Final Report
of an Independent Investigation into the Case of AE
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

Shortly after 10 a.m. on 2 June 2015, FG, a 24-year-old remand prisoner, entered the cell occupied by 44-year-old AE on the third landing of HMP Nottingham's F wing, in the Enhanced Care Area (ECA), a unit for prisoners with health problems. The cell door was open, and FG told AE he wanted to share a cigarette with him. Shortly afterwards, FG attacked AE, placing his arm around his neck and strangling him until he passed out. AE dropped to the floor, banging his head. When he was on the floor, FG then stamped on AE's head several times. FG took the wedding ring off AE's finger, using soap, and left the cell returning to his own cell.

At about 10.30, another prisoner entered AE's cell and saw that AE was lying face-down on the floor, not moving. The prisoner tried to rouse AE but he did not respond. The prisoner ran to the Healthcare station across the landing and told a healthcare assistant practitioner who was on duty there what he'd seen. The assistant practitioner immediately went to the assistance of AE. Other medical staff arrived, and an ambulance was called at 10.37 a.m., arriving 47 minutes later and taking AE to the Queen's Medical Centre in Nottingham. AE's injuries have proved to be serious and enduring.

Most of the staff at HMP Nottingham thought that AE had collapsed in his cell because of underlying health problems or the effects of a psychoactive substance. It was not until the following day that FG admitted to a prison officer that he was responsible for assaulting AE. Prison staff checked footage from closed-circuit TV cameras that confirmed that FG had entered AE's cell shortly before the time of the assault. FG later handed over AE's wedding ring to staff. FG was interviewed by the police on 5 June and charged with the Attempted Murder of AE. He was sentenced on 12 October 2015.

This Article 2 investigation finds that there was no specific intelligence to suggest that FG was going to assault AE and it is not clear whether AE was specifically targeted by him. The motivation for the assault may relate to FG's distorted view that he might as a result be transferred from prison to a psychiatric hospital. FG

may have been anxious about the prospect of serving a long term of imprisonment – he refused to attend a court hearing four days before the assault because of anxiety. Stealing AE's ring to help pay off debts could also have been a motivating factor.

The investigation finds that FG not should not have been unlocked from his ground-floor cell at the time of the assault and should not have been allowed to wander freely around the wing. The fact that he was reflected the lax manner in which the regime was being run on F wing at the time, which made effective control impossible. The investigation was told that at the time the prison was overwhelmed and "it was just about keeping the jail running as best we could and keeping the jail from going up, to be honest."

Overwhelming pressure on staff seems to have been the reason that the circumstances surrounding AE's injuries were not investigated until, on the following day, FG admitted causing them. We consider the failure to check the CCTV on the day of the incident – notwithstanding the suspicions that several staff had about the possibility of foul play – was a serious failure which potentially put other prisoners at risk.

The number of staff allocated to F wing did not allow for safe supervision and control of prisoners and, given the lack of physical separation between the Enhanced Care Area and the rest of the wing, the safety of vulnerable prisoners should have been better secured – for example by having a prison officer allocated to the unit.

FG had been detained at HMP Nottingham since 9 February 2015 following a Murder charge. No consideration seems to have been given to whether FG required allocation to a high security prison. During his first nine days at HMP Nottingham, FG was quickly identified to be a risk to himself; as a result, he was placed on constant supervision for nine days and the ACCT suicide and self-harm prevention scheme for six weeks. He made numerous threats to kill himself and others, frequently coupled with demands to be transferred to psychiatric hospital. FG did not act on these threats and he was soon considered by both

discipline and healthcare staff to be manipulative. FG received regular attention from the Mental Health team in the prison but was highly inconsistent in what he said to them about the state of his mental health.

During February and March, FG continued to threaten violence to himself, staff and other prisoners – on one occasion threatening an officer with a plastic knife.

FG also continued to contradict himself to healthcare professionals about whether he was hearing voices and about a need for medication. FG was not thought to be psychotic by either of the two psychiatrists who saw him. He was not prescribed any medication. In April and May, FG appears to have settled down following a move to a ground-floor cell.

In the weeks before the assault on AE, FG was involved in collecting parcels thrown into the exercise yard from outside the prison and appears to have got into debt. Four days before the assault, FG refused to leave his cell to attend a court hearing relating to the Murder offence, reportedly because of anxiety.

