosis and thought he would benefit from a period of further assessment of his mental state. They recommended that he be located in the Brunel Unit and communicated this to the Mental Health Team in the prison.

[85] Interview with Nurse 6, page 3. Annex 3
[86] EF Patient Record, 20 June 2014. Annex 7
[87] Ibid

Chapter Eight EF's arrival at Bristol and allocation to the Brunel Unit, Friday 20 June 2014

EF arrived at HMP Bristol at about 2.30 p.m. on Friday 20 June 2014 and was seen in the Reception area of the prison at 3 p.m.[88] He was seen by Prison Officer 2 and by Nurse 1. It is not clear what paperwork arrived with EF. The Person Escort Record Form was received along with the Suicide / Self-harm Warning Form prepared that morning by the Custody Officer at court. Prison Officer 2 noted that EF "arrived with a self-harm warning form stating he seems withdrawn/depressed. On interviewing and speaking to him don't feel an ACCT is necessary at this time".[89] It is not clear whether the CARS report, or the Court to Prison Form which should have accompanied it, was seen by the prison staff or the Reception nurse. Nor is it clear what role prison staff played in deciding where EF should be allocated.

The Cell Sharing Risk Assessment

A Cell Sharing Risk Assessment form was completed by Prison Officer 2.[90] In Part one of the document a yes is marked against "prisoner statement of heightened risk?" And "prisoner significantly vulnerable to assault". Handwritten comments included "no PNC, first time in prison, may be vulnerable due to high profile case" and "Concerns regarding cell sharing, would only share with own ethnicity and not a homosexual." Neither High risk nor standard risk boxes were ticked but next to the standard risk is written: medical single*. This refers to the fact that EF would be located in the Brunel Unit. No alerts were entered on to the NOMIS system at this stage. A week later, on 27 June, – after the assault on AD – an alert was entered

[88] PER. Annex 10

[89] F2052B. Annex 10. An ACCT is an Assessment, Care in Custody and Teamwork Plan, the care-planning system used to help to identify and care for prisoners at risk of self-harm or suicide.

[90] CSRA. Annex 10

that EF was a risk to lesbian/gay/bisexual people, on the basis of what he had said at Reception.[91]

Part two of the CSRA document, the healthcare assessment, was completed by Nurse 1. The box "no increased risk" is ticked. The form lists a range of factors which, if present, indicate increased risk. These include psychosis, extremely disturbed behaviour, and agitation or aggression.

Following a health screening in Reception, Nurse 1 referred EF to the Mental Health Team, asking them "to see this patient who has been accused of killing a relative. He appears orientated but says he has panic attacks and has difficulty with enclosed spaces".[92] EF was taken over to the Brunel Unit by Prison Officer 2. It is not clear whether the CSRA or other documentation was taken to the unit. Nor is it clear how exactly the decision to locate EF on the Unit was made.

The NOMIS record states that "EF was received onto the Brunel Unit straight from court. He appears extremely confused and agitated. He wants a cell with windows and fresh air and his legal team and court told him he would get this. He has continually been on his bell stating he cannot breathe and needs a doctor. This is not necessary. At this time EF has not been given a TV as a period of assessment is required due to his bizarre behaviour."[93] The medical record states that he said that made multiple requests that could not be facilitated, such as speaking to his barrister. He was given two books to try to distract him and was noted "as sleeping with tissue paper in his ears.[94]

[91] NOMIS Alerts Annex 10
[92] Patient Record EF 20 June 2014 Annex 7
[93] NOMIS Transfer Report EF 20 June 2014 Annex 10
[94] Patient Record EF 20 June 2014 Annex 7

The RIO system notes that EF "expressed numerous complaints about the size of his cell, the lack of a window that opens and the lack of air circulating in the cell. He repeated over and over 'I know my rights'". EF told us that he felt less anxious when he was taken to the Brunel Unit and given his own cell. However, he was very worried about the lack of ventilation in the cell. He felt he couldn't breathe and was worried that this was making him physically unwell. There was one very small window that did not open and was too high up for him to see out of. He was not happy in his room and would have preferred to be in the main prison as he could see that these cells had slightly bigger windows. He requested to be moved to the main wing but was told this could not happen by staff.[95] During his first night, EF was checked hourly. It was noted on the RIO system that "no odd ideas expressed".[96]

Summary

EF went through the normal reception procedure at HMP Bristol. It is not clear whether the CARS report, or the Court to Prison Form which should have accompanied it, was seen by the prison staff or the Reception nurse. Nor is it clear what role prison staff played in deciding where EF should be allocated. By 5 p.m. EF had been taken to the Brunel Unit where he made a number of complaints.

[95] Notes of Interview with EF on 1 April 2016. Annex 3
[96] RIO Progress Notes EF 20 June 2014. Annex 7

Chapter Nine EF on the Brunel Unit, 20 to 26 June 2014

On Saturday 21 June, the day after he arrived at Bristol, EF is noted on NOMIS as receiving an induction with "no concerns raised".[97] There is a further note that he was more settled and spent most of the day on the yard. He was still desperate to use the phone but due to his offence the telephone numbers needed to be checked before he could make any calls. He said he would like a gym induction and was given a TV "but tends to read the bible when in his cell".[98] The medical record notes EF walking around the yard, head down and pacing the perimeter without acknowledging any of the others on the yard.[99]

On Sunday 22 June EF declined a shower and exercise; "his only concern was a phone call".[100] He asked if the prison could contact his family and Prison Officer 4 received authorisation from a governor to telephone his mother, speaking both to her and EF's sister for about 15 minutes. They wanted Prison Officer 4 to tell EF that they loved him very much and would stand by him. Prison Officer 4 noted that the family believed EF to be extremely unwell and were hoping the courts would see this through reports that would be requested. The family said they were trying to book a visit but could not get through. Prison Officer 4 explained where EF was located and that he had nurses and staff supporting him.[101] Prison Officer 1, who was on duty on Brunel that day, also noted the contact made with his family and that "they had tried to get him sectioned years previous"[102]. EF was informed that Prison Officer 4 had spoken with his family. Prison Officer 1 noted that EF "did not seem bothered, his

[97] NOMIS Transfer Report EF 21 June 2014 Annex 10
[98] Ibid
[99] Patient Record EF 21 June 2014 Annex 7
[100] NOMIS Transfer Report EF 22 June 2014 Annex 10
[101] NOMIS Transfer Report EF 22 June 2014 Annex 10
[102] NOMIS Transfer Report EF 22 June 2014 Annex 10

only concern was speaking to his solicitor, this reaction in itself says to me that there may be issues".[103]

On the same day, Sunday 22 June, EF was seen by two healthcare professionals. A health care assistant assessed his physical health, during which consent was given to "sharing patient data with specified 3rd party".[104] She noted that EF said that he had stopped taking medication for depression because it was making him sleep and put on weight but that "if he was given a choice in other medications he would consider taking them".[105]

EF was also seen by one of the mental health nurses, Nurse 5, for a referral screening during which he gave his consent to share his medical history form, but not the custody and liaison form "as he did not want information shared so widely".[106] Nurse 5 was allocated the task of assessing EF's mental health while he was on Brunel. EF seemed suspicious of Nurse 5's questions and remained concerned about ventilation in his cell. The entry in the notes ends "No management Issues".[107] An entry in the Risk Rating section of the RIO medical record states "No Change" from the situation found by the CARS team and states that EF "denies thoughts of self-harm or suicide. EF is talking about future events. No evidence of self-harm at present.[108]

On Monday 23 June, EF appeared at court. In the Patient Record it is noted that EF was "medically fit for court appearance - at time of signing PER, no issues in reception".[109] The medical record also notes that EF was expecting bail "and may be

[103] NOMIS Transfer Report EF 22 June 2014 Annex 10
[104] Patient Record EF 22 June 2014 Annex 7
[105] Patient Record EF 22 June 2014 Annex 7
[106] RIO Progress Notes EF 22 June 2014 Annex 7
[107] RIO Progress Notes EF 22 June 2014 Annex 7
[108] RIO Risk summary EF Page 7 Annex 7
[109] Patient Record EF 23 June 2014 Annex 7

disappointed if this does not happen".[110] EF was remanded in custody until 14 July 2014.[111]

The day 2 follow-up Cell Sharing Risk Assessment was completed on 23 June. This maintained EF's status as a standard risk. In the operational assessment section, the factors "prisoner statement of heightened risk" and "prisoner significantly vulnerable to assault" were ticked as "no". In the Reception assessment on 20 June they had each been ticked as yes.[112]

EF made no attempt to sleep during the night of 23 June and seemed to be anxious and unable to relax. He attempted to read but quickly gave up. He was upset at not being able to make phone calls. He had jogged in his cell, saying he needed to work out. He asked for a Bible, which he was given. He paced around for most of the night.[113]

Despite this, on the following day, 24 June, EF is noted as going out on exercise and having a shower. He attended groups on the exercise yard and was able to make a phone call. He was noted as being demanding of staff time and "will try and gain attention when staff pass his door. Very quiet but polite."[114] On the same day, 24 June, EF complained of bringing up fluid from his lungs and finding it hard to breathe. A doctor was asked to see him but it is not clear whether a consultation took place. EF was seen by a community mental health nurse who noted that he continues to over-use his cell bell, asking numerous questions but not retaining the information or answers he was given.[115]

[110] RIO Document 1 EF page 4 Annex 7
[111] F2052B Annex 10
[112] CSRA Annex 10
[113] NOMIS Transfer Report EF 24 June 2014 Annex 10
[114] NOMIS Transfer Report EF 24 June 2014 Annex 10
[115] Patient Record EF 24 June 2014 Annex 7

An email on 24 June was sent by the Acting Head of Healthcare, Health Care 2, to the Brunel nurse, asking them to "complete core assessment asap to reduce delay in psychiatric assessment".[116]

It is possible that EF was discussed at the weekly meeting that was usually held on a Wednesday afternoon to review all of the cases on the Brunel Unit. There is no evidence about whether a meeting took place on 25 June and if so whether EF was discussed.

Summary

EF was not noted as giving any particular cause for concern during his time on the Brunel Unit. Although demanding of staff, his assessed level of risk was stable on the mental health side and reduced on the discipline side.

[116] RIO Progress Notes EF 24 June 2014 Annex 7

Chapter Ten The Events of 26 June 2014

On Thursday 26 June 2014, there were nine prisoners on the Brunel Unit. One prison officer, Prison Officer 1, was deployed to work on the unit and there was one nurse, Nurse 5 and a Health Care Assistant, Health Care Assistant 1, on duty. Prison Officer 1 told us in writing that he "could not say for certain what the sequence of events was, but I know that I was the sole Officer working in the Brunel Unit, when there should be 2. I had raised the issue with the Orderly Officer who informed me that there would not be any other officers attending and that I should run the regime as you normally would with 1 Officer. Which was breakfast and showers/cell cleans on an individual basis, once complete offer exercise, risk assessing how many and who go out".[117] Prison Officer 1 told us that he was not originally assigned to work on the Brunel Unit but volunteered to do so because he knew the prisoners there.[118]

The Orderly Officer who was managing the prison was Custodial Manager 1, who told us that four staff in total were available to work both on the Brunel and Segregation Unit instead of the benchmarked number which was five.[119] In fact, the staffing schedule for 26 June suggests that only three staff were available to work on the two units.[120]

As happened every morning, a meeting was held between the staff on duty. It was decided that the therapeutic groups which normally take place would not do so because one prison staff member was not sufficient to provide supervision. Nurse 5 said, "we decided not to do the group we were going to run. But, instead, we had decided to offer the inmates a period of exercise. It would have been an extra period

[117] Written Answers from Prison Officer 1. Question 1 Annex 3
[118] Interview with Prison Officer 1 Annex 3
[119] Interview with Custodial Manager 1. Annex 3
[120] Daily schedule 26 June 2014 Annex 12

of exercise because generally the exercise period would have been after the group session. But obviously the prison side and the nursing side: two completely different. Obviously, it's their prison; we're guests there. You know, we're providing a service. So we really need … we don't get involved with anything to do with the discipline side. We advise, perhaps, if we feel there's reasons, that maybe somebody shouldn't be segregated or there's reasons why people maybe should be segregated perhaps. But we don't get involved in any of the decisions about, you know, to shower, to exercise".[121]

Nurse 5 told us that he had a conversation with EF before he went out to the exercise yard. Nurse 5 was in charge of doing the mental health assessment of EF which he was due to present at the weekly meeting on Friday – the Single Point of Entry Meeting (SPEM). The conversation was about medication that EF had taken in the past and gave Nurse 5 no cause for concern.[122]

At about 9.10 a.m., Prison Officer 1 unlocked five prisoners who wanted to go on to the exercise yard. Along with AD and EF, the three other prisoners were Prisoners L, R and H. Prison Officer 1 told us that "I'd have, like, gone round to each cell, asked who wants it, and then as long as they were all fine. But … that week, they'd all been out because it was summer and so a lot of them had been out together, building up to that incident – in the week. So there wasn't any issues. Nobody had ideas; nobody had fallen out. It hadn't been … No other members of staff had raised any concerns or – in the Obs Book – saying he shouldn't exercise with him or they'd fallen out".[123]

Prison Officer 1 did not go onto the yard with the prisoners but stayed in the staff room a short distance from the yard. Prison Officer 1 wrote that he "was not visually

[121] Interview with Nurse 5 page 2 Annex 3
[122] Interview with Nurse 5. Annex 3
[123] Interview with Prison Officer 1 Annex 3

in contact with the exercise yard at all times, however I was within a couple of metres from the gate and escorted prisoners back to their cells, as and when they asked to come off of the yard".[124] He was not supervising any other activities, "however I still had to answer any cell call bells that may have been pressed".[125] Prison Officer 1 told us that "it was common practice that nobody actually stood there and visually watched the prisoners on the yard".[126]

After a short period, Prisoner R called out that he wanted to return to his cell. Prison Officer 1 opened the gate and escorted him back. After a further 15 minutes, Prisoner L asked to be returned to his cell. Prison Officer 1 escorted him back to his cell. He estimates this would have taken about two minutes. The internal Prison Service investigation found no evidence that other prisoners on the yard knew what was about to happen or colluded with EF in any way. Although we talked to one of the prisoners who was taken back to his cell, Prisoner L, he had no recollection of the events.

This left three prisoners on the yard, namely AD, EF and Prisoner H. One of the Governors, Governor 4, told us that she happened to walk past the yard and saw AD and EF sitting on a bench having a conversation. "They were sort of ... both sort of facing each other, having a quiet conversation. I can remember thinking: 'Isn't that really nice?' They're having what appears to be a – I couldn't hear the conversation – what appears to be a nice conversation. They were nodding, the body language was appropriate."[127]

EF told us that he heard AD chatting over the wall to someone in the Segregation Unit.[128] There is a suggestion (made in a letter referring EF for transfer to a secure

[124] Written Answers from Prison Officer 1. Question 8 Annex 3
[125] Written Answers from Prison Officer 1. Question 9 Annex 3
[126] Interview with Prison Officer 1 Annex 3
[127] Interview with Governor 4 page 3 Annex 3
[128] Note of Interview with EF Annex 3

unit immediately after the incident) that AD may have been praying but there is no other evidence of this.[129]

EF told us that he was aware of one other prisoner being present in the exercise yard with himself and AD but, apart from that, he believed they were alone. At this point, EF told police that he approached AD and punched him; "he fell to the floor on his back, his head bounced off the floor. EF said he pushed AD's head towards the kerb at the edge of the yard and "started kneeing his head against the kerb". EF said that after a while he kicked him in the head once or twice.

There is no closed circuit television (CCTV) covering the yard but there were two witnesses to the assault. An administrator, Admin 2, working in one of the offices overlooking the yard, heard someone say "Let's have a fight".[130] She left her office and went to the kitchen along the corridor which has a better view of the yard. She was joined in the kitchen by a colleague, Admin 1. They both observed through a window as EF kicked AD in the right side of the head very hard, continuously, according to Admin 1 some seven or eight times[131] and Admin 2 a dozen times[132]. They considered shouting out but did not do so.

On their way back to the office to use the phone to summon help, they heard over the radio system that officers were on their way to the incident. Prisoner H who was not involved in the assault shouted for help. There may also have been a prisoner in the neighbouring Segregation Unit who could hear and possibly see what was going on.[133]

[129] Letter from Doctor 8 and Doctor 6 to Doctor 11 26 June 2014 Annex 7
[130] Interview with Admin 2 page 2 Annex 3
[131] Police Interview with Admin 1 Annex 11
[132] Interview with Admin 2 Annex 3
[133] Interview Imam 1 Annex 3

While an incident log was opened at 10.05, it records limited details about who was involved in responding to the incident.[134] From the witness evidence, the main order of events appears to be as follows.

The two healthcare workers, Nurse 5 and Health Care Assistant 1, had been in the staff office and heard an unusual thudding sound followed by a call for help, presumably from Prisoner H. They went to the gate to the yard but did not enter it. Prisoner H said to them that there was a fight. They could not see what was going on because the yard is not fully visible from the gate. Nurse 5 pressed the alarm and Health Care Assistant 1 opened the gate to the adjoining Segregation Unit to let staff through. When Prison Officer 1 heard the alarm on his radio, he was talking to the prisoner whom he had returned to his cell. He initially thought that the incident was taking place in the Segregation Unit, so ran back towards it. The two healthcare workers told him the incident was on the Brunel yard and Prison Officer 1 unlocked the gate and went onto the yard. AD was lying down, breathing heavily, with a lot of blood around his head and with EF standing next to him. Prison Officer 1 called a Code Red over his radio at 09.41 and, together with another officer, escorted EF and Prisoner H off the yard. The Officers said we need a nurse. At that point, Doctor 4, a General Practitioner whose office was upstairs, came onto the corridor. Health Care Assistant 1 explained there was a fight and a need for medical attention. Doctor 4 and HCA Health Care Assistant 1 went onto the yard.

Health Care Assistant 1 told us that AD was lying on the floor, next to the fence to the left side of the yard. He was lying on his back. He had a very swollen face, blood flowing from his right ear, a pool of blood behind his head “and I observed the deep cut to the left back side of his head. At this time his eyes were open. His breathing was very heavy and laboured. He responded with sounds to Doctor 4 talking to him. Doctor 4 asked me what his name was.” Health Care Assistant 1 was

[134] Incident Log Annex 12 Daily Log Annex 12

unsure, because she could not "recognise him confidently due to his face being so swollen". Doctor 4 advised of the need "to call a Code Blue and stated that this man could die".[135]

According to Health Care Assistant 1, this was all within 20 seconds of her going out onto the yard. She asked one of the officers to call an ambulance – although this had previously been asked for when the Code Red was called.[136] She heard someone radioing for all available nurses to come to the yard. The Muslim Chaplain/Imam, Imam 1, told us that he was called to the scene and administered the last rites to AD. It is recorded on the daily log that "Chaplain to attend Seg" and "Unconnected to Incident".[137] It is not clear what this means. The medical record notes that a nurse requested the Imam to "offer comfort and prayers for AD".[138]

Doctor 4 and the nurses who arrived from on the scene and administered first aid. AD was given intravenous fluids through a tube before the paramedics arrived with the ambulance at 9.47. The ambulance departed at 10.20.