The investigation finds that FG's frequent threats to harm to others should have been investigated more thoroughly and, while these diminished after the beginning of April 2015, the ongoing risk that FG might cause harm was not fully kept under review by discipline staff. There is no strong reason to think that additional or different mental health treatment would have prevented FG from attacking AE, although the Mental Health team should have been alerted when FG failed to attend court on 28 May 2015.

The investigation finds that AE was exploited by other prisoners while in the ECA and neither prison nor healthcare staff took adequate steps to protect him. The healthcare AE received was generally adequate although there were weaknesses in the way personal and social care was provided to him. The medical response to the incident on 2 June 2015 was adequate.

The investigation finds that neither HMP Nottingham nor the Nottinghamshire Healthcare NHS Foundation Trust undertook any form of internal investigation

into what happened, so opportunities to learn lessons from the incident were missed. This is likely to reflect that, as one witness told us, "Nottingham… was barely functioning as an establishment" and was "struggling and had a massive problem with, quite frankly, safety and security generally and just managing the prison on a day-to-day basis".

The structure of the report is as follows:

Part One describes how we conducted the investigation and provides information about HMP Nottingham.

Part Two provides a narrative account of what happened to AE and FG in HMP Nottingham from the respective dates of their reception up to the day of the incident; and describes the events of 2 June 2015.

Part Three addresses the issues which we have considered, namely:

- whether AE and FG were appropriately placed at HMP Nottingham
- the appropriateness of their health care while they were there
- how the risks that FG might harm others were assessed and managed
- how the safety of AE and other prisoners in the Enhanced Care Area was ensured
- whether AE and FG were supervised appropriately by discipline staff on the morning of 2 June 2015
- FG's motivations for assaulting AE
- the effectiveness of the medical and non-medical response to AE after he was discovered
- the adequacy of staffing levels on F wing in June 2015
- current issues at HMP Nottingham identified by the investigation

Part Four makes observations about how the incident has been investigated prior to this Article 2 investigation and considers the need for additional elements of public scrutiny.

Findings and Recommendations

Findings

Finding 1
AE was appropriately placed at HMP Nottingham and his location in the Enhanced Care Area was appropriate.

Finding 2
When FG arrived at HMP Nottingham on 9 February 2015, consideration should have been given to his security categorisation in accordance with PSI 05/2013: The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners.

Finding 3
There were no grounds for transferring FG to psychiatric hospital from HMP Nottingham.

Finding 4
The physical health care AE received at HMP Nottingham was generally adequate although there were weaknesses in the way it was monitored and the extent to which certain appointments were followed up.

Finding 5
There were weaknesses in how AE's personal and social care needs were assessed and met, particularly in respect of his mobility.

Finding 6
The mental health care AE received at HMP Nottingham was generally adequate although improvements could have been made to its monitoring and recording.

Finding 7

The level of mental healthcare provided to FG was generally good. The apparently high level of anxiety which led to FG refusing to attend court should have been communicated to the Healthcare staff.

Finding 8

Prison staff should have told Healthcare staff that FG's mother had been in communication; but in the absence of this, Healthcare staff could have made their own efforts to contact FG's mother to hear concerns she had about her son's mental health.

Finding 9

The failure of the Prison and Probation Service to provide FG's ACCT Plan records means that we are unable to assess the adequacy of the measures taken as a result.

Finding 10

An Intelligence Report should have been submitted on 22 March after FG's mother informed the prison that her son had told her that he wanted to kill someone.

Finding 11

Intelligence Reports submitted following FG's involvement in incidents on 14 May, 16 May and 1 June 2015 should have been followed up (and recorded on NOMIS).

Finding 12

FG's frequent threats to harm others should have been recorded as violent incidents and investigated more thoroughly.

Finding 13

Prison staff should have done more to engage with FG's mother when she expressed concerns about her son.

Finding 14

While threats to harm others made by FG diminished after the beginning of April 2015, the ongoing risk that FG might cause harm was not fully kept under review by discipline staff.

Finding 15

More NOMIS entries should have been made about FG during April and May, including, but not limited to, notes of his involvement in the collection of throw-overs on 14 and 16 May; failure to attend court on 28 May; and the raised-voice argument with another prisoner and subsequent visit from known gang members on 1 June.

Finding 16

FG's risk of violence should have been assessed as significant rather than low in the Healthcare Risk Assessment completed on 29 April 2015.

Finding 17

There is a lack of clarity about what the Healthcare Risk Assessment is for, how it should be completed and what action should follow.