In the meantime, EF had been taken to the Segregation Unit where his clothes were removed. Prison Officer 1 asked EF if he was the person who assaulted AD to which he replied "Yes".[139] When asked why, EF said, "I can't comment on that".[140] When asked the same question by the police the following day, EF said that "I don't feel my mental health at this time is adequate enough to give a response to that question."[141] He then added that "a couple of days before a lot of things were coming into my mind. Although he seemed a gentleman, I felt he posed a significant threat to me,

[135] Interview with Health Care Assistant 1 page 6 Annex 3
[136] Incident Log Annex 12
[137] Interview with Imam 1 Annex 3
[138] Patient Record AD 26 June 2016 Annex 6
[139] NOMIS Transfer Report EF 27 June 2014 Annex 10
[140] NOMIS Transfer Report EF 27 June 2014 Annex 10
[141] Police Report defendant Interview Annex 11

this nation, the people of this nation and other nations".[142] EF further said that AD was always very polite and there had not been any confrontations between them. Sometimes AD would look and giggle but EF thought that this was to do with his mental health. EF explained that AD would often chant, early in the morning and EF thought he was Muslim. EF told police that he had read enough of the Koran to know that it wouldn't work in the UK; if the Muslims had a crusade here there would be a lot of bloodshed. EF told police he was a practising Christian.

Summary

The 26 June appeared to be a normal day on the Brunel Unit. Although there was only one officer on duty, this was not uncommon. Although group activities for the prisoners were cancelled, showers and exercise went ahead as usual. Five prisoners went on to the exercise yard but on two occasions a prisoner asked to return to their cell. The officer escorting a prisoner back to their cell left the yard unattended. On the second occasion, EF took the opportunity to launch an unprovoked and violent attack on AD. Healthcare staff did not immediately enter the yard but raised the alarm and waited until the officer returned to the scene. He called a Code Red and escorted EF from the yard while medical staff started to treat AD until the ambulance arrived.

[142] Ibid

PART THREE ISSUES EXAMINED IN THE INVESTIGATION

Chapter Eleven Should AD have been in prison or in hospital?

The Decision to Revoke the Hospital Order

AD was remanded in custody on 3 January 2014 after a Hospital Order was revoked. He had displayed very challenging behaviour while in supervised accommodation and after he was recalled to hospital but it would have been possible for AD to remain in hospital rather than prison. It seems that those responsible for his care considered that his behaviour – both his offending behaviour and his difficult behaviour in hospital – was not due to mental health problems. The Clinical Review for this investigation finds that the team at the Hazel Unit, the Psychiatric Intensive Care Unit (PICU) at Callington Road Hospital, "believed that on balance, AD's mental disorder was treated adequately so that he had the capacity to make decisions about his care and treatment, for example to choose whether he remained in hospital on a voluntary basis or not.[143] The medical record states that AD was unsuitable to be detained in hospital and has capacity into his actions therefore open to legal actions as any other individual under the similar circumstances.[144]

Finding 1

It is not clear exactly why AD was discharged from the Psychiatric Intensive Care Unit (PICU) at the Hazel Unit at Callington Road Hospital on 2 January

[143] Clinical Review Annex 2
[144] RIO Progress Notes AD 2 January 2014 Annex 6

2014, but it was planned and coordinated with the police.

The discharge letter from hospital also states that AD "was open to legal action as any other individual in similar circumstances and consequently, he was taken by the police".[145] It seems that AD's legal adviser was not actually clear about the meaning of this statement.[146] Nurse 7, who was AD's key worker at HMP Bristol, shed some light on what it meant when she told us that "the conclusion when he'd been in hospital previously, at the time of the alleged offence, what he had done, they felt it was driven by behaviour and not driven by his mental illness and things like that. So, that's why he'd ended up coming through the prison route".[147] The discharge letter written by Doctor 10 at the Hazel Unit includes as part of AD's diagnosis "Mental and Behavioural Disorder due to use of hallucinogens (Khat)".[148] The diagnosis also includes "Schizoaffective disorder, Manic type".[149]

The decision to revoke the Hospital Order and discharge AD from the Hazel Unit must have been taken because AD was no longer thought to be suffering from a mental disorder of a nature or degree that required treatment in hospital under the Mental Health Act.

Despite this, because AD's offending behaviour is likely to have been linked in some way to his mental disorder, it seems questionable why the decision was taken that his offences should be dealt with through criminal proceedings and his mental health needs met through liaison with the Prison Mental Health Team. We have not explored this question in detail as the decision to discharge AD from hospital lies outside the period covered by our terms of reference.

[145] Discharge letter from Doctor 10 to Doctor 2 16 January 2014 Annex 6
[146] Ibid
[147] Interview with Nurse 7 Page 3 Annex 3
[148] Discharge letter from Doctor 10 to Doctor 2 16 January 2014 Annex 6
[149] Ibid

Finding 2

In January 2014, although AD's mental health may no longer have required compulsory treatment in hospital, he was still clearly mentally unwell when discharged from the Hazel Unit at Callington Road Hospital, run by AWP. The decision – that AD's alleged offences should be dealt with through criminal proceedings while his mental health needs were met through liaison with the Prison Mental Health Team – seems questionable. In the light of this finding, AWP may wish to conduct an investigation into this decision which falls outside the terms of reference of this Article 2 Investigation.

When a patient is discharged from their detention under section 37 of the Mental Health Act, a planning meeting known as a section 117 planning meeting should be held at the hospital to make arrangements for a patient's aftercare. The purpose of this meeting is to agree what aftercare is planned for the patient and to record this. There is no record of such a meeting relating to AD's discharge.

Finding 3

There is no record of a pre-discharge planning meeting being held about AD before he left the Hazel Unit at Callington Road Hospital. If his discharge was planned, such a meeting should have been held and the notes of the meeting sent to either Primary Care or the Mental Health Team at HMP Bristol.

Recommendation A

When patients are transferred to prison from hospital, minutes from pre-discharge meetings should be made available to the primary

care reception teams in prison and the Prison Mental Health Team along with the discharge summary.

Was a remand in custody the appropriate decision by the court?

It could be argued that a continuing period of hospital care would have been more appropriate for AD than a remand to custody. According to a psychiatric report prepared for the court, by Doctor 9, "an experienced solicitor attended at court to represent AD on 3 January 2014 and noticed that AD had glazed eyes, was dribbling, had slurred speech and a complete inability to recall anything. When Counsel spoke to him on the video-link he had his head bowed and did not make eye contact. His speech was unclear and he did not seem to understand what was going on."[150] Despite this, AD was remanded to prison although a judge subsequently instructed the preparation of a psychiatric report to consider whether AD was fit to plead to the charges, whether he was fit to stand a two-day trial and to make any recommendations about sentencing under the Mental Health Act.

The Clinical Review for this investigation finds that "the court will have made the decision to remand AD in custody; there was no alternative available to them at that time as there were no psychiatric reports recommending admission to hospital under section 35 or 36 of the Mental Health Act 2007 (MHA). This is understandable in the context that AD had just been discharged from a section of the MHA, it would have been illogical for AD to have been immediately re-detained under the Act".[151] Although release on bail might have been a possibility, AD had a record of failing to comply and presented a risk of physical and sexual violence when his mental health

[150] Report by Doctor 9 para 5 Annex 6
[151] Clinical Review page 14 Annex 2

was relapsing. The court therefore had grounds to refuse bail.

Finding 4

Given that AD had been discharged from a section of the Mental Health Act, the court had little option but to remand him into custody when he appeared before them on 3 January 2014.

Should AD have been transferred to hospital during his period in HMP Bristol?

There were two ways in which AD might have been transferred to hospital during the period he was remanded in custody. The first was as a result of an intervention by expert witnesses instructed by his defence solicitors; the second was through a referral from the Mental Health Team in the prison.

Expert reports

Two expert reports were prepared about AD's mental health once he had been remanded to custody at HMP Bristol on 3 January 2014. Both were prepared on the instructions of AD's solicitor following an instruction from the Judge.

The first, by Doctor 9, a Consultant Forensic Psychiatrist from Llanarth Court Hospital in Monmouthshire, was based on an assessment of AD carried out on 27 March 2014, almost three months after AD had been in Bristol Prison.

His report recommended that AD's illness should be treated more assertively, which was not possible in the current prison setting. The report recommended that AD be moved to a psychiatric hospital so that treatment could be enforced. In order to effect this, Doctor 9 wrote to "the referrals coordinator" at Fromeside Clinic on 11

April 2014, enclosing a copy of his psychiatric report that recommended admission under section 48 MHA.[152] He wrote to Fromeside about AD again on 10 June, after AD had been in prison for more than five months and when the date of his trial – set for the end of June 2014 – was approaching.[153] However, he did not communicate or copy this correspondence to the Mental Health Team at HMP Bristol who appeared to be unaware of Doctor 9's examination of AD.

The second report, by Doctor 7, a Consultant Psychiatrist based at St Martin's Hospital in Bath, dated 4 June 2014 was based on assessment carried out on 27 May 2014, and reached the same conclusion, finding that AD was not fit to plead, nor effectively engage in the court process.[154] This report did not seem to be shared with the prison either.

Finding 5

Doctor 9, the psychiatrist instructed to write an expert report about AD's mental health, did not communicate his concerns to the Prison Mental Health Team. If he had done so, given his concerns, assessment by the appropriate hospital might have been facilitated sooner. It is, however, unlikely that AD would have been transferred to hospital in March 2014 given his presentation at that time to the Prison Mental Health Team.

Recommendation B

Independent psychiatrists commissioned by the Courts, Defence or Prosecution should be obliged to copy their report to the patient's current treating clinical team, that is, the Prison Mental Health Team.

[152] Letter from Doctor 9 11 April 2014 Annex 6
[153] Letter from Doctor 9 10 June 2014 Annex 6
[154] Report by Doctor 7 Annex 6

Prison Mental Health Team

On 5 June 2014, one of the psychiatrists in the prison, Doctor 3, assessed AD and considered that transfer to hospital under section 48 of the Mental Health Act was required. Doctor 3 made an urgent referral to Fromeside Hospital. A week later, on 12 June 2014, it was decided in a review involving a Consultant Forensic Psychiatrist from Fromeside Hospital that such a transfer was no longer urgently required although the option should be kept under review. This was because AD's mental health had improved once he was returned to the Brunel Unit. AD made it clear on a number of occasions that he did not wish to return to hospital. The Clinical Review for this investigation finds that "it was appropriate that he was not transferred to hospital but supported in his wish to avoid hospital but continue his treatment voluntarily in prison".[155]

Finding 6

The decision on 12 June 2014 that AD should remain in prison rather than be transferred to hospital was reasonable, given the improvement in his mental health and his stated preference not to go to hospital.

Length of period on remand

AD stayed on remand in prison for a relatively long period, from 2 January until the end of June. While the length of the remand may in part have been due to the need for reports (whose recommendations were not, in the event acted upon), a period of

[155] Clinical Review page 17 Annex 2

six months of pre-trial detention was too long.

Finding 7

AD's period on remand in HMP Bristol – almost six months – was too long and he should have been brought to trial sooner.

Chapter Twelve Was AD's initial care at HMP Bristol adequate?

Initial Location in the Prison

Given his history of mental health problems, the decision to locate AD in the Brunel Unit when he arrived a HMP Bristol was a sensible one. Nurse 6 told us that direct admission to Brunel was "fairly rare".[156] The admission criteria for the unit include those with a primary diagnosis/significant suspicion of a severe mental illness.[157] The Prison Mental Health Team received a discharge summary from Hazel Unit Psychiatric Intensive Care Unit (PICU) at Callington Road Hospital and his consultant, Doctor 10, spoke to the team within 72 hours to confirm his medication plan and monitoring.

Finding 8

AD's initial placement in the Brunel Unit on 3 January 2014 was appropriate.

Move to D wing

AD was quickly deemed to be a 'lodger' – a temporary resident on the Brunel Unit pending the availability of a single cell on the first night centre on D wing. He stayed in the Brunel Unit only for a few days before his move to D wing on 7 January 2014. Nurse 7 told us that "sometimes it can be perfectly appropriate to put them in the Brunel Unit for a couple of days".[158] When AD arrived at Bristol, he was found to be over-medicated and sedated but he was assessed as capable of being on normal location.

[156] Interview with Nurse 6 page 10 Annex 3
[157] LNS 155/2012 Admission/Discharge Criteria for the Brunel Unit Annex 13
[158] Interview with Nurse 7 page 1 Annex 3

The Clinical Review for this investigation finds that there was no record of the decision to relocate AD to the main wing and no record of who was involved in making this decision.

Finding 9

AD's move to D wing on 7 January 2014 was likely to have been reasonable although there is nothing in the medical record about the decision-making.

Recommendation C

If a prisoner is located in an area that is designated for mental or physical health needs – such as the Brunel Unit – and health professionals participate with prison staff in selecting prisoners to be located in that area, then the decisions to locate them to or relocate them from such an area should be recorded in the prisoner's medical record, including the names of staff making these decisions and the rationale for these decisions.

Quality of Medical Care

While on D wing, AD's mental and physical health were kept under regular review. He was allocated a mental health nurse as his key worker, Nurse 7, and he was seen every two or three weeks by a psychiatrist. Contact was made with AD's Consultant Psychiatrist in the community and plans were made about his care and kept under review. As Nurse 7 said, "from January to at least April, he remained very well, medication free, and then he became unwell for a very short period of time, and then went back on Olanzapine medication, no side effects, and became very well

again".[159] The Clinical Review for this investigation finds that AD received high-quality mental healthcare from the Prison Mental Health Team, who treated him appropriately throughout, including identifying his relapse of psychosis, taking appropriate steps had he required transfer to hospital and giving appropriate medication which AD was happy to take voluntarily.

Finding 10

AD received a generally good level of attention from medical staff while he was on D wing.

Medication

Despite this good level of attention from healthcare services, they were unable to prevent the deterioration in AD's mental health on D wing. This is partly because he was unwilling to take medication – in particular anti-psychotic medication – and could not be compelled to do so, unlike in a hospital setting or when subject to a Community Treatment Order.

In AD's case, while he was on the Brunel Unit Nurse 7 had "strongly advised" that he be administered medication with officers present and the door open so compliance could be clearly be observed.[160] Such observation may have been possible on Brunel but on the main wings the level of staff supervision was not high enough to permit it. Nurse 7 told us that when she first started "medication was always escorted by an Officer; they checked to make sure they swallowed their meds, not … try and hide it … whereas that doesn't happen anymore. So, it's literally a massive

[159] Interview with Nurse 7 page 4 Annex 3
[160] F2060 6 January 2014 Annex 9

long queue when people come for meds. There are opportunities to be had: for people to bullied for their meds; to be selling their meds – which is something you've always got to be mindful of when people are asking, because AD used to regularly ask for sleeping tablets".[161]

Moreover, it seems that on D wing there was no way of knowing whether prescribed medication was actually dispensed to, and taken by, a prisoner. In AD's case, Nurse 7 said that "it was not well-recorded: the pharmacy couldn't find the charts, the wing couldn't find the charts." [162]

Finding 11

The way medication was dispensed to prisoners on D wing and its recording was inadequate, making it difficult to know whether prisoners were taking their medication.

Recommendation D

The way medication is dispensed to prisoners on the wing should be reviewed, as should the system of recording whether medication is dispensed to prisoners and taken by them.

Possible use of illicit substances

Nurse 7 suggested that AD became unwell in May 2014 once the anti-psychotic medication he had been taking before his admission to prison was completely out of

[161] Interview with Nurse 7 Page 12 Annex 3
[162] Interview with Nurse 7 page 7 Annex 3

his system. Since he was refusing to take anti-psychotic medication on D wing, his mental health deteriorated. She added that illicit drugs might have contributed to the deterioration. "On the wing in Bristol Prison", she told us, "there is a lot of drugs".[163] There is no clear evidence whether AD had access to cannabis, khat or other illegal drugs which might have had an adverse impact on his mental health. As Nurse 7 told us, "it's pure speculation: he may have used something on the wing, he may not have".[164]

Finding 12

It is possible that AD's mental health was adversely affected by use of illicit substances while on D wing.

Regime on D Wing

Very few prison records have been made available to us about AD and it is not therefore possible to assess fully his experience as a prisoner at HMP Bristol. It does appear, however, that AD was subject to a fairly impoverished regime on D wing. He does not seem to have worked and he lost interest in education and therapeutic sessions on the Brunel Unit which he initially attended on an outpatient basis. Nurse 7 told us that prison resources which would provide stimulation, "like a job, like education, things like that – were not available to him, So, he'd ... . a lot of time in his cell, ruminating on a lot of thoughts, a lot of past events…. and I just think it just ... illness came on".[165] AD himself chose not to attend activities in the Brunel Unit which would have provided stimulation. Nurse 7 said that AD "didn't opt out of the prison regime, because that's not something they're really allowed to do –

[163] Interview with Nurse 7 page 5 Annex 3
[164] Interview with Nurse 7 page 5 Annex 3
[165] Interview with Nurse 7 page 5 Annex 3

they've got to be seen to be doing something. But it's due to resources in the prison that, quite often, the 'shops are shut – you know, the courses are shut – because they haven't go the staff to run them that day, and it goes into, like, what they lockdown mode and things like that".[166]

AD's family have told us that they visited him in prison as well as keeping in contact by phone. Nurse 7 could not recall AD talking about visits or having contact with his family – something which as AD's key worker she would have expected. Prison and health care staff did not themselves make any contact with AD's family in order to seek information about his background or care needs.

Finding 13

In terms of AD's care at HMP Bristol, there are few Prison Service records relating during the period he was on D wing but he did not seem to benefit from many regime activities. Staff at the prison did not make any contact with AD's family to discuss his care at any time before the assault took place on 26 June 2014.

Relocating AD

Once AD's mental health deteriorated in May 2014, the Mental Health Team responded well. Due to shortcomings in the records, they were, however, unable to work out exactly when he stopped taking medication.

Finding 14

It was sensible to return AD to the Brunel Unit at the end of May when his mental health deteriorated.

[166] Interview with Nurse 7 page 6/7 Annex 3

AD's mental health improved rapidly once he started to take anti-psychotic medication on the Brunel Unit from 30 May 2014. This meant that the plan to transfer AD to hospital – something which AD himself was against – was no longer deemed necessary. This was a reasonable decision. The plan to return him to the main wing – which AD was very keen on – was a sensible one.

It was also sensible to delay the move until after AD's court appearance on 23 June and after he had become acquainted with his new key worker. Because his medication was being adjusted, it was reasonable too to further postpone AD's move back to normal location. It is a tragic irony that had the decisions to delay the move not been taken, AD would not still have been on the Brunel Unit on 26 June, the day of the assault. But they were taken in AD's best interests.

Finding 15

The plans made for discharging AD from the Brunel Unit in June 2014 and its timing were reasonable ones, given the progress AD made during his period as a resident from May 30 2014 and the challenges he faced.

Chapter Thirteen Was EF's placement in the Brunel Unit on 20 June 2014 appropriate?

When EF was received at Bristol Prison, he was allocated to the Brunel Unit, the prison's specialist mental health unit. The aims of the Unit are set out in a Local Notice to Staff, the most recent version of which was issued by the Governor of HMP Bristol on 21 May 2014, four weeks before EF was placed in the Unit.[167] The aims of the Unit are described as being

- To assess and meet the needs of those with significant mental illness, treatable personality disorder or significant learning difficulty.