Finding 18

There is no strong reason to think that additional or different mental health treatment would have prevented FG from attacking AE on 2 June. However, as stated in Finding 7, the Mental Health team should have been alerted by prison staff when FG failed to attend court on 28 May 2015 due to his anxiety. This might have prompted the Mental Health team to assess whether FG's mental health was deteriorating.

Finding 19

AE had been victimised numerous times while in the Enhanced Care Area but none of the incidents seem to have been investigated and AE was not subject to any victim-monitoring by prison staff.

Finding 20

Given the lack of physical separation between the ECA and the rest of the wing, the safety of prisoners should have been secured by having a prison officer allocated to the unit.

Finding 21

AE's risks of social isolation and of exploitation were significant and formal plans should have been made and implemented to mitigate these.

Finding 22

While the ECA had potential benefits for prisoners with healthcare needs, reductions in staffing reduced these to the point that it was rightly closed shortly after the assault on AE.

Finding 23

There was no specific intelligence to suggest AE might be at any particular risk on 2 June, so staff could not have been expected to take any special precautions in respect of him on that day.

Finding 24

After refusing to go to work, FG should have been returned to his cell rather than allowed to wander freely around F wing on the morning of 2 June 2015.

Finding 25

The lax way in which the regime was being run on F wing at the time of the incident made effective control impossible.

Finding 26

If an officer told FG to return to his cell, as FG told police, the officer should have followed through with the order if and when he saw him a few minutes later.

Finding 27

IF HCA 1 did see and talk to FG shortly before the assault, she would not necessarily have had any reason to suspect he was up to no good.

Finding 28

It seems likely that FG assaulted AE for a combination of motives involving his desire to serve his forthcoming sentence in a psychiatric hospital rather than a prison and his need to pay off debts incurred in relation to drugs.

Finding 29

The medical response to the incident was adequate although ideally the ambulance would have arrived sooner and the staff in proximity to AE would have spoken directly to the Ambulance Service or the ambulance crew.

Finding 30

Appropriate incident-recording forms do not appear to have been completed by East Midlands Ambulance Service NHS Trust or by prison and healthcare staff at HMP Nottingham.

Finding 31

Once it was confirmed, on 3 June 2015, that AE had been assaulted, this information should have been passed to the hospital treating him.

Finding 32

Failing to investigate what happened to AE on 2 June was a serious failure by the management of HMP Nottingham which placed other prisoners at potential risk from FG. CCTV should have been viewed immediately after the incident to see whether anyone had entered AE's cell before his injuries were sustained.

Finding 33

The number of staff allocated to F wing in June 2015 did not allow for safe supervision and control of prisoners.

Finding 34
No hot debrief took place after the incident.

Finding 35
No internal investigation into what happened was undertaken by the National Offender Management Service, so opportunities to learn lessons from the incident were missed by the Prison Service.

Finding 36
No internal investigation was undertaken by Nottinghamshire Healthcare NHS Foundation Trust (NHCFT), so opportunities to learn lessons from the incident were missed by them.

Finding 37
While a public hearing may not be necessary, some public reassurance is needed that the systemic failings identified by this investigation are being addressed at HMP Nottingham.

Recommendations

Recommendation A
For Her Majesty's Prison and Probation Service (HMPPS)

The practice of the Duty Governor checking daily that reception processes have been properly applied should be introduced in all local prisons.

Recommendation B
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) must ensure there are clear plans of care that describe each prisoner's healthcare needs and associated interventions by healthcare professionals. Where there is evidence of physical disability, an evidence-based assessment should be

carried out and it should include information from previous support services. Clear plans of care should be established, including the provision of aids.

Recommendation C
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) should ensure that all physical health recordings are documented and recorded consistently, and that there are clear triggers for action if measurements fall outside of normal limits.

Recommendation D
For NHS England and NHS Improvement (NHSE & NHSI)

There should be explicit guidance in healthcare provider policies regarding the type of professional input to be made to the ACCT process; and clear standards for recording when healthcare staff participate in ACCT reviews.

Recommendation E
For NHS England and NHS Improvement (NHSE & NHSI)

Guidance for healthcare staff in prisons should encourage contact with families where this may assist in assessment and treatment.

Recommendation F
For HMP Nottingham and Her Majesty's Prison and Probation Service (HMPPS)

Consideration should be given to clarifying the circumstances in which an Intelligence Report should be submitted and ensuring staff are fully aware of these, at HMP Nottingham and across the Prison Estate.

Recommendation G
For HMP Nottingham

The Violence Reduction Strategy should be amended to clarify that the kind of generalised threats to prisoners and staff made by FG should be recorded as incidents and where appropriate be subject to a Violence Reduction Investigation.