- To promptly identify and divert those whose needs would be better met in hospitals

- For those not requiring hospital admission, care planning to enable them to successfully cope on the prison wings with support as required.

A key question for this investigation is whether EF was appropriately placed on the Unit. If he had been placed elsewhere, either in a different location at HMP Bristol or in a higher security prison, the assault on AD would not have taken place.

We have examined the following four questions in respect of EF's allocation on 20 June 2014:

1. Should EF have been kept at Bristol Prison at all or should he have been moved to a higher security prison?

[167]Admission/Discharge Criteria for the Brunel Unit LNS 88/2014 Annex 13

2. Was the proper decision-making process followed when EF was placed in the Brunel Unit?

3. Was all the available information about EF considered by those making the decision to allocate him?

4. Did EF meet the criteria for admission to the Brunel Unit?

1. Should EF have been kept at Bristol Prison at all or should he have been moved to a higher security prison?

HMP Bristol is a Category B prison which is not suitable for holding prisoners who require high security, namely Category A prisoners. A Category A prisoner is a prisoner whose escape would be highly dangerous to the public, or the police or the security of the State, and for whom the aim must be to make escape impossible. The question arises as to whether EF, who had been charged with murder and had been identified as possibly suffering from a psychotic illness, should have been considered for Category A status.

The Procedure for Categorisation

According to the relevant Prison Service Instruction (PSI 05/2013), Governors must have arrangements in place for identifying prisoners who may meet the criteria for Category A and who therefore need to be reported to the Category A Team in Prison Service Headquarters in London.[168]

[168] PSI 05/2013 The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners Annex 16

Prison staff must identify on first reception prisoners charged with a number of specified offences, which include murder. In all such cases, prison staff must then contact the police officer in charge of the case (unless it is clear that the alleged offending is not sufficiently serious to warrant consideration for Category A). In EF's case, there is no record of the police being contacted at this point. The PSI contains a list of factors indicative of consideration of Category A. The first factor is where the victim is unknown to the perpetrator. Because EF's victim was known to him, it may be that the offence was immediately judged not to be sufficiently serious for Category A. Indeed, a member of the Category A team in Prison Service headquarters wrote in an email to Governor 2's internal investigation into the assault that "it would have been appropriate for Bristol to have made a local decision as the victim was clearly known to him".[169]

There are procedures in place for making such a local decision. The PSI says that "where a prisoner meets the initial offence criteria, but the circumstances are clearly not indicative of Category A and do not warrant reporting in, prisons must have an auditable system in place demonstrating that consideration has been given and recording briefly the decision making rationale. Category A is reserved for offenders considered to be highly dangerous if at large. Identifying the right prisoners requires judgement to be exercised in assessing all the relevant information. Staff must balance the public protection issues with the need to avoid reporting-in cases unnecessarily. Where a case is considered borderline or staff locally cannot decide if sufficient criteria have been met then the case MUST be reported to the Category A Team".[170]

[169] Email from a Category A Team member to Governor 2 10 July 2014 Annex 4

[170] PSI 05/2013 para 3.4 The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners Annex 16

The approach in EF's case

HMP Bristol does not seem to have had such an auditable system in place. The Governing Governor who was in post at that time, Governor 1, told us that EF would not have fitted the Category A Reception algorithm. This is the structured series of questions about a prisoner designed to identify whether they meet the criteria for Category A. She told us that it would be based on the information that the prison had available at the time. "So, it's fairly straight-forward. It's not a judgement call".[171] This view does not entirely reflect PSI 05/2013 which explicitly calls for "judgement to be exercised in assessing all the relevant information."[172]

Two of the other Governor-grade staff at HMP Bristol told us that some sort of assessment should have been carried out. Governor 3, who at the time of the incident was Head of Safer Custody and Equalities and responsible for the Brunel Unit, said that "when a prisoner comes in, on a murder charge, they, they would be assessed for categorisation to Cat A, because that's one of the charges".[173] Governor 5, who was Head of Security at that time, agreed that "the Reception Officer checks the warrants, would see that murder was the main index offence and would then start the paperwork, start the risk assessment or the algorithm off".[174]

All of the witnesses we asked said that if the algorithm had been followed, EF would not have been made a Category A prisoner. As Governor 5 put it "the main purpose of Cat A is to reduce the risk or the likelihood or the chance of escape. And if there are any known risk factors – harm to others, harm to different ethnic groups, harm to

[171] Interview with Governor 1 page 18 Annex 3
[172] PSI 05/2013 para 3.4 The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners Annex 16
[173] Interview with Governor 3 page 9 Annex 3
[174] Interview with Governor 5 page 6 Annex 3

self – then they'd be managed internally and in a different risk process".[175] In the view of the Article 2 investigation team, this seems a partial understanding of categorisation. After all, EF was made a Category A prisoner after the assault on AD on 26 June without having shown any risk of escaping from HMP Bristol. Other factors – such as risk of violence to other prisoners – must have been taken into account at that stage and might conceivably been considered when EF was first received at HMP Bristol on 20 June.

The consideration given to EF's crime

Not all prisoners charged with or convicted of murder are made Category A prisoners. One of the key factors taken into account when assessing a prisoner for Category A is whether their victim was known to them or not. Individuals who commit violence against family members or others known to them are generally considered to be less dangerous than when the victim is unknown. Governor 5 told us that the offence EF had allegedly committed was "a crime of compassion. Yes, it was murder, but it wasn't a particularly horrific, violent attack".[176] But it is not clear how much the prison knew about the mode of the murder when EF was allocated to the Brunel Unit or thereafter. The Deputy Governor, Governor 7, agreed that the mode of murder was a factor in assessing risk. But when EF was received at HMP Bristol, all that would have been known was "that it was a murder and it was a family member".[177]

Nurse 5 pointed out to us that there was perhaps more to the murder than might appear. "But one thing we didn't find out at the time that, I believe, he tried to smother his mother, he tried to drown her, then he ended up stamping on her head. So, again, this is just hearsay; got no evidence about that. If we would have known

[175] Interview with Governor 5 page 7 Annex 3
[176] Interview with Governor 5 page 18 Annex 3
[177] Interview with Governor 7 page 11 Annex 3

that, we could've perhaps said, "Well, hang on a minute. Here's a guy who's actually gone a little bit step farther than smothered his grandmother to death. So that we might have thought more about that, you know, the risks in place and how we would manage them, whether it would have been suitable to …, if he was that unpredictable, to associate with other people".[178] This is a significant point. The process of considering EF for Category A status might have flagged up a need for additional security measures in his first few days in Bristol, irrespective of the final decision about categorisation which was reached.

The internal investigation found no evidence to substantiate that EF was initially reported for consideration by the Category A team. It also found no evidence to substantiate that a local decision was made on suitability for consideration of potential Category A. The internal investigation concluded that this may have contributed to the outcome of the incident. We certainly agree that the process outlined in PSI 05/2013 should have been much more carefully followed.

Finding 16

No consideration at all was given to categorising EF as a Category A prisoner when he arrived at HMP Bristol on 20 June 2014. Because of his alleged offence, EF should at least have been considered for Category A status. While it is unlikely he would have been made Cat A, the process might have flagged up a need for additional security measures in his first few days at Bristol Prison – for example, restrictions on association or additional levels of supervision.

[178] Interview with Nurse 5 page 21 Annex 3

Recommendation E

Prisoners charged with or convicted of any of the eligible offences should be given proper consideration for Category A in line with PSI 05/2013. An auditable system should be in place demonstrating that consideration has been given and recording briefly the decision making rationale.

Recommendation F

In eligible cases, a police report – the MG5 – should be sought on Reception to provide information about the alleged offence in order to inform the categorisation decision and decisions about the likely risk posed by a prisoner.

2. Was the proper decision-making process followed when EF was allocated to the Brunel Unit?

Responsibility for Allocation to the Brunel Unit

Formal responsibility for deciding the location of prisoners at HMP Bristol lies with prison managers. Most new arrivals would be located in the first night centre or allocated onto one of the main wings by Reception staff.

Decisions about allocation of prisoners to the Brunel Unit should have involved both operational prison staff and healthcare staff. The Local Notice to Staff about admission and discharge criteria for the Brunel Unit says in bold letters, “No

admission to these beds without consultation with BCH Duty Nurse/AWP Duty mental health nurse[179], manager of the Brunel Unit and Duty Governor".[180]

The Governing Governor at that time, Governor 1, who issued this version of the notice in May 2014 (as well as the 2012 notice which it replaced) told us that "ultimately, it would be a collection of people – you know, Health and operational – would make the decision. But I think that – if, if I remember rightly – the final sign off would be by the Duty Governor, I believe, was the policy at the time. ... Yeah, consultation with the Duty Nurse, the AWP – who are the mental health providers – the manager of Brunel and the Duty Governor".[181]

The Duty Governor on 20 June 2014, Governor 6, who has since left the Prison Service, declined to be interviewed by us but in a written answer informed us that "Duty Gov duties would not routinely involve deciding on the location of prisoners but we would be required to endorse any decision other than normal location, for example segregation or healthcare".[182] With regard to the final say about locating a prisoner in the Brunel Unit, Health Care 1, who was the Clinical Services Manager in June 2014 and when interviewed by this investigation was Head of Healthcare, agreed that "because it's a residential wing, it's not a Healthcare wing; it's not an inpatient unit, it's a residential wing, so at the end of the day the Duty Governor has that overriding decision".[183]

Allocation to Brunel in Practice

Most of the staff we interviewed told us that in practice, if AWP staff thought that a prisoner should be located on the Brunel Unit, and, if a place was available this

[179] BCH is Bristol Community Health; AWP is Avon and Wiltshire Mental Health Partnership NHS Trust.
[180] LNS 88/2014 Admission/Discharge Criteria for the Brunel Unit Annex 13
[181] Interview with Governor 1 page 7 Annex 3
[182] Written answers from Governor 6 Question 3 Annex 3
[183] Interview with Health Care 1 page 5 Annex 3

would almost always happen. Governor 5 who in June 2014 was Head of Security, told us that admission for the Brunel Unit is 99 per cent of the time based on the need – on the individual's need. He could not think of any circumstances where he "would override a recommendation from Mental Health In-Reach Team".[184] Governor 3 who was responsible for the Brunel Unit at the time of the incident agreed, arguing that "if mental health or the psychiatrist or whoever was saying this person needs to come in here, I'm not a professional in that line, it would be quite foolish of me to say, 'No, I'm not doing that', so I would suggest that almost every occasion if it was recommended that this person required to go in there, then we would do our best to accommodate that. I can't think of any occasion where I refused to take someone in. It would be more or less a joint decision but the decision's more, more or less done and dusted when they're recommending that they come over".[185]

Custodial Manager 1, who was in day-to-day charge of the Brunel Unit, agreed that "overall, AWP had the resounding say" and that if a governor was told that a prisoner was mentally unwell and needed to be accommodated in the Brunel Unit, if not rubber-stamping the decision, the Prison Service would be hard pushed to go against the decision.[186] Prison Officer 2, who was the Reception Officer when EF was admitted to Brunel on 20 June 2014, did not think that prison staff would step into to review a decision to allocate a prisoner to Brunel "above a Healthcare professional", nor would they review the paperwork; "once the decision's been made, they're happy that a decision's been made and that's that".[187]

Avon and Wiltshire Partnership 1, the AWP Service Manager, told us that prison staff had on occasion intervened in cases which were well-known to the prison, when

[184] Interview with Governor 5 page 10 Annex 3
[185] Interview with Governor 3 page 8-9 Annex 3
[186] Interview with Custodial Manager 1 page 23 Annex 3
[187] Interview with Prison Officer 2 page 12 Annex 3

prisoners "have maybe served sentences before and have been very difficult to manage from a prison perspective, maybe extremely violent or have been in Segregation many times".[188] In such cases of "known quantities", prison staff had overridden the Healthcare view, saying "we've got your concerns and, yes, we've got the fact that he'll fail an algorithm, but we believe on our risk assessment and knowledge of that prisoner that we will house him in Segregation and we'll review it tomorrow".[189] Avon and Wiltshire Partnership 1 explained that the conversations are not one-sided: "People don't bow down to the other necessarily. You have a clinical discussion and a decision is made but the overall decision is left with the Duty Governor." [190]

Nurse 6, who was the duty mental health nurse on the day EF was admitted, agreed. "So, we involve the Duty Governor and whoever the Duty Oscar One might be that day. Let them know about our recommendation, the concerns that we have and why we need to admit this person to the Brunel Unit. Very rarely will, you know, if there's a space and there's an agreement and there's a legitimate concern, it's very rare that we would encounter any resistance, so … or anything like that. But there may be logistical things." [191]

In practice the discussion about cases might be relatively brief. Nurse 6 told us that "It's very much an informal conversation. Usually, obviously, as a Duty Governor, they're kind of pulled pillar to post around the prison, so it's making a request if they can't access it at their convenience, they'll usually get in touch with the office via telephone. We relay our concerns, and if there's no objections then, you know, they sanction. Ultimately as a Duty Governor, they sanction any moves within the prison.

[188] Interview with Health Care 2 (Avon and Wiltshire Partnership 1 sitting in) page 30 Annex 3
[189] The reference to algorithm is to the process of deciding whether a prisoner should be placed in the Segregation Unit.
[190] Interview with Health Care 2 (Avon and Wiltshire Partnership 1 sitting in) page 30 Annex 3
[191] Interview with Nurse 6 page 6 Annex 3

So they sanction that move".[192]

Finding 17

Admission to the Brunel Unit, while formally a joint decision authorised by operational prison staff, was in practice almost always decided by the healthcare provider, Avon and Wiltshire Mental Health Partnership NHS Trust (AWP).

The Allocation of EF to the Brunel Unit

In the case of EF, there is a dispute about how exactly the decision was reached that he should be admitted to the Brunel Unit. The recommendation that he be placed in the Brunel Unit was first made by the CARS team at court who contacted the Duty Mental Health nurse at Bristol, Nurse 6. Nurse 6 told us "that they {the CARS team} have an understanding of the unit, what its purpose is and obviously if they're making recommendations like that, we do take them quite seriously". (However, we heard a different view from Nurse 7 who said that the CARS nurses were not always familiar with the role of the Brunel Unit.)

Having received the recommendation from CARS, Nurse 6 noted in the medical record that "Plan is to be admitted to Brunel unit and complete as much Core assessment as possible of the weekend ready for court on Monday (CARS to relay information and attend)."[193] He then established whether there was a vacancy on the Brunel Unit by contacting Nurse 2 the Brunel manager and then contacted Reception "to advise of risk factors and advocate Brunel admission".[194] He told us that "CARS

[192] Interview with Nurse 6 page 7 Annex 3
[193] Patient Record EF 20 June 2014 Annex 7
[194] Ibid

automatically send a court to prison transfer form anyway, which should go to reception, but for the sake of, sort of information quality, we do double … double check all our information, make sure that we're relaying in a document anything that's been highlighted to us, has been shared with our colleagues in the prison".[195]

As for contacting senior prison staff about the planned admission, Nurse 6 noted that he placed a call to Victor 1 (the Duty Governor) to advise of this and that he requested a call back. He had not heard back by the time he filled an entry on the medical record at 16.54. In his statement for the internal investigation, Nurse 6 said "he later spoke with Governor 6 in the adjudications room in the seg unit to discuss EF's location on Brunel. He could "not recall the exact details of the conversation" but he "relayed the concerns raised by CARS in relation to risk to others and self and the nature of the offence as well as our plan to complete an assessment over the weekend.[196] Acting Head of Health Care at the time, Health Care 2, also told the internal investigation that he had discussed EF's admission to the Brunel Unit with Governor 6. Governor 6 wrote to us that "I do not recall any discussions or involvement regarding EF".[197]

It is possible that another Governor, Governor 5, may have been involved. Healthcare 1, who was the Clinical Services Manager at the time of the incident, told us that she had picked up a call from Governor 5 who was wanting to tell someone in mental health that EF was on his way. But Governor 5 told the internal investigation on 11 July 2014 that he had yet to experience admitting somebody onto the Brunel unit;[198] and he told us that us that he had no direct involvement with either EF or AD.[199]

[195] Interview with Nurse 6 page 6 Annex 3
[196] Internal Investigation Interview with Nurse 6 Annex 5
[197] Written answers from Governor 6 Question 4 Annex 3
[198] Internal investigation Interview with Governor 5 page 7 Annex 5
[199] Interview Governor 5 Annex 3

The Clinical Review finds that the decision to locate EF on Brunel Unit was poorly-documented. There was no entry regarding this decision on his SystmOne healthcare record. The internal Prison Service investigation found that the admission of EF to Brunel on 20 June 2014 "was arranged between the external CARS team and Brunel Unit mental health team." [200] This is not quite correct as the duty AWP mental health worker, Nurse 6 (who was not attached to the Brunel Unit), played a key role in making the arrangements but the gist of his conclusion is right.

It is also right to say that while the respective roles of health and prison staff in deciding on placement in the Brunel Unit were not clear, staff from the Prison Service did not play a sufficient role in the decision to allocate EF there.

Finding 18

We have not been able to establish whether the allocation of EF to Brunel on 20 June 2014 was signed off by the Duty Governor; but to all intents and purposes, the decision to place him there was made by the Avon and Wiltshire Mental Health Partnership NHS Trust (AWP) mental health duty nurse following the recommendation by the Court Assessment and Referral Service (CARS) team. The respective roles of health and prison staff in deciding on placement in the Brunel Unit were not clear.

In July 2016, a revised specification for the Brunel Unit was introduced. This includes a process for handling referrals of prisoners to the unit by a multi-disciplinary meeting involving both HM Prison Bristol and Avon and Wiltshire Mental Health Partnership NHS Trust (AWP). The specification adds that on occasions where time or resources do not allow for a multi-disciplinary meeting, for example a new reception during the evening, "the Duty Governor in charge of the establishment

[200] Internal Investigation Report Annex 5

at the time will decide on admittance in consultation with the Duty Mental Health Worker/Primary Care".[201]

We welcome the fact that a more detailed specification for the Brunel Unit is now in place than existed at the time of the assault on AD. In particular we welcome the introduction of a written referral form which must be completed before admission can be considered. We are concerned, however, that there is still scope for confusion about the way allocation decisions should be made. The action plan produced following the internal investigation into the assault says that "decisions to admit prisoners and whether or not a prisoner should remain on the Brunel Unit will be made primarily by the Mental Health Team, however decisions can and are made jointly with senior operational managers".[202] In our view it is essential that such decisions should *always* be made jointly by the Mental Health Team and prison staff.

Recommendation G

It needs to be made absolutely clear to staff at HMP Bristol that decisions about admissions to the Brunel Unit require the involvement of both prison and health care staff.

Recommendation H

Decisions to locate on Brunel Unit should be documented both on SystmOne and NOMIS with the names of the persons making this decision; the available evidence in making the decision and the decision-making process recorded clearly.

[201] The Brunel Unit Specification 2016. Annex 13
[202] Action Plan Annex 4

3. Was all the available information about EF considered by those making the decision to allocate him?

The information available to prison staff

It is possible that the operational prison staff may have intervened in the allocation process and raised questions about the suitability of the Brunel Unit if they had more information about EF and the possible risks he might pose to other prisoners. Prison staff seem to have had relatively limited information about him. When he arrived there was a warrant from the court authorising detention and a Person Escort Form (PER). The prison staff would therefore have known that EF had been charged with murder.[203] It is not clear how much was known about the offence. There was also a Suicide/Self-harm warning form stating that EF was withdrawn and depressed.[204] The Reception Officer, Prison Officer 2, saw this and noted that she did not feel an ACCT was necessary.[205] An ACCT Plan is the care-planning system used to help to identify and care for prisoners at risk of self-harm or suicide.

It is not certain whether the CARS assessment report and/or Court to Prison Form – the short handwritten summary of it – actually arrived at HMP Bristol with EF. There is a section of the Person Escort Record Form listing the "Forms Enclosed". The list includes Medical Assessment / Care Plan but the relevant box is not ticked. Indeed, none of the boxes are ticked.

If the correct procedures were followed, the PER should have accompanied the prisoner to the "Health Screening process" undertaken by the Reception Nurse. If

[203] PER at Annex 10
[204] The form is at Annex 10.
[205] Noted on F2052B Annex 10.

during that process the Reception Nurse had seen the PER she would have noticed that under mental health it mentions "anxiety and depression CARS at court". The Suicide/Self-harm Warning Form also says that EF had seen the CARS team. The reception nurse, Nurse 1's entry on the SystmOne medical record makes no reference to the CARS report. Her entry in the medical record includes a referral to mental health services of "this patient who has been accused of killing a relative. He appears orientated but says he has panic attacks and had difficulty with enclosed spaces".[206] Her entry finishes with "it was noted that he said he had 'run away from home a few times recently'".[207] It is not clear in what document this was noted. This phrase 'run away from home a few times' does not appear in the CARS report.

Prison Officer 2 thinks that the prison was informed about EF before he arrived. "I'm not 100% certain but I think they were, about his possible mental health. And if that was the case he would have come with some paperwork to give to our Healthcare staff because they also see him on Reception as well".[208] Prison Officer 2 said she herself would have read any papers that were not in a sealed envelope.

Although it is possible that a hard copy of the CARS report and Court to Prison Form were seen by the Reception staff, neither document was included in the core bundle of documents about EF which were provided to our investigation. Neither document is referred to in the NOMIS system nor on the entry in the SystmOne medical notes made by the Reception Nurse. The CARS report was entered onto the RIO system but this was available only to AWP staff and not accessible by the Reception Nurse, who was employed by Bristol Community Health.

[206] EF Patient Record 20 June 2014 Annex 7
[207] Ibid
[208] Interview with Prison Officer 2 page 1 Annex 3

Finding 19

The Person Escort Form (PER) was not properly completed by escort staff when EF was transported from court to HMP Bristol and does not list the documents that arrived with EF at the prison on 20 June 2014.

Recommendation I

The format of the Person Escort Form (PER) should be reviewed in order to ensure that it clearly identifies the documents which arrive with a prisoner and which do not.

Finding 20

On balance, it looks likely that a hard copy of the mental health assessment report compiled by AWP's Court Assessment and Referral Service (CARS) team did not arrive with EF at HMP Bristol on 20 June 2014 and was not seen by operational prison staff before he was allocated to the Brunel Unit. It seems likely that some of the information contained in the report was communicated to prison staff via telephone but it is not clear exactly what was communicated.

Finding 21

We have not been able to establish whether the Court to Prison form – a handwritten summary of the Court Assessment and Referral Service (CARS) report – arrived with EF on 20 June 2014.

Finding 22

The Reception Nurse at HMP Bristol, who worked for Bristol Community Health, did not have access to the RIO electronic records system on which the Court Assessment and Referral Service (CARS) assessment was available. This was because RIO was available only to staff of the Avon and Wiltshire Mental Health Partnership NHS Trust (AWP).

Recommendation J

Reports prepared by the Court Assessment and Referral Service (CARS) team should be sent in hard copy to the Reception Nurse at HMP Bristol who should also have access to the RIO record system.

Information available to AWP staff

By contrast to the lack of information available to the staff in the prison Reception, from the perspective of the mental health staff, the information from the CARS team "was above and beyond what was normally available in a routine referral and what we would expect as a routine referral. Which again, kind of just added ground to the fact that, yes we needed to have a very close look at this individual and then make sure that they were monitored appropriately in a mental health – well, as close to a mental health environment as we can provide".[209]

The absence of paperwork may not have mattered since the mental health duty nurse noted that a call was placed by Nurse 6 to the Reception nurse "to advise of

[209] Interview with Nurse 6 page 12 Annex 3

risk factors".[210] It is not clear exactly what that advice contained. Nurse 6 could not recall exactly what information he handed over to the Reception officer and the health care officer doing the reception screen. We have not been able to interview the Reception Nurse who has retired from the Prison Service. If a call was indeed placed to explain the risk factors surrounding EF, they would presumably have reflected what was contained in the CARS report.

There is, however, some ambiguity about what the CARS report actually said about the risks posed by EF. A report prepared by AWP shortly after the assault by EF on AD states that {EF} was "Deemed high risk by CARS service in assessment 20/6/14 where he denied any overt thoughts of harm to others at that time: however made reference to feeling that 'evil spirits' may live within 'everyone to some extent'. Nature of offence (murder) informed high risk rating".[211]

We have been unable to find any reference to "high risk" on the CARS assessment document itself or on any of the RIO records for 20 June 2014. Under the heading 'Risk to Others', the CARS screening report says, "EF is currently on remand for an alleged offence of murder. He denies any other overt thoughts to harm others at this time, however made reference to him feeling that 'evil spirits may live within everyone to some extent'".[212]

It is possible that the term "high risk" refers to AWP's own classification of risk. Avon and Wiltshire Partnership 1, the AWP Service Manager, told us that special arrangements are in place when staff interview a defendant charged with murder, but this is in case the defendant says anything which could be used in evidence against them. One of the CARS nurses who interviewed EF, Nurse 3, told us that although EF did not convey any intentions of harming anyone at the moment, "the allegation

[210] Patient Record EF 20 June 2014 Annex 7
[211] Management Report Red Graded Incidents Annex 5
[212] CARS Screening Report Annex 7

that he was in for kind of made me think that that he was fairly dangerous".[213] But this opinion was not clearly recorded in the CARS report. The internal investigation concluded that "had the CARS information been available on 20 June "staff at HMP Bristol could have considered EF to be a high risk to others and located him appropriately. This could have been in the segregation unit".[214]

The Clinical Review for this investigation finds that the CARS report adequately identified EF's risk of potential psychosis in a person who is alleged to have committed a homicide. This is true although we do not think that the risk to others that EF might pose was clearly expressed in the CARS report.

Finding 23

The Court Assessment and Referral Service (CARS) report adequately identified EF's risk of potential psychosis in a person who was alleged to have committed a homicide. The resulting risk of harm to others that EF posed to others could have been more explicitly expressed in the CARS report.

Recommendation K

Court Assessment and Referral Service (CARS) reports on individuals charged with grave offences of violence should contain a clear summary of likely risk to self and others.

[213] Interview with Nurse 3 page 6 Annex 3
[214] Internal Investigation Report D8.1 Annex 5

The Cell Sharing Risk Assessment

Prison staff were involved in one proactive assessment of their own on EF, the Cell Sharing Risk Assessment (CSRA). This was initially completed by the Reception Officer when EF arrived in prison with a follow-up assessment two days later. The CSRA has a very specific role in informing a decision about whether a new prisoner should share a cell with someone else. EF was in fact not assessed as a high risk for cell-sharing on the CSRA. Because he was going to Brunel where all the cells are single cells, the CSRA may have been seen as less relevant and significant than in the case of a prisoner being located on a main wing.

The scope of the CSRA

However, there is an important question about the scope of the CSRA. The Prison Service Instruction on the subject in force at the time makes it clear that the CSRA is an essential tool in the identification of prisoners at risk of seriously assaulting or killing a cell mate *in a locked cell*.[215] The PSI also says however that the CSRA "provides a risk assessment for cell sharing and *other occasions when space may be shared,* such as through peer support, use of Listeners or *use of unsupervised holding areas".* No mention is made in the instruction about the potential value of the CSRA in providing a risk assessment for exercise yards particularly when these may be unsupervised. Given that the CSRA can include information that may be useful in a wider variety of contexts than cell-sharing, it would seem sensible to give increased emphasis within a revised introduction, and associated training, on the application of the CSRA process to all unsupervised areas.

[215] PSI 09/2011 The Cell Sharing Risk Assessment. Annex 16 This was replaced by PSI 20/2015 in May 2015. The current PSI was due to expire on 10 June 2017 but is still in effect.

Recommendation L

The Prison Service Instruction PSI 2015-20: The Cell Sharing Risk Assessment should be revised to give greater emphasis to the application of the CSRA process to all unsupervised areas within prisons and not just cells; and this should be reflected in associated training for prison staff.

EF's CSRA

In EF's case the CSRA included the comment that he would only share with own ethnicity and not a homosexual. Prison Officer 2, who was the Reception officer who completed the form, could not remember the exact words that EF used when she asked him if he had any concerns sharing a cell. Prison Officer 2 told us that it is fairly common in her experience for prisoners to say what EF said. "Some say it just to try and get a single cell, just to go out of their way to try and get a single cell. Some say it because that's genuinely how they feel".[216] Prison Officer 2 did not probe EF's answer to understand which of these applied in his case, although she circled *yes* on the form to "prisoner statement of heightened risk". When the CSRA was looked at again after two days, the form records a *no* against this item.

Senior managers at the prison told us that EF's attitudes should have at least been explored further at reception. Governor 5, Head of Security, said that he would "like to think that it was investigated and sort of pushed further as to the reasons why".[217] The Deputy Governor, Governor 7, would have expected the officer to have probed the comment by asking, "'Why's that? Have you got an issue with black people, or people of another race?' I'd expect that – those questions to be asked".[218] Governor 7 would also have "expected a P-Nomis flag" – an alert on the prisoner's record

[216] Interview with Prison Officer 2 page 6 Annex 3
[217] Interview with Governor 5 page 8 Annex 3
[218] Interview with Governor 7 page 13 Annex 3

which would have made staff aware of potentially racist and homophobic attitudes on the part of EF.[219] Such alerts were placed on EF's NOMIS record on 27 June, the day after the assault on AD took place. The Director of SARI[220] told us that EF's attitudes should have been probed on arrival; "obviously he might have turned round and said, 'because I'm afraid,' or he might have turned round and say, 'because I don't like those people…' You know, you just don't … we never got to that questioning did we. We don't find out but it's normally the very obvious warning signs".[221]

Prison Service Instruction 2015-20, which came into force the year after the assault on AD took place, has introduced a requirement for staff to challenge racist or homophobic views expressed during the CSRA process. It states,

> "Many prisoners are aware that in a busy reception a claim to have violent racist or homophobic thoughts can lead to gaining a single cell. Prisoners should always be challenged because such claims are against the Law and Prison Rules".[222]

If EF's comments on 20 June 2014 had been explored, it might conceivably have resulted in him being assessed as high rather than standard risk in the CSRA process. Could this have made a difference to the way EF was managed? Much would have depended on how he explained his unwillingness to share a cell. If he had revealed hostile attitudes – whether or not these were symptomatic of his mental illness – it is possible that staff would have been more vigilant about contact between EF and ethnic minority prisoners, including AD.

[219] Interview with Governor 7 page 14 Annex 3
[220] SARI is a service user/community-oriented agency that provides support and advice to victims of hate, and promotes equality and good relations between people with protected characteristics as defined by law.
[221] Interview with SARI 1 page 7 Annex 3
[222] PSI 2015-20 The Cell Sharing Risk Assessment. Para 2.8 Annex 16

This would only have happened if information arising from the CSRA exercise was known to the staff with day to day responsibility for EF. PSI 9/2011 says that "All CSRA assessments and review decisions must be entered in NOMIS in addition to completing the paper form".[223] In the case of EF, the standard rating assessment made on 20 June 2014 is noted but no information is recorded under the headings "CSR Full Assessment", CSR Review Assessment or CSR Reception Assessment.

Finding 24

EF's comments to the Reception officer that he did not want to share a cell with a homosexual or someone from an ethnic minority should have been explored with him, with alerts made active on NOMIS and communicated to staff on the Brunel Unit.

Other assessments of risk

In addition to the CSRA, there is a question about what other risk assessments were undertaken on EF. The Deputy Governor, Governor 7 told us that "we do our own assessments when it comes to reception with the risk assessment and looking at the associated risk assessment. Had EF come out as high-risk, then there would have been protocols put in place to safeguard the other offenders on the unit. If he was deemed to be a serious risk to others, then there would be a serious restriction on his regime."[224] Governor 7 explained that "the risk assessment that happens in Reception, the associated risk assessment is only part of it. I mean, our manager would look at all available documentation to have a look at the risk to this individual".[225]

[223] PSI 09/2011 The Cell Sharing Risk Assessment. Para 9.1 Annex 16
[224] Interview Governor 7 page 9 Annex 3
[225] Interview with Governor 7 page 9 Annex 3

It is true that the HMP Bristol Safe System of Work document which deals with the Brunel Unit makes it clear that "all prisoners must be risk assessed prior to location"[226] but it is not clear at what point this should be done, who should do it and what form it should take.

Nurse 5 who was carrying out the mental health assessment on EF told us that some restrictions on EF were in place; because of the alleged killing of his step-grandmother, EF was not supposed to exercise with the elderly prisoners who were on Brunel. We have been unable to find any written record about such a restriction or how the decision might have been reached to impose it.

If true, it suggests that some consideration was given to the nature of the offence allegedly committed by EF in determining appropriate security measures. The Clinical Review finds that had EF been designated an enhanced security status whilst on Brunel Unit, requiring supervision by staff when he was unlocked, the assault on AD would have been likely to have been prevented. While this is possible, it is certainly true that more detailed information about the nature of the offence and EF's potential psychosis should have better informed decisions about risk. The Clinical Review finds that alongside the CARS report, the MG5 police document should be used when making decisions about the ongoing risk management of persons charged with homicide who have been identified as currently suffering from acute psychosis or possibly suffering from acute psychosis.

Finding 25

The assessment made by prison and healthcare staff of the risk of serious harm that EF posed to others at the time of admission was inadequate.

[226] Safe System of Work BU/Disc 1 Annex 13

Recommendation M

Where available, the Police MG5 form as well as a CARS report should be used when making decisions about the ongoing risk management of persons charged with homicide who have been identified as currently suffering from acute psychosis or possibly suffering from acute psychosis.

4. Did EF meet the criteria for admission to the Brunel Unit?

Criteria for Admission to the Brunel Unit and their Interpretation

The relevant admission and discharge criteria for the Brunel Unit at the time of EF's admission are contained in a Governor's Local Notice to Staff which was issued on 21 May 2014, a month before EF was located there.[227] This replicates to a large extent a Notice from 2012[228], although the earlier document includes guidance about the process to be followed in allocating prisoners to the Unit which is lacking in the 2014 notice. Both notices set out the aims of the Unit which include the assessment of the needs of those with significant mental illness. There is, however, a list of exclusions which includes "those who pose a significant risk of harm to others, and high risk cell-share". While this exclusion seems clear enough on the face of it, witnesses gave a variety of interpretations about its meaning and application in practice.

By way of background, Governor 1, who issued both the 2012 and 2014 notices, explained that the later notice was issued "because people have not necessarily adhered to it" (i.e. the 2012 notice) and she needed to re-emphasise the purpose of

[227] Admission/Discharge Criteria for the Brunel Unit LNS 88/2014 Annex 13

[228] Admission/Discharge Criteria for the Brunel Unit LNS 155/2012. Annex 13 This applied when AD was first admitted to the Brunel Unit in January 2014.

the Unit.[229] Governor 1 explained that "we were trying to develop a little bit of a therapeutic type of environment, and if the behaviour was so challenging or if they were violent, that it would affect that kind of trying to create a therapeutic, calm environment, we would have to manage them in a different way. We had quite low staffing levels on there for, people with mental health issues. And, obviously, the high-risk cell-share is around people who, you know, could be extremist, could be, you know, violent to others, you know? So, we had to ... Again, you know, we had to manage them in a different way".[230] Governor 1 accepted that notwithstanding this, "it wouldn't be unheard of to put somebody who's been charged with, with murder into that environment".[231]

This interpretation of the admission criteria was not totally shared by other prison staff we interviewed. When asked whether the admission criteria meant that "if we've got a high risk prisoner we shouldn't put him in the Brunel", Custodial Manager 1, the Custodial Manager who was responsible for Brunel in June 2014, replied, "No, No".[232] Governor 3, who as Head of Safer Custody had overall responsibility for the Unit, also thought that "most of them {i.e prisoners} would have been high risk down there".[233] When asked whether the admission criteria mean that the Brunel Unit is not capable of safely accommodating risky prisoners, Governor 3 said, "I don't think that's the case. But I think the majority, if not all of the prisoners that were ever on that Unit, would be a high risk cell-share".[234]

Governor 4, who had some involvement in drafting the criteria, explained that the exclusion criteria were aimed at discouraging the allocation to Brunel of prisoners who "purely" needed a single cell when such a cell was unavailable in one of the

[229] Interview with Governor 1 page 6 Annex 3
[230] Interview with Governor 1 page 6 Annex 3
[231] Interview with Governor 1 page 7 Annex 3
[232] Interview with Custodial Manager 1 page 7 Annex 3
[233] Interview with Governor 3 page 11 Annex 3
[234] Ibid

main wings. She told us that prisoners were sometimes put on Brunel – where all the cells are single cells – "because it was the easy option, and then it was creating a lot of work. It was just, in Bristol, in context: 'Stop putting them on there, just because they're high-risk.'"[235] Governor 3 elaborated that "the numbers in Bristol were always, always on its maximum, so there were, there were high numbers and you would get some Oscars who would, rather than move prisoners around late at night, and the prisoner was a high-risk cell-share, they would put them in the Brunel as a lodger overnight, with a view to getting them out the next day. And that was sometimes problematic, because the staff had to then move them out ... and often it took a bit longer than it should have".[236]

Health Care 2, who was acting Head of Health Care in June 2014, told us that his understanding of the exclusion of high-risk prisoners was that it was intended to reduce "the number of Segregation overflow. Basically at Brunel it shouldn't be used as Segregation. So the people that are going to Segregation don't put them in Brunel. That was my understanding of the reason for that line going".[237] Governor 1 by contrast saw the Unit as playing a role in respect of people in Segregation. She told us that "if we had people in the Segregation Unit who were challenging, but maybe just didn't need Segregation, we could put them into Brunel as a halfway house to get them back into a more normal regime."

Finding 26

At the very least, the criteria for admission to the Brunel Unit were badly-worded and capable of multiple interpretations. At worst, they reflect a fundamental lack of clarity about the role that the unit played at HMP Bristol.