Recommendation H
For Her Majesty's Prison and Probation Service (HMPPS)

Guidance should be reviewed about the type of information which should be entered on NOMIS case notes in the context of the other records available to staff.

Recommendation I
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

Guidance and Training are needed on the purpose of the Healthcare Risk Assessment, how it should be completed and what actions should follow. NHCFT must ensure that Healthcare Risk Assessments are accurate and reflect the degree of risk presented, and that threats to harm staff members should be recorded and discussed with the individuals, and risk management plans instigated.

Recommendation J
For HMP Nottingham

Each wing should develop a clear policy about prisoners' access to different landings.

Recommendation K
For Her Majesty's Prison and Probation Service (HMPPS)

The Prison Service should make it clear in an Instruction that an F213 should be completed in all cases of injury.

Recommendation L
For HMP Nottingham

The number of staff allocated to different wings should be reviewed to ensure safety.

Recommendation M
For Her Majesty's Prison and Probation Service (HMPPS)

Measures should be taken to provide adequate protection for prisoners in need of additional support who are located in specialist wings or areas such as the former Enhanced Care Area

a) at HMP Nottingham and

b) in all local prisons that receive detainees directly from court.

Recommendation N
For Her Majesty's Prison and Probation Service (HMPPS)

HMPPS should commission research to identify the most effective ways of designating wings for different types of prisoner; and whether remand and sentenced prisoners should be accommodated separately.

Recommendation O
For HMP Nottingham and NHS England and NHS Improvement (NHSE & NHSI)

A hot debrief should be held and a short record made when a serious incident takes place, including all occasions when a prisoner is taken to hospital by ambulance as an emergency.

Recommendation P
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) and HMP Nottingham

Incidents in which prisoners sustain serious injuries should be recorded and investigated in line with policies.

Recommendation Q
HMP Nottingham, Her Majesty's Prison and Probation Service (HMPPS), Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) and NHS England and NHS Improvement (NHSE & NHSI) should regularly review the implementation of those recommendations in this report which they accept and publish the outcomes.

Glossary

ACCT	Assessment, Care in Custody and Teamwork The care-planning system used to help to identify and care for prisoners at risk of suicide or self-harm
ECA	Enhanced Care Area
Free Flow	The movement of prisoners between locations within a prison without escort by staff
Hallucination	Hallucinations are when someone with psychotic symptoms sees, hears, smells, tastes or feels things that do not exist outside their mind. The commonest form are auditory – hearing voices – or visual – seeing things. Second-person auditory hallucinations are when a patient hears one or more voices talking to them directly. Third-person auditory hallucinations are when a patient hears voices talking about them.
HMPPS	Her Majesty's Prison and Probation Service is the executive agency of the Ministry of Justice (MoJ) responsible for the correctional services in England and Wales. It replaced the National Offender Management Service (NOMS) in April 2017.

IEP	Incentives and Earned Privileges scheme The system by which prisons grant privileges to prisoners in addition to their minimum entitlements, subject to their reaching and maintaining specified standards of conduct and performance. In 2015 there were four regime levels: basic, entry, standard and enhanced. Basic regime 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.
Mamba	A synthetic drug with similar effects to cannabis but much stronger. Also see entry for NPS.
MRI	Magnetic resonance imaging. A type of scan that uses strong magnetic fields and radio waves to produce detailed images of the inside of the body.
New Psychoactive Substances (NPS)	New psychoactive substances (NPS) are drugs which were designed to replicate the effects of illegal substances like cannabis, cocaine and ecstasy whilst remaining legal – hence their previous name 'legal highs'. They include Mamba and Spice. Under the Psychoactive Substances Act which came into force in May 2016, it is now illegal to produce,

	supply, or import them for human consumption – including for personal use. Possession for personal use is not an offence, unless in prison.
NOMS	The National Offender Management Service was the executive agency responsible for prison and probation services from 2004 until it was replaced by HMPPS.
NOMIS	The Prison Service's electronic record-keeping system
Orderly Officer	The Orderly Officer is the senior officer responsible for the day-to-day running of a prison on a particular day and for the management of incidents which occur on that day.
Place on report	Action taken in respect of a prisoner which makes them liable for an adjudication and disciplinary sanctions
Spice	A synthetic drug with similar effects to cannabis but much stronger. Also see entry for NPS.