[235] Interview Governor 4 page 24 Annex 3
[236] Interview Governor 3 page 10 Annex 3
[237] Interview with Health Care 2 page 26 Annex 3

The ability of the Brunel Unit to accommodate high-risk prisoners

Despite the differing interpretations about its role, most of the people we interviewed thought that prisoners who were considered to pose a high level of risk could be safely accommodated in the Brunel. Custodial Manager 1, the Custodial Manager in charge of the Brunel Unit both at the time of the incident and now, said that "if they're high risk cell share but mental health-wise there were concerns raised and it was agreed they go in, of course they come in".[238] Governor 5 who was Head of Security expressed the view that if prisoners were violent, refractory, or made threats to others, and the Brunel Mental Health In-Reach Team wanted to admit them, then he "would still allow them to be located on the Brunel Unit; and I would then put additional systems in place to ensure that they were safe, that other prisoners were safe and that staff were safe".[239] For Nurse 6, who was instrumental in arranging EF's allocation to Brunel, "space permitting in an ideal world, we'd admit anyone who was open to a secondary mental health service, assess them for a few days and then progress them up to the wing. But the reality is, actually, it's more acute cases that we have to look at".[240]

In the case of EF, most of the staff we interviewed considered that given what was known about him, his location on Brunel was appropriate. Governor 1 felt it was "to be quite honest, probably an appropriate location, Brunel. But what I will say is the staff that they have in Brunel, the ratio is far higher than if EF and AD were in a normal location. So, they do have far more interaction. I mean, that's part of managing the risk – is the fact there's a far greater level of interaction on a small unit like that".[241] Custodial Manager 1 told us that on Brunel it was "a lot easier to tailor the maximum regime you could with someone with such high risk factors. And we

[238] Interview with Custodial Manager 1 page 7 Annex 3
[239] Interview with Governor 5 page 10 Annex 3
[240] Interview with Nurse 6 page 11 Annex 3
[241] Interview with Governor 1 page 20 Annex 3

had the staff with the training and we knew with the ability to deal with those people".[242] Prison Officer 4 who worked on Brunel thought EF was "was in the right place".[243]

On the health side, Nurse 6, the duty nurse on 20 June told us that they would make the same decision again. "would we make the same decisions for EF …given the same information again? Yes. Would we admit him to the Brunel Unit? Yes".[244] Nurse 2, the senior nurse on the Unit, thought "it was definitely the right part of the prison for him to be in – based on the information that we had".[245]

Finding 27

Staff from both the Prison Service and AWP generally considered the Brunel Unit was suitable for high-risk prisoners.

The revised specification for the Brunel Unit published in July 2016 – two years after the assault on AD – makes no reference to excluding prisoners who present a high risk of harm. Indeed, it says that admission to the Unit "will be considered on its benefits to the man".[246]

While the new specification has the virtue of clarity – prisoners should not be excluded from the Brunel Unit on account of the harm they might pose – the substantive question remains about whether the Unit is resourced and organised in a way which allows for high risk prisoners to be safely accommodated there.

[242] Interview with Custodial Manager 1 page 7 Annex 3
[243] Interview with Prison Officer 4 page 4 Annex 3
[244] Interview with Nurse 6 page 24 Annex 3
[245] Interview with Nurse 2 page 12 Annex 3
[246] Brunel Unit specification July 2016 Annex 13 page 12

Recommendation N

If the Brunel Unit is to accommodate high-risk prisoners, a review of appropriate levels of physical, procedural and dynamic security should be undertaken by HM Prison and Probation Service and NHS England and the necessary staffing and funding resources provided.

Should EF have been placed in Segregation rather than the Brunel Unit?

The internal investigation report concluded that "had the CARS information been available on 20 June "staff at HMP Bristol could have considered EF to be a high risk to others and located him appropriately. This could have been in the segregation unit".[247] The governor who wrote the report told us that EF "should've been segregated. You could then go into a risk assessment process, to decide whether, actually, segregation, disposal to Mental Health Unit, or Brunel Unit was the best place". He continued that "there were clear risks identified in the CSRA, in terms of comments about homosexual and people of different ethnicity. For that reason, until those statements were further understood – were they, were they objective or subjective, you know, was there any real risk – I, personally, would've expected him to be segregated, and I would not have expected him to go on the Brunel Unit where other vulnerable people exist, and where the Notice to Staff on admission criteria is very clear".[248]

EF himself told us that it would have been better if he had been located on the Segregation Unit in HMP Bristol because he would not have been able to attack AD. He said that after the incident when he was taken to HMP Long Lartin, he was placed

[247] Internal Investigation Report D8.1 Annex 5
[248] Interview with Governor 2 page 15 Annex 3

in Segregation immediately. He did not find being located in Segregation a problem even though his symptoms of psychosis continued and, in his view, got worse at HMP Long Lartin.[249]

Staff at Bristol took a different view, arguing that EF would have failed the algorithm for placement in the Segregation Unit because of the likely adverse effect on his mental health. Prison Officer 4, who worked on the Brunel and Segregation Units, told us "if he fails the algorithm, he'd automatically defer straight to the Brunel Unit".[250] Prison Officer 4 said that "Segregation's used in only in extreme case and unfortunately, the, that only tends to be used when the person's probably quite violent on … I don't think he would have benefitted from going to the Segregation at that time".[251]

The other alternative would have been for EF to be located in the first night centre on D wing, although given what was already known about his mental health problems, this would not have been ideal.

While we can see a case for placing EF in Segregation, we do not think that this was necessarily the only way to manage the risks he posed, even if these had been more fully identified and communicated. It would have been possible to impose conditions on the regime available to EF on Brunel. Nurse 5 who conducted the mental health assessment on EF while he was on Brunel told us that he thought, because of the [alleged] crime, EF was not supposed to exercise with elderly people (of whom there were a number on the Brunel). We have not found any other evidence to confirm that this restriction was imposed. But it is an example of the kind of additional control that might have been imposed on Brunel. Nurse 5 also said that had more been known about the level of violence involved in the way EF had killed his elderly

[249] Interview with EF Annex 3
[250] Interview with Prison Officer 4 page 19 Annex 3
[251] Ibid

relative, the assessment and management of risk might have been different. Additional controls and restrictions might have been placed on his movements and activities.

Finding 28

We do not agree with the internal investigation's finding that EF should have been segregated on arrival but, given how little was known about him, a higher level of control should have been placed on his movements and activities within Brunel until a more thorough assessment of his risk to himself and others could be completed.

Chapter Fourteen Could EF's risk have been identified during his time on the Brunel Unit?

Risk assessment is a continuous and dynamic process and should have continued after EF had been allocated to the Brunel Unit. The Prison Service Public Protection Manual says that:

> "Ongoing risk assessment is an essential element of effective risk management. Risk assessment involves:
> - Accurate, reliable and fair assessment of risk.
> - Day to day alertness to, and recording of, information relevant to the assessment of risk.
> - A formal review of that risk whenever indicated by significant further information, or by agency policy, or the demands of the legal process." [252]

Once EF had been allocated to Brunel on 20 June 2014, the question arises as to whether, over the following six days, the risk that he might commit a violent assault could have been identified and mitigated by the staff on the unit.

EF told us that the assault on 26 June 2014 was planned. Three days before, he had come to think of AD as an enemy and planned the assault the day before. He exercised in order to prepare for it, by doing press-ups. EF said he had the chance to assault AD in the shower area the day before but did not do it. He thought he would wait for another chance.[253]

[252] HM Prison Service Public Protection Manual Chapter 9 Risk of Harm Version 4.0 January 2009 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/451947/1000489FChapter9RiskofHarmGuidance.pdf

[253] Note of Interview with EF Annex 3

The risk posed by EF could in theory have been identified in two main ways:

1. through the mental health assessment undertaken by AWP between 20 and 26 June while EF was on the Brunel Unit;

and/or

2. by staff observations of his behaviour on the unit and interactions with him.

We shall look at each of these in turn, and then discuss the way information was shared between staff on the Brunel Unit.

1. Mental Health Assessment

The purpose of EF's placement in Brunel was so that the state of his mental health which had caused concern to the CARS team could be further assessed. An entry on the RIO medical record made by the CARS team on 20 June 2014 states that "it is not currently clear if EF is suffering from a psychotic illness and further assessment of this and his potential risks would be beneficial".[254] EF was due to appear in Court again on Monday 23 June and over the weekend Nurse 5 took the lead in starting the process of assessment. He told us that although he knew about the offence EF was alleged to have committed, "we obviously treated the person not the crime. We need to get to the bottom of things to help this person whilst they're on the Brunel. We are looking at it from a therapeutic point of view and a healthcare point of view".[255]

[254] RIO Document 1 Risk Summary page 7 Annex 7
[255] Interview with Nurse 5 pages 14-15 Annex 7

Nurse 5 told us that it was very difficult to pick up if there were any underlying problems over the period of six days which EF spent in the Brunel Unit. But he had no concerns about potentially violent behaviour on the part of EF; "No, I had no concerns. No, there was nothing there to suggest that EF was going to attack AD – or anybody for that matter".[256] The entries in the RIO medical record – for example, after a "referral screening" undertaken by Nurse 5 on 22 June – show the emphasis was on assessing EF's risk of self-harm or suicide rather than risk to others.[257] Given that EF may have planned the assault, a greater focus on assessing whether he might harm others might have brought risks to light.

Involving EF's family in the assessment

The internal investigation found "an alleged failure to respond by Mental Health Team to concerns raised about EF by Prison Officer 4".[258] These concerns arose after Prison Officer 4 telephoned EF's mother and sister on Sunday 22 June 2014. They told Prison Officer 4 that they were very concerned about how unwell EF was and that they had been trying to get him sectioned.[259] Prison Officer 4 told us that EF's s mother and sister "were obviously in shock about what he'd been accused of".[260] They had known he was unwell but not so seriously unwell.

The telephone conversation did not give Prison Officer 4 any specific concerns that EF might harm anybody. She told us "that was never mentioned…I think they were more concerned that he was gonna be a harm to himself, that … he was very withdrawn, he, he needed ventilation and fresh air. I think he just felt very confined, claustrophobic; I believe they had more concerns for him, than they did him harming

[256] Interview with Nurse 5 page 18 Annex 7
[257] Rio Progress Notes EF 22 June 2014 Annex 7
[258] Internal Investigation Report D10.1.e Annex 5
[259] NOMIS Transfer Report EF 22 June 2014 Annex 10
[260] Interview with Prison Officer 4 page 8 Annex 3

anybody else."[261]

Prison Officer 4 was frustrated that Nurse 5 did not pay sufficient attention to the information from his family.[262] Nurse 5 told us that he "wouldn't have had any direct contact with the family." [263] He did, however, note on the RIO medical record, "Third party information received by phone and handed over by prison staff".[264] In addition to telling Nurse 5 about the call, Prison Officer 4 passed the information she had received from EF's family to the senior mental health nurse on Brunel, Nurse 2. It is noted on the RIO system that EF's sister had said that the family had concerns about him for the past two years and said that he is a completely different person. The core mental assessment compiled by Nurse 5 on 25 June 2014, the day before the assault, makes reference to the family's report of a big change in EF over the last year since he started reading the Bible.[265]

There was not, therefore, a total failure to respond to the family's concerns. But although the family's input was included in the assessment, Nurse 5 could have contacted the family himself and made greater use of the information that they might have given to him. Avon and Wiltshire Partnership 1, the AWP Service Manager, explained that, given that EF's alleged offence was against a family member, this would not have been straightforward because of a risk of jeopardising criminal proceedings.[266] We do not think that this should have been a reason not to contact EF's family. There is a section on the RIO record system entitled 'Client and Carers Understanding of Assessment'. This has not been completed.[267]

[261] Interview with Prison Officer 4 page 8 Annex 3
[262] Interview with Prison Officer 4 page 7 Annex 3
[263] Interview with Nurse 5 page 13 Annex 3
[264] Rio Progress Notes EF 22 June 2014 Annex 7
[265] Presenting Situation and Referral Outcome Decision Annex 7
[266] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 Annex 3
[267] RIO Client and Carers Understanding of Assessment RIO 10 Annex 7

Conclusion of Assessment

The core assessment undertaken by Nurse 5 concluded that EF "needed further investigation and a recommendation was to be made to refer him to the psychiatrist".[268] There was no opportunity for this recommendation to be acted on before EF assaulted AD on 26 June 2014. Because EF's psychotic illness did not seem to Nurse 5 or to other staff to be present in a fully developed form while he was on the Brunel Unit, there appeared to be no reason to seek an emergency psychiatric assessment. Without seeing a psychiatrist, it was not possible to start any medication. EF is recorded as saying on 22 June that he would consider taking medication.[269] In a psychiatric report prepared in November 2014, five months after the assault, it is suggested that EF was "floridly ill on remand at HMP Bristol" prior to the assault.[270]

Nurse 5 who was responsible for the assessment told us that EF "was probably a bit of a ticking time-bomb waiting to happen".[271] EF told us that he did not trust the staff he met on the Brunel Unit, whether they were officers or nurses and did not tell them about his frightening experiences and beliefs.[272] Health Care 2, the Acting Head of Healthcare at the time of the incident, told us that "as Health we'd certainly not seen any indication that he felt hostile or was being hostile despite numerous opportunities in group and on exercise in the preceding five days that he had thoughts of that nature".[273] Health Care 2 could not "see how, how else we could have assessed and known that that was going to happen", (i.e. the assault).[274]

[268] RIO Formulation/Summary page 2 Annex 7
[269] Patient Record EF 22 June 2014 Annex 7
[270] Report by Doctor 1 26 November 2014 para 17.1.4 Annex 7
[271] Interview with Nurse 5 page 21 Annex 3
[272] Note of interview with EF Annex 3
[273] Interview with Health Care 2 page 36 Annex 3
[274] Ibid

The Clinical Review for this investigation, however, finds that the mental health assessment of EF whilst he was in the Brunel Unit was inadequate. The assessment was based on one practitioner's clinical assessment undertaken by interviewing EF only. There was no consideration of collateral information or attempt to seek this from other sources, for example requesting information from GP records or contacting and speaking to relatives of EF who could have provided detailed information regarding his recent behaviour. There was no evidence of consideration of information from criminal justice agencies such as the police MG5 form which would have been relevant to risk assessment.[275]

Moreover, due to the gravity of the alleged offence and the identification of potential psychosis, the clinical reviewer "would have expected that {EF} would have been rapidly identified for transfer to a secure psychiatric hospital under section 48/49 of the Mental Health Act 2007 for assessment and treatment.[276] No consideration seems to have been given to such a transfer.

Finding 29

There were no indications in the mental health assessment that EF posed a threat to other prisoners although the assessment was unable to identify EF's underlying mental health condition and was inadequate. AWP may wish to conduct their own investigation into this.

[275] Clinical Review page 20 Annex 2
[276] Clinical Review page 20 Annex 2

Finding 30

Despite the seriousness of EF's alleged offence and his potential psychosis, no consideration seems to have been given to transferring him to a secure hospital.

Finding 31

The mental health assessment of EF during his six days on Brunel did not make the most of intelligence from his family and more information should have been elicited from them.

Finding 32

A more explicit focus on assessing whether EF might harm others as well as himself might have brought risks to light.

Recommendation O

When prisoners give consent, interviewing family members should usually be an essential component of mental health assessments.

Recommendation P

Information from criminal justice agencies should be considered as part of mental health assessments.

2. EF's Behaviour on Brunel

As far as EF's behaviour on the Brunel Unit is concerned, there were no direct indications that he might commit an attack on any other prisoner or staff member. Nurse 5 told us that EF he was not even threatening. "He didn't make threats towards anybody. In fact – I wouldn't say a model prisoner – he was actually very polite, very cooperative; he gave us no cause for concerns. From a management point of view, obviously there was concerns because of what he'd done. But we've actually had people in there for milder offences who were … caused us more concern because of the level of aggression they were showing towards other people – and officers and staff".[277]

Prison Officer 4, who worked on Brunel over the weekend after EF arrived on Friday 20 June 2014, told us that "the way he presented for the Friday, Saturday and Sunday, …I don't think anybody could have predicted that was gonna happen if he, and if he was that violent before that time, then he, he would have gone into the Segregation, or, and or, you wouldn't, you wouldn't have exercised him with anybody else".[278] Nurse 2, the senior nurse on Brunel, said "he was getting on, he was engaging with the regime, he was appropriate when he was out, he was appropriate with other people. We <u>didn't</u> feel at that point that he was floridly psychiatrically unwell".[279]

<u>EF and AD</u>

Nurse 2, the senior nurse on the Unit, told us that "it's really the norm that people cause annoyance to each other on Brunel, rather than the exception" but we have

[277] Interview with Nurse 5 page 21 Annex 3
[278] Interview with Prison Officer 4 page 19 Annex 3
[279] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page Annex 3

found little evidence of hostility between EF and AD prior to the assault.[280] The Deputy Governor, Governor 7, told us that his understanding was that EF and AD were "quite pally with each other" on the unit.[281] NOMIS records that AD mixed well with other prisoners in the Brunel Unit during this period.

By contrast, EF told us that he didn't talk much to other prisoners or staff on the Brunel unit, as he felt he could not trust anyone. He remembered AD introduced himself and that he seemed nice and was friendly. Prison Officer 1 wrote that both men "had exercised together on several occasions and there were not any reports of any conflict between the pair".[282] This was confirmed by Nurse 2 who said EF had "spent time on the exercise yard with various other prisoners, including the victim – and no concerns had been noted".[283]

Finding 33

There was no overt hostility between EF and AD prior to the assault on 26 June 2014.

Possible Risk Factors

If there was no direct hostility between the pair prior to the assault, were there any other risk factors or triggers that might have been identified? There are three possibilities arising from the evidence we have considered.

[280] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 4 Annex 3
[281] Interview with Governor 7 page 12 Annex 3
[282] Written answers from Prison Officer 1 Question 18 Annex 3
[283] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 11 Annex 3

Noise on the Unit

The first relates to noise on the unit. The Deputy Governor said that information came to the attention of senior management after the assault about both EF and AD "making lots of noise and which could increase risk because if somebodies been kept awake all night and there's a bloke next door in a cell is making all these noises then that's gonna increase risk slightly".[284] NOMIS records AD waking early on the day of the assault, "laughing hysterically and making wailing noises" from 4.am to 7a.m.[285] EF told us that he had heard AD chanting in the morning but this had not particularly annoyed him. His cell was some distance away. However he also said that he heard people talking in Somalian between cells on the unit. He could not understand what they were saying and this made him uneasy. Although he turned up his TV to drown these out, they seemed to talk louder.[286]

Unwanted Sexual Attention

The second possibility is that some kind of sexual advance was made towards EF. Governor 4 told us that after the assault, a letter from EF was intercepted in which he alleged that somebody on the Unit had offered him sex.[287] Given that AD could be disinhibited about sex, Governor 4 had wondered whether the assault was homophobic rather than racist. Governor 3 told the internal investigation and our investigation that in an intercepted letter – presumably the same one mentioned by Governor 4 – EF claimed to have been raped in his cell by a homosexual.[288] Governor 3 was clear that there was no truth in this and that the information would have been passed to the Mental Health Team. There is no reference to this in the

[284] Interview with Governor 7 page 12 Annex 3
[285] NOMIS Transfer Report AD 26 June 2014 Annex 6
[286] Notes of Interview with EF Annex 3
[287] Interview with Governor 4 Annex 3
[288] Internal Investigation Interview with Governor 3 Annex 5

medical notes we have seen and we have been unable to obtain the letter. EF made no mention of this when we interviewed him.

Staff awareness of EF's Intentions

Third is the question of whether staff might have been aware of preparations for the assault on EF's part. We have found no evidence that any staff member knew that EF was planning an assault. Indeed, all the staff that we spoke to were shocked by the assault and thought it totally unexpected.

On Tuesday 24 June, two days before the assault, NOMIS records EF jogging in his cell and telling a staff member he "needs to work out".[289] From what EF told us, this might well have been in preparation for the assault. This could not have been known to staff unless EF were to have given any hint, of which there is no evidence. EF appears to have been very guarded in his interactions with both prison and healthcare staff.

Finding 34

EF seems to have given no indication in the days leading up to the assault that he was likely to attack other prisoners in general or AD in particular.

[289] NOMIS Transfer Record EF 24 June 2014 Annex 10

Information-sharing on the Brunel Unit

The period on Brunel was an opportunity to gather more information about EF and to conduct ongoing, dynamic risk-assessment. The Deputy Governor, Governor 7, told us that "there would have been an ongoing dynamic risk assessment all the time".[290]

The day 2 CSRA assessment on EF was completed on Monday 23 June and provided a further opportunity to probe the comments he made about sharing a cell only with own ethnicity and not a homosexual. This opportunity was not taken by the staff who completed the assessment.

Each day there was a morning briefing meeting involving Brunel staff. Prison officers and healthcare staff on duty attended. According to Custodial Manager 1, the Brunel Unit's Custodial Manager, who would sometimes attend, "they would go through every prisoner we have located within the Segregation Unit and the Brunel Unit, they would run down them, they would give us a little bit of history, a little bit of behaviour over the last few days, and the plan for the day".[291]

In addition, there was a weekly review meeting on Wednesday afternoons involving a wider group of staff. Governor 4 told us that this was an opportunity for sharing information about the prisoners on the unit.[292] Prison Officer 4, who worked on Brunel, told us that in the reviews, "there would be a discipline officer, then there would have been the mental health nurse of the unit and then the prisoner was always invited to attend, and then the prisoner's mental health nurse, which could often be someone from the upstairs team, and then we'd sit down, and we'd discuss how they'd been the week, how they progressed, or regressed and the future plan for

[290] Interview with Governor 7 page 12 Annex 3
[291] Interview with Custodial Manager 1 page 1 Annex 3
[292] Interview with Governor 4 Annex 3

the following week, whether they had any psychiatrist interviews. Medication wasn't really discussed because obviously, that was medical in confidence".[293]

There are no written records of the daily meetings and although we requested it, we have not obtained a note of the weekly review meeting held on 25 June 2014. It is not clear whether it was held and whether EF was discussed. Nor is there any evidence of healthcare staff making entries on the NOMIS system.

The Clinical Review finds that "risk management of persons with potential psychotic symptoms that may result in unpredictable behaviour in the context of an extremely serious offence regarding harm to others such as homicide should never be ignored by any staff, health or prison based. Consideration must be given to the protection of others and the prevention of further significant harm by individuals as this affects their well-being as well as others".[294] It proposes a risk assessment and management process for the Brunel Unit involving both healthcare and operational prison staff.

Finding 35

It is not clear if EF was discussed at the weekly Brunel Review meeting on Wednesday 25 June 2014 or if such a meeting was held.

The action plan produced following the internal Prison Service investigation into the assault includes measures to improve the risk assessment of prisoners when they arrive on Brunel and a more formalised assessment of the risks they pose during their time on the unit. These include:

[293] Interview with Prison Officer 4 page 14 Annex 3
[294] Clinical Review page 19 Annex 2

- the compilation of relevant documentation about a prisoner within 24 hours of admission;
- minuted daily briefings including the risk management plan for each prisoner;
- care plans which are created on the SystmOne medical record system but printed off and made available to all staff working on the Unit;
- weekly review meetings; and weekly multi-disciplinary team meetings at which each prisoner's progress can be discussed.[295]

We welcome the formalisation of the assessment and review processes for prisoners on the Brunel Unit as set out in the action plan and in particular the way risk and care management plans should now be regularly reviewed jointly by health and operational prison staff**.**

[295] Action Plan Annex 4

Chapter Fifteen Were decisions about the management of the Brunel Unit on 26 June 2014 made appropriately?

1. Should exercise have been allowed in the Brunel Unit on 26 June?

The Brunel Unit was managed jointly with the adjoining Segregation Unit. The two units have a prison staff complement of five during the day, two in Brunel and three in the Segregation Unit. Custodial Manager 1, who managed the units, told us, "generally in the morning there were three in the Segregation Unit, two in Brunel. However, that was flexible and could go either way depending where the risk was, depending whether they had multiple person unlocks, et cetera".[296] In addition, there were generally two healthcare staff on duty in the Brunel Unit.

On 26 June, there was only one prison officer on Brunel, Prison Officer 1. Nurse 2 told us that the other officer who was due to work there was at a Coroners hearing [297] and this is confirmed in the daily staffing schedule.[298] The schedule shows just three staff allocated to the Segregation Unit and Brunel on Thursday 26 June. There were four staff on Monday, Tuesday and Wednesday of that week and five on the Friday.[299]

Having one member of staff was not uncommon according to several witnesses.[300] Prison Officer 1 himself wrote that "due to staffing levels it was becoming more common for one officer to be deployed somewhere else and leave one Officer to

[296] Interview with Custodial Manager 1 page 1 Annex 3
[297] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 14 Annex 3
[298] Daily Schedule V 26/06/2014 Annex 12
[299] Daily schedules 23/06/2014, 24/06/2014, 25/06/2014 and 27/06/2014 Annex 12
[300] Interviews with Prison Officer 4, Avon and Wiltshire Partnership 1, Custodial Manager 1 Annex 3

supervise the Brunel".[301] The impact of this was that "only having one Officer slows the regime down as prisoners only come out on individual basis, other than exercise, when a risk assessment is done on who comes out".[302]

We have looked at the staffing schedule for prison staff for the period 25 May to 21 June 2014 – the four weeks prior to the week of the incident. These show that that five prison staff were allocated to the Brunel and Segregation Units on only four mornings. There were four staff on 12 mornings, three staff on 11 mornings and just one member of staff on 3 June 2014.[303]

Finding 36

- **i) The allocation of three staff to the Brunel and Segregation Units on 26 June 2014 was unacceptable.**
- **ii) It is unacceptable too that the full staffing complement was on average available only one day a week in the previous month with three rather than five staff on almost a third of mornings.**

Recommendation Q

Staffing levels for the Segregation and Brunel Units should be reviewed and every effort made to ensure that the correct number of staff is allocated and certainly no lower than four.

On 26 June it was decided that the groups could not take place but Prison Officer 1 said that the Orderly Officer instructed him to run the regime how it would normally

[301] Written answers from Prison Officer 1 Question 2 Annex 3
[302] Written answers from Prison Officer 1 Question 6 Annex 3
[303] Daily Schedule V 25/05/2014 to 21/06/2014 Annex 12

be run, "risk assessing who I get out".[304] This is in line with a document produced by a Health and Safety adviser called "Safe System of Work General Discipline duties in the Brunel Unit".[305] This specifies that one officer can carry out minimum tasks such as association/exercise and showering "as long as numbers are controlled".

There were conflicting views from witnesses on what is meant by the phrase "as long as numbers are controlled". Prison Officer 1 interpreted this as meaning that "the Officer risk assess how many they get out and who they feel comfortable with being out with other prisoners. But there were no set numbers".[306] Governor 5, the Head of Security at the time, thought it reasonable to expect a limited amount of activities, including exercise, to run with one member of staff. The Governing Governor said to us that five was a reasonable number of prisoners to be allowed to exercise with one member of staff on duty. Admin 2, an administrative staff member whose office overlooked the yard, told us that "there's never more than, I don't know, three, four, maybe five but very rarely. It's only normally a few out there".[307]

Governor 2, who conducted the internal investigation, told us that "in a high-risk unit like the Brunel Unit, you shouldn't be running it with a single member of staff, and I think the Prison Officers – and I, I make this point in my report – the Prison Officers were put in an invidious position. So, the answer to your question is: we shouldn't have been there in the first place, because it's very clear, the benchmark for Bristol is very clear: two members of staff as a minimum. They are a high-risk population and there should've been two members of staff. Now, there weren't, so should we have unlocked all them men and put them all in the exercise yard? Probably not".[308]

[304] Written answers from Prison Officer 1 Question 1 Annex 3
[305] This seems to have been in force at the time of the incident although it has a review date of 4 December 2012. Annex 13
[306] Written answers from Prison Officer 1 Question 11 Annex 3
[307] Interview with Admin 2 page 5 Annex 3
[308] Interview with Governor 2 page 16 Annex 3

We consider this to be a too simplistic conclusion. For one thing, exercise is an entitlement for prisoners. For another, as Nurse 2 told us, "It's horrible for people being locked up twenty-four hours. If we only let people out one at a time onto the yard, they get a lot less time out of cell, and they get less sort of opportunity for social interaction and just normal dynamics, which we want to try and offer as much as possible".[309]

Prison Officer 1 told us that he did consider the possible risks of allowing the prisoners to exercise together. He told us that "that week, they'd all been out because it was summer and so a lot of them had been out together, building up to that incident – in the week. So there wasn't any issues. Nobody had ideas; nobody had fallen out. No other members of staff had raised any concerns or – in the Obs Book – saying he shouldn't exercise with him or they'd fallen out. So, I didn't have any concerns" [310] As for EF, Prison Officer 1 told us that "he'd been out on the yard with the rest of the Unit several times and hadn't posed any issues or any concerns to any members of staff that had seen him out".[311]

Finding 37

Exercise is an entitlement for prisoners and we do not see it was wrong to allow it on 26 June simply because of the shortage of staff – but only provided that the decision about how many prisoners to allow out was risk-assessed, and the exercise adequately supervised. The risk assessment of EF was largely based on the fact that he had hitherto caused no problems on the exercise yard.

[309] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 14 Annex 3
[310] Interview with Prison Officer 1 Annex 3
[311] Interview with Prison Officer 1 Annex 3

b) Was the exercise adequately supervised?

The Local Security Instruction

There is a Local Security Instruction at Bristol called "Exercise Duties" whose purpose is "to make staff aware of their responsibilities whilst on exercise".[312] The document says that, inter alia, "a minimum of one Discipline officer must be present while prisoners are on exercise"; and that "staff must remain vigilant throughout the exercise period". The internal investigation concluded that a lack of compliance with this Local Security Instruction on 26 June contributed to the outcome of the incident.

Staff whom we interviewed were not clear whether the Security Instruction applies to the Brunel Unit or not. The Governing Governor, Governor 1, told us that the Local Security Instruction "is absolutely referring to the large exercise yards in the main prison. So, this {the Local Security Instruction} would apply to the main prison".[313] In contrast, Governor 4, who was Head of Operations at the time, told us that the Local Security Instruction was a generic document which applies to every exercise yard.[314] Custodial Manager 1, the Custodial Manager in charge of the Brunel and Segregation Units, took the same view.[315]

Finding 38

There was a lack of clarity among staff about whether the Local Security Instruction about Exercise Yards applied to the Brunel Exercise Yard or not. In

[312] Exercise Duties Local Instruction 2.60 1 August 2013 Annex 13
[313] Interview with Governor 1 page 10 Annex 3
[314] Interview with Governor 4 page 20 Annex 3
[315] Interview with Custodial Manager 1 Annex 3

our view a local security instruction is just that – it applies to the prison unless otherwise specified.

Should the Officer have been on the yard during exercise?

Assuming that the Security Instruction did apply to the Brunel Unit, was the supervision provided that morning compliant with it? Prison Officer 1 supervised the prisoners from the office which is a few metres away from the yard. He told us that he was not supervising any other activities, however still had to answer any cell call bells that may have been pressed. Prison Officer 1 was not visually in contact with the exercise yard at all times and escorted prisoners back to their cells as and when they asked to come off of the yard, leaving the yard unattended. Prison Officer 1 told us that "it was common practice that nobody actually stood there and visually watched the prisoners on the yard".[316]

In terms of the contents of the instruction, on the face of it, it seems clear that being present while prisoners are on exercise means physically being on the yard rather than as, Prison Officer 1 did, base himself in the office. One problem with supervising the prisoners from outside the yard is that the shape of the yard renders part of it out of sight. In the absence of closed circuit television (CCTV), there is in effect a blind spot. This where the assault took place.

The Governing Governor (who did not think the Security Instruction applied to Brunel) told us however that in the Segregation Unit and in Brunel, they would put the prisoners – "maybe, you know, small numbers – or if they were confident that two people were OK together, they would put them onto the exercise yard; like they

[316] Interview with Prison Officer 1 Annex 3

would put them into, into the shower and … check them periodically, and then when time was for them to come back, then they would bring them back".[317]

Governor 5 (who *did* think the Security Instruction applied to Brunel) said that he "wouldn't expect the member of staff to be physically on the exercise yard, locked on the exercise yard."[318]

The need for continuous physical presence on the yard might have been reduced if there had been closed circuit television (CCTV) monitoring the area. AD's family find it hard to understand why there were no cameras. The then Governing Governor, Governor 1, told us that CCTV is limited to high-risk areas, including the main exercise yard but it is not available in all the wings. A business case had been put (and rejected) for extending the coverage of CCTV within the prison, although not for the Brunel Unit. Governor 1 told us that the Brunel Unit, in its period as Brunel, was a very calm unit. "It wasn't a unit where we had, you know, high levels of violence or assault; it was generally a calm, fairly relaxed unit – even though we had some people with fairly challenging behaviour".[319] Governor 1's view is supported by the data we were provided about incidents that took place in the Brunel Unit between January and June 2014. There were three assaults, a restraint following a failure to comply with staff instructions and one incident of self-harm.[320]

According to the action plan produced following the internal Prison Service investigation into the assault, a funding bid has been submitted for CCTV for all residential wing landings, stairways and communal areas at HMP Bristol. The action plan states that "we will request the exercise yard is considered in any future site survey for CCTV for the Brunel Unit but this will be dependent on capital funding.[321]

[317] Interview with Governor 1 page 10 Annex 3
[318] Interview with Governor 5 page 12 Annex 3
[319] Interview with Governor 1 page 11 Annex 3
[320] Incidents on Brunel Annex 17
[321] Action Plan Annex 4

In our view, there is a strong case for introducing CCTV onto the Brunel exercise yard, although even if it were continuously monitored in real time, it may not deter all acts of violence. It would, however, provide visual evidence of incidents that take place.

Finding 39

Given the absence of closed circuit television and the shape of the Brunel Unit exercise yard, physical presence on the yard is the only way of ensuring constant surveillance. In order to comply fully with the strict terms of the Local Security Instruction, the officer on duty should have based himself on the yard with the prisoners during exercise. This would have meant he was unable to undertake other duties during this period.

Recommendation R

Closed circuit television should be introduced to cover the Brunel Unit exercise yard although it should not routinely be used as an alternative to the physical presence of an officer on the yard.

Should individual prisoners have been escorted back to their cells?

The level of supervision was further reduced during the two periods that Prison Officer 1 escorted two prisoners back to their cells. Prison Officer 1 estimated that he was away from the yard for about two minutes on each occasion. It was during the second of these occasions, when the yard was wholly unattended that EF assaulted AD.

Prison Officer 1 wrote to us that he did not have any reservations about leaving prisoners unattended "as this was common practice and the prisoners had all been exercising together the week prior to the incident".[322] He told us that even if there had been another officer on duty "just because they were coming off, wouldn't mean that somebody stood there and watched the rest of them".[323] If there were any concerns about the prisoners then that might happen. Prison Officer 1 said, "When you have prisoners out there, you have concerns about the ones that have tried to do things in the past. Then, if you were continually sat down, watching them while they were out there, then yeah, you would get someone before you left. But, with the prisoners that were out there on that day, I had no concerns or nothing had been raised to say that anything would happen".[324]

The Governing Governor, Governor 1, did not think that what Prison Officer 1 did was inappropriate. She told us that "we don't watch people 24 hours a day, all the time on Brunel. They can leave their rooms and, and go off to the shower and ... You know, there aren't staff observing them all the time. So, the fact that the officer left EF and AD on the exercise yard, to take people back to their rooms ... You know, I think it's really sad and unfortunate what happened, but I don't think that, that would be out of order. I think that would be an acceptable thing to do".[325]

In contrast, Governor 3, the Head of Safer Custody who had responsibility for the Brunel Unit but was not in the prison on the day of the assault, told us that in his view, the prisoners should not have been left on the exercise yard unsupervised. He told us that while he did not know the circumstances on the day in question, "there is ways you can go around it: you could make contact; you could get one of the mental health nurses to phone up, ask somebody to come through – there is circumstances

[322] Written Answers from Prison Officer 1 Question 14 Annex C
[323] Interview with Prison Officer 1 Annex 3
[324] Interview with Prison Officer 1 Annex 3
[325] Interview with Governor 1 page 10 Annex C

that you could do to get two staff there".[326] Governor 5 agreed that, with hindsight "you can always look back and think they could have done things differently", for example asking the healthcare staff to keep an eye on the yard but the decision should have been based on a dynamic risk assessment. "Historically, then, if you like the number of incidents on the Brunel exercise yard have been very, very minimal. Everybody is compliant. Everybody's chatting nicely. There's no there's no real argument; there's nobody shouting; there's no issues; there's no intelligence to support there's going to be a risk or there's going to be a fight. So that decision was made. In hindsight, yes, he could have said, 'With taking these two prisoners in, there'll be three prisoners in. Can you just keep an eye here?'" [327]

Prison Officer 4, who worked on the Brunel and Segregation Units, agreed that if she was supervising exercise and a prisoner asked to go back to his cell "if it was a prisoner who was calm and I didn't have a problem with, I would either ask the nurse or the healthcare assistant, would they mind or if it was somebody I wasn't quite sure about, then just get the nurse or the healthcare assistant could phone through to the Segregation, get another officer over and we'd take him back to his cell or that officer could take him back to his cell whilst someone was looking on the yard".[328]

Nursing staff did not think that they should be supervising prisoners in this way – either keeping an eye on the yard or returning prisoners to their cells. Nurse 2 said she "wouldn't see it as a nursing role to supervise prisoners on the yard"[329] and that being asked even to keep an eye on prisoners "wasn't the norm".[330] Nurse 5, who was one of the nursing staff in the Brunel Unit on 26 June, also told us that helping on the exercise yard was outside the remit of AWP. "Oh, gosh, that was a definite no, no. We don't get involved in anything on the prison side at all. We're not allowed

[326] Interview with Governor 3 page 5 Annex C
[327] Interview with Governor 5 page 15 Annex C
[328] Interview with Prison Officer 4 page 12 Annex C
[329] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 13 Annex C
[330] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 14 Annex C

to … We can undo doors, but only strictly … under strict circumstances if we need to inform an officer that we need to open a door, with good reason – and have an officer with us as well. 'Cause we did have keys to open doors, but we wouldn't get involved in anything like that".[331]

Governor 5, by contrast, told us that he would expect nursing staff to manage the overall supervision of prisoners. Governor 1, the Governing Governor said she "wouldn't expect the nursing staff to do that. I mean, nursing staff could do that, but it wouldn't be an expectation of mine. Supervision of exercise yards as very much an operational, prisoner officer role".[332]

Finding 40

There were significant differences of view among prison staff about whether healthcare staff could be expected to help supervise prisoners or assist in returning them to their cells. This difference of view reflects broader uncertainties about the respective roles of prison and healthcare staff on the Brunel Unit.