Part One The Investigation

Chapter 1

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 Carol Rooney, a Registered Mental Health Nurse.[1]

I was commissioned to lead the investigation on 19 January 2018 by Her Majesty's Prison and Probation Service (HMPPS) Safer Custody and Public Protection Group on behalf of the Secretary of State for Justice.

The terms of reference for the investigation are

- to examine the management of AE by HMP Nottingham from the date of his reception on 1 April 2015 until the date of the serious assault on him on 2 June 2015, and in light of the policies and procedures applicable to AE at the relevant time;

- to examine the management of FG by HMP Nottingham from his reception on 9 February 2015 until the incident on 2 June 2015 and any relevant intelligence;

- to examine relevant health issues during the periods spent in custody at HMP Nottingham by AE and FG, including mental health assessments, and their clinical care up to the point of the incident on 2 June 2015;

[1] The Clinical Review by Dr Carol Rooney is at Annex A.

- to consider, within the operational context of the Prison Service, what lessons in respect of current policies and procedures can usefully be learned and to make recommendations as to how such policies and procedures might be improved;

- to provide a draft and final report of my findings including the relevant supporting documents as annexes; and

- to provide my views, as part of the draft report, on what I consider to be an appropriate element of public scrutiny in all the circumstances of this case.

In addition to Mr AE, the Interested Parties to the investigation are HM Prison and Probation Service (of which HMP Nottingham is a part) and Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) who are responsible for the provision of healthcare services at HMP Nottingham.

In the initial stages of the investigation Will Thurbin and I visited AE to tell him about the investigation. He did not appear to have a reliable memory of the incident and we have not interviewed him subsequently. We have made a number of attempts to give him the opportunity to participate in the investigation through his legal representatives and currently await a response from his next of kin about how they might be involved.

We also visited FG, who is serving a prison sentence, to tell him about the investigation. We visited HMP Nottingham to see the cell where the incident took place and the layout of F wing.

Unusually in a case like this, there has been no internal investigation into the incident either by the prison or the wider Prison Service. Nor has the healthcare provider, the Nottinghamshire Healthcare NHS Foundation Trust, investigated what happened. There was however an investigation by Nottinghamshire Police into the case which led to FG's conviction for the Attempted Murder of AE on 12 October 2015.

Nottinghamshire Police were able to provide us with a bundle of witness statements taken during their investigation. AE gave his consent for us to consult his medical records. FG did not give his consent for us to view his medical records, but Nottinghamshire Healthcare NHS Foundation Trust agreed that these could be consulted for the purpose of the investigation.

We made an initial request for documents from the prison in January 2018, although not all of the material which we have requested has been located. We also requested records completed by paramedics from the East Midlands Ambulance NHS Trust (EMAS) who attended the incident but EMAS was not able to provide them.

We interviewed a total of 24 current or former members of staff and one former prisoner. We have been unable to locate two witnesses whom we would have ideally liked to interview: Nurse 2 who attended the scene shortly after AE was discovered unconscious in his cell on 2 June 2015; and Prison Officer 1, to whom, on 3 June 2015, FG admitted that he had assaulted AE. Nurse 2 is no longer employed by Nottingham Healthcare NHS Foundation Trust (NHCFT) and did not respond to a communication from NHCFT inviting her to participate in the investigation. Prison Officer 1 has left the Prison Service and efforts to locate him have proved unsuccessful.

We would also have liked to interview FG's mother who contacted HMP Nottingham on several occasions while her son was there. We have not received a reply to a letter we sent to her by a secure means, although it was not returned as undeliverable.

A draft of this report was circulated to the Interested Parties on 24 February 2022. Comments were received from HMPPS on 25 March 2022 and comments dated 28 June 2022 were received from Nottinghamshire Healthcare NHS Foundation Trust on 01 July 2022. The legal firm representing Mr AE had no comments to make on the draft report.

The comments from HMPPS and from Nottinghamshire Healthcare NHS Foundation Trust are included at Annex O.

Three comments about factual accuracy were received from HMPPS which I accepted. The wording of the report was revised accordingly.

In its response, Nottinghamshire Healthcare NHS Foundation Trust confirmed the factually accuracy of the report. The Trust also took the opportunity to respond in detail to the recommendations made and explain the changes to healthcare provision which have taken place since June 2015.

I made four revisions to the wording of the report to take into account comments made by the Trust about the situation as it was in June 2015. I take the view, however, that the material provided by the Trust about changes made since the incident in 2015 more properly belongs in the formal response to the final report and its recommendations that the Trust will in due course be invited by the commissioning authority to make. For this reason, I have not made revisions to this report to reflect the comments made by the Trust about changes to healthcare provision since 2015.