Alternative courses of action for Prison Officer 1

As a further alternative to leaving the yard totally unsupervised while escorting the prisoners to their cells, Prison Officer 1 might have asked an officer from the Segregation Unit to come through to help. Prison Officer 4 who worked on both the Brunel and Segregation Units (but was not there on 26 June) told us "if we were short, we'd help each other out if … if they needed, prisoners needed to have showers or exercise in the Segregation we'd, we'd just go through and help and then

[331] Interview with Nurse 5 page 3 Annex C
[332] Interview with Governor 1 page 21 Annex 3

the officer would come through and help in the Brunel; it was working as a team, really, to get the day's tasks done".[333] There were only two staff working on the Segregation Unit on 26 June so it might not have been possible for one to come over to the Brunel Unit.

A further option would have been to refuse the requests of the two prisoners to leave the exercise yard before the end of the session, something suggested to us by the Deputy Governor 7. This approach could have possibly risked causing distress to prisoners with mental health problems who might have been able to cope with social contact only for short periods. As Nurse 2 put it, "is it sort of more risky to leave them out there if they're maybe getting agitated?" [334]

Conclusion

The officer on duty in the Brunel Unit on 26 June was placed in a very difficult situation. If he had strictly followed the Local Security Instruction, the Unit would have been in patrol state with no or very limited exercise. This could have had an adverse impact on the wellbeing of prisoners. Prison Officer 1 wrote to us that "he believed that if we had the appropriate staffing levels the incident would have been avoided".[335]

According to the action plan produced in response to the internal Prison Service investigation into the incident, a risk and control assessment for the use of the Brunel Unit exercise yard was published in October 2015, 15 months after the assault on AD. The action plan states that processes for dealing with risks now include requirements that:

[333] Interview with Prison Officer 4 page 10 Annex 3
[334] Interview with Nurse 2 and Avon and Wiltshire Partnership 1 page 14 Annex 3
[335] Written answers from Prison Officer 1 Question 21 Annex 3

- no prisoners will access the exercise yard without an officer present;
- that prisoners will be escorted and supervised by an officer(s) at all times whilst the exercise yard is in use; and
- no more than five prisoners will be on the exercise yard with one Officer.

We welcome this clarification, although it is important to recognise prisoners' rights to exercise in the open air. In our view, if staff numbers are limited on a particular day, it may be appropriate for individual prisoners to have access to the exercise yard one at a time without the continual presence of an officer – something that would seem to be prohibited by the new requirements.

Finding 41

The officer on the Brunel Unit was placed in a very difficult position on 26 June 2014 and did what he thought was best for the prisoners in his care. While his actions were in line with custom and practice in the Unit, this was contrary to policy designed to ensure the safety of prisoners.

Finding 42

It would have been better for prisoners to have remained on the yard under supervision or for an officer from the Segregation Unit to attend if prisoners were to be returned to their cells before the end of exercise.

Recommendation S

There is a need for a clarification of the respective roles of healthcare and operational staff on the Brunel Unit so that all staff understand whether

healthcare staff can be asked to play a part in the supervision of prisoners and/or the locking and unlocking of prisoners in their cells.

Chapter Sixteen How was the response to the incident?

We have considered the adequacy of the response to the assault by staff on 26 June 2014. One question concerns the speed of the response to the assault and whether anything could have been done to intervene to prevent it or mitigate its seriousness. The second question concerns the quality of medical response to AD, initially by staff working in the prison and subsequently by the paramedics who arrived with an ambulance.

The incident log prepared as the incident unfolded identifies some key events but is insufficiently detailed, with no names of staff present other than those who escorted AD to hospital.[336] An intelligence report prepared after the incident notes that "Supervisor 1 was taking a record of events and those present" but the log provided to us says the log keeper is Prison Officer 5.[337] A separate log of the day's events in the prison says the Incident log was opened at 10.05, 18 minutes after the first ambulance arrived.[338] It should have been opened sooner.

We have had to rely on evidence from witnesses to piece together the order of events. In the case of incidents like this, accounts of the exact details of what happened and in what order will often differ in certain respects.

Recommendation T

Incident logs prepared in all serious cases of self-harm or violence should be timely and identify which members of operational prison staff and healthcare staff are involved in responding to the incident and the actions they take.

[336] Incident Log Annex 8
[337] Ibid
[338] Prison log of events 26 June 2014 Annex 8

Speed of Response

Imam 1, the Muslim Chaplain/Imam, told us that a prisoner who had been in the in the neighbouring Segregation Unit at the time of the assault had said that "there was a considerable time then when nobody was really responding".[339] The nature of AD's injuries suggested to Imam 1 "that the instigator had a lot of time in which to do that. That couldn't have been done with one blow. You know, 'cause AD, he was a tall chap. Tall person. Big guy. To have taken him into the corner, and then to have caused what he did, must have taken some time."[340]

Admin 2, one of the two healthcare administrative staff witnesses who observed the assault from an upstairs window, told us that the attack was a prolonged one and "just continued. I guess it seemed like longer than it was".[341]

According to Admin 2, however, the response "was all quick because once there's a code word or a Code Blue our staff just runs. If you say a minute, two minutes, it might be too long, you know, but they were all there".[342] The records show that a general alarm was activated at 09.40 (by Nurse 5) and a Code Red at 9.41 (by Prison Officer 1). The Code Red required all healthcare staff to attend and an ambulance was called. Because healthcare staff were based in the same building as the Brunel Unit, the response to the Code Red was quick.

Could staff have done anything differently to bring the assault to a halt? The two administrative staff upstairs told us that they had considered shouting out when they

[339] Interview with Imam 1 page 5 Annex 3
[340] Interview with Imam 1 page 5 Annex 3
[341] Interview Admin 2 page 1 Annex 3
[342] Ibid. There is no difference between a Code Red and a Code Blue in terms of the responses that prisons are expected to make. See Glossary

saw the assault. Admin 2 said, "it certainly occurred to us and we said, "Should we have shouted?" But, again, I suppose we just thought, "Well, there must be an officer right at that gate, surely." [343] Admin 2 was reluctant to get directly involved and instead of shouting went to ensure that staff attended. There should be no expectation for non-operational administrative staff to get directly involved in incidents such as this but it is not clear whether the induction training that they receive provides guidance on how to respond – by raising the alarm as quickly as possible.

Finding 43

The administrative staff who witnessed the assault could have shouted out of the window which looked out on the yard but the effect this would have had on the assault is of course uncertain. They raised the alarm quickly which was the appropriate response.

Recommendation U

The training of non-operational administrative staff working at Bristol should be reviewed to ensure that they know how to respond to incidents such as the assault.

It might also have been possible for the two healthcare workers, Nurse 5 and Health Care Assistant Health Care Assistant 1, to have entered the yard and attempted to intervene before Prison Officer 1 returned. None of the witnesses whom we spoke to believed that they should have done so. They had no idea what exactly was going on and were not trained to intervene. Governor 5 told us that he wouldn't expect a member of the Mental Health Team to go and break up two prisoners who were

[343] Interview Admin 2 page 9 Annex 3

fighting. “That’s an absolute, distinct, definitive difference between the two roles”.[344]

Finding 44

It would not have been appropriate for healthcare staff to have intervened on the yard before prison staff arrived on the scene.

Once Prison Officer 1 had opened the gate to the yard, he was right to escort EF and Prisoner H from it and to arrange for medical staff to attend AD. There were adequate numbers of qualified staff on the scene quickly thereafter and we have no reason to be concerned about the quality of the interventions that were administered to AD. A prison GP who worked upstairs from the Unit was able to attend to AD along with nurses from Bristol Community Health. The ambulance arrived within 7 minutes and paramedics were able to take over.

Finding 45

There is no evidence that there was any unnecessary delay in responding to the incident once the alarm had been raised. The response by prison staff and healthcare staff was good and the treatment received by AD was timely and appropriate.

[344] Interview with Governor 5 page 16 Annex 3

Chapter Seventeen Race, Religion and Equality within the Prison

As part of my terms of reference for this investigation I have been asked to consider evidence that the assault by EF on AD was racially motivated, to examine any related issues concerning the management of race and equalities issues at HMP Bristol and to make recommendations as to how this might be improved in order to ensure the safety of prisoners.

This chapter looks at four main issues.

1. Was the assault racially or religiously motivated? That is, whether AD was targeted by EF on grounds of AD's race – as a black African from Somalia – or on grounds of religion. AD is a Muslim. We conclude that the assault was motivated by a hostility towards Muslims.

2. Could the hostility towards Muslims on the part of EF have been identified in advance of the assault on AD?

3. Were there were any shortcomings in the care of AD that could be attributed to his race or religion?

4. How effective was the management of race and equalities issues at HMP Bristol, particularly in respect of race and religion?

1. Was the assault racially or religiously motivated?

An offence is racially or religiously aggravated if, at the time it is committed, the offender is insulting about the victim's membership (or presumed membership) of a

racial or religious group, or the offence is motivated by hostility towards members of a particular racial or religious group.

The police treated the assault as a hate crime.[345] When EF was interviewed by police after the assault, he told them: "Although he {AD} seemed a gentle man, I felt he posed a significant threat to me, this nation, the people of this nation and other nations." [346] EF told police he thought AD was a Muslim. EF stated that "he had read enough of the Koran to know that it wouldn't work in the UK; if the Muslims had a crusade here there would be a lot of bloodshed. The defendant stated that he was a practising Christian".[347]

AD's family thought that there was a race and faith element to the attack. They visited the community organisation Stand Against Racism & Inequality (SARI) on 3 July 2014 and according to the director of SARI "were absolutely… devastated and they felt there was a race element, well it's race and faith and of course that's not mentioned, we don't hear the term islamophobia in any of this but that's the, that's really what we're talking about".[348] AD's brother, Mr GD, wrote in a witness statement in September 2014 that he welcomed that the attack was being investigated as a hate crime. "Our children", he wrote, "are frightened that life in the UK is unsafe because of what happened to their uncle".[349]

<u>What EF told us</u>

EF told us that after he met AD in the Brunel Unit, he was ruminating in his cell on

[345] http://www.bristolpost.co.uk/man-charged-attempted-murder-attacking-inmate/story-22673626-detail/story.html
[346] Police Report Defendant Interview Annex 11
[347] Ibid
[348] Interview with SARI 1 page 4 Annex 3
[349] Witness statement GD para 9 Annex 17

religion as he believed Christianity and the Bible held special importance for him.[350] EF suddenly realised that AD was the prophet Mohammed from the Koran "because of his name".[351] AD had said "I'm Mohammed" when he introduced himself.

In prison, EF heard people talking in Somalian between cells on the unit. He could not understand what they were saying and this made him uneasy. Although he turned up his TV to drown these out, they seemed to talk louder. EF believed these people might have been be watching him.[352]

Three days before the incident when EF was out of his cell for exercise, he remembered that AD had brushed past him in the corridor touching his shoulder. He later brooded about this and believed it was a sign that AD was an enemy. EF said that he had previously read some of the Koran and had considered becoming a Muslim himself. He had not previously had any problem with Muslims. EF believed he had to attack AD because he personally represented Christianity against the Muslim religion. It was like he was on a religious mission and that this was his destiny. He had been reading a few chapters in the Bible but "didn't think it came from there".[353] EF had heard AD chanting in the morning but this had not particularly annoyed him. His cell was some distance away. EF said he was sorry about what happened and hoped AD recovers. EF told us that he believes he was unwell at the time and would not have assaulted AD had he not been unwell.

[350] Note of interview with EF Annex 3
[351] Note of interview with EF Annex 3
[352] Note of interview with EF Annex 3
[353] Note of interview with EF Annex 3

Finding 46

While EF was undoubtedly suffering from mental illness, the assault was motivated by hostility towards Muslims, although the extent of the hostility which was due to the mental illness is difficult to determine.

What Prison staff thought about the assault

There is evidence that staff at the prison thought the assault was racially-motivated. On the day after the incident a racism alert was entered on to EF's NOMIS record by Governor 3, (along with an alert of risk to lesbian, gay and bisexual people). The NOMIS record states that "During interview openly admitted the serious assault…was racially motivated".[354] Governor 3 told us that he talked to a prisoner in the Segregation Unit who had heard the assault taking place and did not think it was racially motivated. Governor 3 told us that the Deputy Governor "had got information to say …. that it was a racial thing".[355] Governor 4 said there was talk "straight away, that it was a racist incident. But having intercepted a letter, she thought maybe the possibility was not of a racist attack, but maybe of a homophobic attack. The Governing Governor, Governor 1, told the prison's Independent Monitoring Board (IMB) a week after the attack that "the culprit has admitted that it was a pre-meditated and racist attack" although "we had no alerts for racism".[356]

She told us that "Something was said that, that made me believe it was ... you know, there, there was a racist motive there".[357]

[354] NOMIS Transfer Report EF Alerts 27 June 2014 Annex 10
[355] Interview with Governor 3 page 7 Annex 3
[356] Minutes of IMB Meeting 2 July 2014, Annex 14
[357] Interview with Governor 1, page 14 Annex 3

The minutes of the Security Meeting held on 25 July 2014 note that "There was a serious assault believed to be racially motivated on the Brunel Unit exercise yard on 26th June".[358]

The Muslim Chaplain/Imam told us that he heard from officers that EF "was coming back to the prison, very happy with what he'd done; there was no problem. He had been told by God to do it 'cause he was a Muslim. He must eradicate Muslims. And he was told to kill him – purely because he was a Muslim".[359] He did not tell us which officers told him this.

Finding 47

Apart from the Muslim Chaplain/Imam, staff at the prison considered that the assault was racially rather than religiously motivated.

What the internal Prison Service Investigation found

In the light of our finding, it is surprising that the internal Prison Service investigation stated that: "There is no evidence to substantiate that EF chose AD for the assault due to AD's ethnicity".[360] It is of greater concern that Governor 2 who conducted that investigation told us that he was requested to soften his Investigation Report and "lessen the impact on NOMS".[361] As part of this, he "was encouraged rather strongly to put a paragraph in about racial motivation".[362] Governor 2 told us that he "didn't feel able to soften the report to lessen the impact on NOMS, so didn't".[363] But he did

[358] Note of Security Meeting 25 July 2014 Viewed at NOMS (now HMPPS)
[359] Interview with Imam 1 page 6 Annex 3
[360] Internal Investigation D 10.4 Annex 4
[361] Interview with Governor 2 page 5 Annex 3
[362] Ibid
[363] Interview with Governor 2 page 6 Annex 3

insert the statement about the lack of evidence of racial motivation. "I made up the weasely words that are in the report to pacify, or placate the Commissioning Authority – much against my better judgement, actually." [364]

Recommendation V

HM Prison and Probation Service should investigate whether improper pressure was placed on Governor 2, the governor conducting the internal investigation.

2. Could the hostility towards Muslims on the part of EF been identified in advance of the assault on AD?

As discussed in Chapter 13, there was no exploration by staff of EF's comments to the Reception officer that he would only share with own ethnicity and not a homosexual. We find (Finding 24 above) that these comments should have been explored with him, with alerts made active on NOMIS and communicated to staff on the Brunel Unit.

Apart from potentially identifying any underlying hostility on the part of EF to racial or religious groups, such exploration would have been in the spirit of the Prison Service Instruction on Ensuring Equality. PSI 32/2011 requires that "staff witnessing an incident of discrimination, harassment or victimisation on the basis of any of the protected characteristics should take appropriate action to address the issue. This may include challenging inappropriate behaviour."[365] It is not clear that EF's comments in Reception would meet the threshold for intervention. The Deputy

[364] Ibid
[365] PSI 32/2011 Ensuring Equality. F.5 Annex 16

Governor, Governor 7, told us that "the fact that he's said he didn't want to share with somebody of a different ethnicity to himself, I'll be honest, wouldn't necessarily, , I don't think, be deemed as a racist incident".[366] The PSI additionally says, however, that "Good relations between people with a protected characteristic and people without that protected characteristic should be fostered, in particular through tackling prejudice and promoting understanding."[367]

The Director of SARI told us that when AD's family approached them [SARI] about what had happened, the family had been told about a security guard at the prison who had heard "islamophobic and racist remarks" being made prior to the assault by EF.[368] We have been unable to verify this.

The Director of SARI also showed us a letter SARI wrote to the Treasury Solicitor's Department in November 2014 reporting allegations, inter alia, that "prison officers are actively encouraging other inmates to attack the Somali prisoners and punished attempts at self-defence".[369] We have found no evidence of collusion by staff in the assault on AD.

We understand from the action plan produced following the internal Prison Service investigation into the assault that there is now a daily review of each Cell Sharing Risk Assessment (CSRA) to ensure appropriate risk has been evaluated and assessed; and that CSRA has been added to the local training programme at HMP Bristol.[370] While we welcome these developments, we consider a specific focus on challenging racist and homophobic remarks made by prisoners is required.

[366] Interview with Governor 7 page 14 Annex 3
[367] PSI 32/2011 Ensuring Equality, para A.24. Annex 16
[368] Interview with SARI 1 page 4 Annex 3
[369] Interview with SARI 1 page 9 Annex 3 and Letter from SARI 1 to Treasury Solicitors 24 November 2014. Annex 15
[370] Action Plan Annex 4

Finding 48

More could have been done by prison staff to challenge EF's racist attitudes but we have no evidence that staff colluded in any way at all with these, nor with the assault on AD.

Recommendation W

Guidance and training for staff on completion of Cell Sharing Risk Assessments should emphasise that racist and homophobic remarks by prisoners must always be explored and challenged in line with PSI 2015-20: The Cell Charing Risk Assessment.

3. Were there were any shortcomings in the care of AD that could be attributed to his race or religion?

As noted in Chapter 12, very few prison records have been made available to us about AD and it is not therefore possible to assess fully his treatment at HMP Bristol. This makes it difficult to say whether proper consideration was given to the fact that he was a black African Muslim with possibly limited knowledge of English. There are two matters which suggest that the quality of care received by AD in Bristol Prison may have been adversely affected by these factors. The first is when AD was on D wing at the end of February 2014 and stopped attending group sessions about current affairs on the Brunel Unit which he did not enjoy "because he could not read.[371] The second is when AD was returned to the Brunel Unit at the end of May 2014 and was noted as being very vocal, singing, shouting and chanting. It was not possible for staff to understand the content of the singing and shouting "as it was not

[371] Patient Record AD 25 February 2014 Annex 6

in English".[372] A commendable but unsuccessful attempt was made to locate an Imam to speak to AD. These two incidents suggest that more needed to be done to address the needs of foreign national prisoners such as AD.

Recommendation X

Resources should be made available to the Brunel Unit to enable better communication with prisoners whose first language is not English.

4. How effective was the management of race and equalities issues at HMP Bristol, particularly in respect of race and religion?

When HM Inspectorate of Prisons (HMIP) visited HMP Bristol between 29 September and 3 October 2014, three months after the assault, they reported that approximately 23% of prisoners were from a black and minority ethnic background.[373] Information provided to us showed that between January and June 2014 prisoners comprised at least 46 nationalities.[374] HMCIP found that the strategic management of equality and diversity was weak. Identification of, and support for, those with some protected characteristics were poor. Some previous good work with foreign national prisoners had lapsed. However, in the survey of prisoners conducted as part of the inspection, this group reported similarly or more positively than white prisoners across a range of areas, which was better than at the time of the previous inspection. Black and minority ethnic prisoners in the groups were positive about relationships with staff

[372] Patient Record AD 31 May 2014 Annex 6

[373] Report on an announced inspection of HMP Bristol by HM Chief Inspector of Prisons. https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/02/Bristol-web-2014.pdf

[374] HMP Bristol Nationality report January to June 2014

and, although they reported little regarding the promotion of diversity, they did not feel discriminated against.

Work on diversity and equality in the prison was coordinated by an Equality and Diversity Action Team (EDAT). Governor 3 was Head of Equalities as well as being Head of Safer Custody. He had limited staff working on the equality and diversity issues. He told us that "with the staff shortfalls, very rarely did I get any staff on it. I had an admin guy, who was a Band 3, who would check out any new arrivals, meet with them; anybody that's, that's disclosed, say, a disability or issues around that, he would then go out and interview them and, if required, bring in social care et cetera. But it was an administration person rather than a, an Officer".[375] As far as race issues were concerned, there was one officer, but Governor 3 told us that "they were all wing-based, and so when I got her, she would then pick up any of the DIRFs[376] and things like that. So issues came up, she would go and do an investigation. So any racial things, she did that, but it was ... A lot of it was sporadic, it wasn't like every day; so they might get a couple of times a week where you would go out and do investigations on any, any complaints of racism et cetera".[377] The 2014 HMCIP report confirmed that the part-time officer allocated to equality and diversity was often cross-deployed and used on general duties, further limiting the time available to promote equality and diversity and provide support to prisoners. The Independent Monitoring Board went further, claiming that "with 'New Ways of Working' the Equalities Officer no longer has time to carry out any duties in respect of this role".[378]

In their annual report for 2013-14, the Independent Monitoring Board had a number of concerns regarding the prison's support for prisoners from minority groups.[379]

[375] Interview with Governor 3 page 14 Annex 3
[376] Discrimination Incident Reporting Form
[377] Interview with Governor 3 page 14 Annex 3
[378] The Independent Monitoring Board HMP Bristol Annual Report 1 August 2013 – 31 July 2014 http://www.imb.org.uk/wp-content/uploads/2015/01/bristol-2013-14.pdf. Annex 16
[379] Ibid

Although they found "an increase in discrimination incident report forms submitted by prisoners (DIRFs), … these are not brought to the EDAT meetings in order that staff responses can be quality assured. There is merely a record in the minutes of the meeting of how many DIRFs were submitted for that period."[380]

We looked at the minutes of the EDAT meetings held in February, April and July 2014.[381] These are poorly completed, making it hard to know who attended. The minutes for the July meeting do not say how many DIRFs were submitted in the period April to June 2014, nor how many were investigated.

The Experience of Somali Prisoners

Evidence we received suggested that Somali prisoners may have experienced negative treatment in HMP Bristol during 2014. Stand against Racism and Inequality (SARI) contacted the Governing Governor in February 2014 seeking a meeting to discuss "heightening anxiety about the experiences of some Somali young men currently being held on remand at your prison. There are allegations that their safety is being compromised e.g. of assaults and that some prison officers are not dealing with them sensitively or fairly".[382] There is no indication that there were specific concerns about the treatment of AD at this time.

Later in the year, after the assault on AD, SARI wrote to the Treasury Solicitor, in November 2014, in connection with a possible judicial review about an investigation into AD's case. The letter alleged that Somali prisoners held on remand had been targeted, discriminated against and subjected to racial verbal abuse by both prisoners and officers.[383] This was the letter, noted above, which reported

[380] Ibid
[381] Minutes of EDAT Meetings Annex 14
[382] Email SARI 1 to Governor 1 27 February 2014 Annex 15
[383] Letter from SARI 1 to Treasury Solicitors 24 November 2014. Annex 15

allegations that "prison officers are actively encouraging other inmates to attack the Somali prisoners and punished attempts at self-defence".[384] There was no specific allegation that EF had been encouraged to assault AD although there were concerns in the Somali community that the assault formed part of a pattern.

Particular concerns were raised by SARI about the treatment by staff and other prisoners of Somali men detained during 2014 as part of Operation Brook, a police investigation into sexual offences against children. The Muslim Chaplain/Imam, Imam 1, described this as creating "lots of tension here".[385] The Governing Governor, Governor 1, thought the "tension was probably between staff and the young Somalian lads, because they were very challenging in their behaviour."[386] Some of the challenges may have resulted from cultural and other misunderstandings between a primarily white staff group and the minority prisoners and their families.

There were laudable efforts made by the prison to address the concerns of families of Somali detainees. A meeting was held with the families of Somali prisoners in March 2014 and a number of actions were suggested.[387] In a follow-up meeting in September 2014, the Director of SARI, SARI 1, noted that most of the individual actions happened but that there had been no update on suggestions for "improved liaison and cultural competency for prison".[388] The Director of SARI told us that "they did not have anyone from the Somali community, they did not have someone who understood more than just the faith who understood the needs and issues and challenges specifically faced by the Somali community so I'd, we came up with lots of ideas and none of them were taken forward".[389]

[384] Interview with SARI 1, page 9. Annex 3
[385] Interview with Imam 1 page 6. Annex 3
[386] Interview with Governor 1 page 12. Annex 3
[387] Somali Forum and Community Meeting with HMP Bristol 7 March 2014 Annex 15
[388] Minutes of Operation Brook Meeting with HMP Horfield 02-09-14. Annex 15
[389] Interview with SARI 1 page 10 Annex 3

The Muslim Chaplain/Imam, Imam 1, told us that he was asked to devise a Somalian culture awareness training package for staff but that this never got off the ground because of opposition from staff who questioned the need for a specific approach to this particular group.[390] The Governing Governor thought that some training had been done and the minutes of the EDAT meeting on 8 April 2014 note that a multi-faith workshop for staff was to be organised.[391]

The Imam also encouraged Somali prisoners who alleged mistreatment to put their complaints in writing so that they could be investigated. This seldom happened and Imam 1, who is white, felt that he lost the trust of some of the prisoners who thought he was part of the problem. According to Imam 1, SARI also questioned whether a white Imam was the best way of promoting diversity, something which the Imam considered to be racist. Although we asked to see Discrimination Incident Reporting Forms, none were made available to us.

Finding 49

Despite some commendable efforts to engage with the Somali community, insufficient priority was given by HMP Bristol to addressing equality and diversity issues in 2014.

Current Situation

We have not been able to make a comprehensive assessment of the way equality and diversity issues are currently managed within the prison, although some of the evidence we received gave us cause for concern. The Imam, Imam 1, told us that

[390] Interview with Imam 1. Annex 3
[391] Interview with Governor 1. Annex 3. EDAT meeting 8 April Annex 14

"lots of things that I hear that are going on which is bad, but I've got no proof. Contamination of food; and things going on in the kitchen; things going on in the wing; abuse from prisoners; verbal abuse from the officers – to the staff, to prisoners. But it's just hints and, you know, hearsay, you know".[392]

Recommendation Y

HMP Bristol should work with Stand against Racism and Inequality (SARI) and other appropriate partners in the community to draw up an action plan to improve the management of equality and diversity issues within the prison and to organise necessary training.

Recommendation Z

A review should be conducted by the Governor of the effectiveness of the complaints system at HMP Bristol, in particular in respect of complaints by black and minority ethnic prisoners and Muslim prisoners, both about discrimination and other matters. Assistance from Stand against Racism and Inequality (SARI) should be sought in undertaking the review.

[392] Interview with Imam 1. Page 11 Annex 3

PART FOUR OBSERVATIONS ABOUT INQUIRY PROCEDURE

Chapter Eighteen Internal Investigations into what happened

During the course of this Article 2 investigation, we have become concerned about a number of aspects of the conduct of previous efforts to inquire into what happened on the Brunel Unit at Bristol Prison on 26 June 2014 and to apply any necessary learning to reduce the risk of a similar event happening in the future.

Hot Debrief

Immediately after the incident, there seems to have been some kind of hot debrief for the staff involved although there is no written record. Such a meeting is a useful way of checking how the incident may have impacted on staff and deal with any immediate consequences – for example how to inform the other prisoners about what has happened. It can also be an opportunity to record exactly how events unfolded and the responses of each individual.

Finding 50

There is no written record of a hot debrief taking place after the incident.

Recommendation AA

A hot debrief should be held and a short record made when a serious incident takes place.

HMP Bristol Investigation

PSI 64/2011 on the "Management of prisoners at risk of harm to self, to others and from others (Safer Custody)" was in force at the time of the incident. It says that "there are a range of options available to investigate serious incidents of harm to self or others. Consideration must be given to the circumstances in which the harm occurred, the lessons that can be learned from the incident and its management, and the need to support those harmed and sanction perpetrators of harm".[393] HMP Bristol had a local operating procedure which stated that "incidents where a prisoner requires community hospital treatment as a result of an assault will be investigated by the member of staff reporting the incident or safer custody if deemed appropriate".[394]

The Governing Governor at that time, Governor 1, told us that after the assault on AD some sort of immediate fact-finding exercise would have been commissioned. "It would've been mine or the Dep's responsibility to have commissioned the fact-finding. The fact-finding would be: "Do I need to take this further?" So, it would be the, the lowest level, to see what exactly happened; you would get statements from people, and based on those statements, you would decide what further action would be taken. So, you would have some kind of paperwork around the incident".[395] When asked whether the fact-finding was done after the assault, Governor 1 said that she would have been "surprised if it wasn't; but I can't remember for definite".[396] Prison Officer 1 wrote to us that he had written an incident report after the assault but we

[393] PSI 64 2011 Management of prisoners at risk of harm to self, to others and from others (Safer Custody) para 30 Annex 15

[394] LOP No: BL007 The management of Suicide and self-harm. Zero Tolerance to violence/anti-social behaviour. Cell Sharing Risk Assessments Annex 13

[395] Interview with Governor 1, page 3. Annex 3

[396] Ibid

have not seen this.[397] It is possible that the fact-finding was subsumed into Governor 2's investigation commissioned by the region five days after the assault. It may alternatively have been part of the post-incident report which is entered onto the NOMS Incident Reporting System. We asked for a copy of this but it was not available.

Finding 51

We cannot find evidence of any investigation into the assault being undertaken by HMP Bristol.

Recommendation AB

When a serious incident takes place in any prison, the prison itself should undertake a fact-finding exercise to establish what happened and what urgent steps might be needed to prevent a similar incident occurring. This requirement should be written into the establishment's contingency plans as a post-incident action.

Internal Investigation

The Deputy Director of Custody of NOMS' South West region appointed the then Governor of another prison in the South West, Governor 2, to conduct an investigation, issuing original terms of reference on 1 July 2014 which were amended on 15 July 2014. An interim report was submitted in 24 July 2014. There then followed a hiatus due to the ongoing criminal investigation into the assault. The investigation recommenced on 3 February 2015. Governor 2's report was submitted on 4 March 2015. This was returned for minor additions. The final report was

[397] Written answers from Prison Officer 1 Annex 3

submitted on 2 April 2015. The report made 17 recommendations for the Deputy Director of Custody in the South West Region of NOMS, in whose area HMP Bristol lies; and two recommendations for the Health and Justice Commissioner South West who is responsible for the commissioning of health care at HMP Bristol. Some, but not all, of the recommendations are consistent with the recommendations of this Article 2 investigation.

On 6 July 2017, HM Prison and Probation Service, which succeeded NOMS on 1st April 2017, provided the Article 2 investigation team with a copy of an action plan from HMP Bristol setting out responses to the 17 recommendations made by Governor 2 which were directed at NOMS.[398] We understand that the action plan had only been completed shortly before it was sent to us. Nine of the recommendations have been accepted, three partially accepted and five not accepted. For those that are accepted and partially accepted there is a target date for completion, the latest of which was 31 July 2017.

We have three points to make about this investigation and the response to it, in addition to our recommendation that HM Prison and Probation Service should investigate whether improper pressure was placed on the governor conducting it.[399]

The first is that the inquiry took the form of an investigation into three members of staff: Prison Officer 1, Governor 7 and Governor 3. These and potentially other members of staff were therefore interviewed on the basis that they might face disciplinary action. Prison Officer 1 was one of two officers who declined to be interviewed and instead responded to written questions. Governor 6, the Duty Governor on 20 June 2014, who has now left the Prison Service, declined to be interviewed by us wrote to us that one reason was “lack of trust” in Governor 2 who

[398] Annex 4
[399] Recommendation Y

undertook the internal investigation.[400] The action plan makes clear that the Deputy Director Custody South West reviewed the findings of the investigation report and concluded that the evidence was not sufficiently strong to bring charges against individual staff. "However two members of staff met with DDC South West and were given advice and guidance". It is not clear why the investigation was undertaken within a disciplinary framework and we are not convinced that this was a necessary or appropriate approach.

Finding 52

A disciplinary investigation does not seem the best way to identify lessons from incidents such as the assault on AD.

Recommendation AC

Investigations into serious incidents commissioned by an HM Prison and Probation Service Area Office should not be framed as disciplinary investigations but as fact-finding inquiries. Where findings indicate a case for disciplinary action, a separate process should be initiated.

The second point is that the internal investigation was not able to access some information deemed clinical in confidence. Avon and Wiltshire Mental Health Partnership NHS Trust (AWP), the mental health provider at HMP Bristol, produced a short report about the incident.[401] AWP held off conducting their own root cause analysis on the basis that Governor 2 would be looking in detail at the incident and that AWP would have access to the report in due course. It is not clear to the Article 2 Investigation what access AWP have had to Governor 2's report and what

[400] Email Governor 6 to the Article 2 Secretariat Annex 3
[401] Management Report – Red-Graded Incidents Annex 4

response if any the Health Care Commissioner has made to the two recommendations directed to it in that report.

Finding 53

It would have been better if a joint investigation had been undertaken by NOMS and AWP.

Recommendation AD

In future, serious incidents of violence or self-harm should be investigated jointly by HM Prison and Probation Service and the health provider or commissioning body.

The third point relates to what happened to the internal investigation report. None of the witnesses we spoke to had seen it, despite giving evidence to it. Several witnesses told us that they had heard the report had been rejected. In fact, the action plan completed in 2017 accepts, in whole or in part, 12 out of the report's 17 recommendations directed at NOMS. But the length of time taken to respond to the recommendations (more than two years) is much too long.

Apart from the delay in responding to the report's recommendations and take action on those recommendations which were accepted, the whole process seems to have caused ill feeling. Custodial Manager 1, Custodial Manager in the Brunel Unit, told us that that staff were "kind of told that report {i.e. the internal investigation} didn't really exist only then to be told that you'd seen that report and there was a list of us that had been awkward, and, don't get me wrong, I, I know now prisons work and big organisations, rumours go everywhere, people scaremonger and stuff, but, as soon as we heard that, we haven't seen a report that includes our names but you have

and it's input based on our evidence, our facts that we gave and it's, it's caused real bad feeling".[402]

The action plan produced in response to the internal investigation makes clear that

> "a letter will be sent to all staff working on the Brunel Unit, attached to the letter will be a copy of the Brunel Unit Specification, this action plan and a copy of the Risk and Control Assessment for the use of the Brunel Unit exercise yard. We have committed to all Brunel Unit staff reading these documents, staff will be asked to sign to confirm they understand the content of the documents and their responsibility in relation to contributing to achieving and maintaining these requirements".

Additionally, "the Head of Safer Prisons & Equalities will brief Senior Managers with these documents to ensure understanding".[403]

Although long overdue, these efforts to communicate the response to the internal investigation are welcome.

Finding 54

The internal investigation has been badly mismanaged. The report was not shared with relevant parties in a timely fashion and the length of time taken to respond to it (more than two years) was far too long.

[402] Interview with Custodial Manager 1 page 20 Annex 3
[403] Action Plan Annex 4

Chapter Nineteen The Appropriate Element of Public Scrutiny

Public scrutiny forms an important aspect of the investigative obligation under Article 2 of the European Convention on Human Rights. As part of this investigation, I am required to advise about what I consider to be an appropriate element of public scrutiny given all the circumstances of the case. We have considered carefully whether the publication of the final version of this report will be sufficient to satisfy the requirement for public scrutiny or whether some further stage in the investigation is needed, such as a public hearing. I have reached the view that further public scrutiny is required.

In reaching this view I have considered two main questions. The first is whether there are serious conflicts in the evidence which require the questioning of witnesses in a public setting to test the credibility of what they say.

There are a number of inconsistencies in the evidence about the process of allocating EF to the Brunel Unit on 20 June 2014. In particular, it is not clear whether a) the allocation decision was authorised in any way by the Duty Governor and b) whether documentation prepared by the CARS team was taken into account in reaching that decision. These are important questions because had EF been allocated elsewhere, he would not have been in a position to assault AD. However, given the evidence I received, I think that even if the Duty Governor were involved and had the benefit of the CARS report, EF would have been allocated to the Brunel Unit. Therefore, these disputes do not, in themselves, necessarily merit further public scrutiny.

The second question is whether the investigation uncovered convincing evidence of widespread or serious systemic failures, such that a public hearing might be warranted to maintain public confidence.

The Article 2 Investigation has found a number of shortcomings in the way EF was managed. Some of these have been addressed in the action plan produced in response to the internal Prison Service investigation into the assault on AD, as I have mentioned elsewhere in this report. Others, however, reflect fundamental disagreements among staff at HMP Bristol about the role and purpose of the Brunel Unit and, in particular, its suitability for accommodating prisoners who present a high risk of violence. These shortcomings and the lack of consensus about the role of the Brunel Unit raise a series of questions which go beyond the terms of reference for my investigation and we have not therefore been able to give a full answer to them.

The primary question is what types of prisoner is the Unit designed to manage? Once this has been answered, there are questions to resolve about the appropriate levels of staffing, suitable management arrangements and respective roles of prison and healthcare staff on the Unit.

While it is the case that a detailed specification for the Brunel Unit was published in July 2016, the fundamental question – is the Brunel Unit suitable for a prisoner such as EF? – remains unresolved.

We also have serious concerns about the management of race and diversity issues in HMP Bristol. We have found no evidence at all that the assault on AD was encouraged or condoned by staff. Most of the staff we spoke to were genuinely shocked and upset by what happened. Yet we found evidence of a high level of mistrust between the Somali community in particular and the prison, with concerns in the community that what happened to AD formed part of a wider pattern.

We have also found it surprising that the internal Prison Service investigation stated that: "There is no evidence to substantiate that EF chose AD for the assault due to AD's ethnicity".[404] It is of particular concern that Governor 2 who conducted that investigation told us he inserted that statement into his report "to pacify, or placate the Commissioning Authority" after being requested to soften his Report and "lessen the impact on NOMS".[405] HMPPS have accepted my recommendation (V) to investigate whether improper pressure was placed on Governor 2.

Having accepted the recommendation, in autumn 2017 HMPPS conducted an internal investigation into alleged unprofessional conduct on the part of the commissioning authority. The internal investigation did not consider that there were grounds to test any of the allegations made by Governor 2 at a disciplinary hearing and made no recommendation for disciplinary or management action.
Notwithstanding the findings of HMPPS's internal investigation in 2017, given the seriousness of the allegations, I consider that there is a case for them to be looked at independently.

In the light of the considerations in this chapter, it is my view that this case has revealed serious systemic failures in two areas:
First, a lack of clear agreement among management and staff about the purpose and role of the Brunel Unit; and second, shortcomings in the management of race and diversity issues.
A further element of public scrutiny will therefore be needed in this case.

Recommendation AE

A further element of public scrutiny is needed in this case.

[404] Internal Investigation D 10.4 Annex 4
[405] Interview with Governor 2 page 5 Annex 3