Chapter 2

HMP Nottingham

HMP Nottingham is a Category B local prison, which first opened in 1890 but was largely rebuilt between 2008 and 2010 when the operational capacity doubled from 550 to more than 1,000.[2] It holds a range of prisoners, including those remanded by the courts in Derbyshire and Nottinghamshire, newly-sentenced prisoners and prisoners nearing release. It also holds a significant number of men recalled to prison after breaching licence conditions, and a few with an indeterminate sentence. At the end of May 2015, the prison was holding exactly 1,000 men which represented 138% of its uncrowded capacity.[3]

F wing, where the assault on AE took place on 2 June 2015, is the smallest of seven main residential blocks in the prison. It has 77 cells, on three landings, holding up to 100 remanded and convicted men. At the time of the events described in this report, while accommodating a general population, F wing was used to hold prisoners serving or facing the prospect of serving life and long-term sentences.

The third landing on F wing included an Enhanced Care Area (ECA). In the period covered by this investigation, the ECA consisted of six cells designated for prisoners who needed additional healthcare support which was available 24 hours a day. The ECA was set up after the closure of HMP Nottingham's in-patient healthcare facility in 2007.[4] The ECA was closed in late 2015, not long after the incident which forms the subject of this investigation.

[2] A Category B Prison is for prisoners who do not require maximum security, but for whom escape needs to be made very difficult.

[3] https://www.gov.uk/government/statistics/prison-population-figures-2015

[4] The number of cells in the ECA varied, with HM Inspectorate of Prisons reporting 8 in 2010 and 10 in 2013.

Part Two The Background and Events in Detail

Chapter 3

FG's Arrival and Early Days at HMP Nottingham, 9 – 18 February 2015

On Monday 9 February 2015, FG was remanded in custody by Nottingham Magistrates' Court having been charged with the Murder of a 47-year-old girlfriend following an argument at her home. His victim died from an abdominal stab wound and asphyxiation.[5]

FG was a 24-year-old man who lived with his mother in Town 1. He had a number of previous convictions, most recently in 2011 for causing Grievous Bodily Harm. After a period on remand at HMP Nottingham, FG had been sentenced to three years Detention in a Young Offender Institution which he served at HMP Ranby. He was released in May 2012 but recalled to prison for failing to comply with release conditions, serving the last part of the sentence at HMP Doncaster. He was released in November 2013.

FG had a history of anxiety and a Community Forensic Psychiatrist who reviewed him in May 2012 – shortly before he was recalled to prison – reported that "he represents an ongoing risk of future serious violent offences." [6] When he arrived at HMP Nottingham in the late afternoon of 9 February 2015, FG was interviewed by an officer who noted that although FG came with a Self-Harm Alert form, "he stated he is fine and has no thoughts, was bragging about his offence in reception and stated he would kill someone if made to share a cell." [7] FG was noted to be "laughing and joking".[8]

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[5] Extract from The Law Pages, at Annex L. This refers to FG's victim as his ex-girlfriend. He told RMN 1 on 12 February 2015 that he considered her a girlfriend. https://www.thelawpages.com/court-cases/James-McCarthy-16222-1.law

[6] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. Paragraph 14.1, page 10. At Annex F

[7] FG NOMIS Case Note History. At Annex E

[8] Ibid

A Cell Sharing Risk Assessment was completed which noted that FG "has told his solicitor he will kill himself; NOC (MURDER) and REQUESTS VP STATUS.[9] It also notes that "Remanded for murder -states will kill any cell mate." [10]

Although he was facing a Murder charge, there is no record of FG being considered as a Potential Category A status prisoner when he arrived at Nottingham. 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.

FG was also interviewed by a nurse, Nurse 1, who entered a full note on the medical record. This Reception Screen records that FG said he did not take drugs but drank heavily. (FG told Psychiatrist Dr 4 three weeks later on 3 March that he had smoked cannabis every day from the age of 14).[11]

He was referred to the Mental Health Team in the prison because he had a history of anxiety. FG is also noted as having a history of deliberate self-harm and attempted hanging during his previous sentence. The medical record states, "No thoughts of deliberate self- harm".[12] We interviewed Nurse 1, but he had no memory of the interview with FG.[13]

FG was allocated to cell 4-015 on C wing where new prisoners were generally housed for their first night in custody and for a period of induction.

On 10 February, due to staff shortages, FG could not be collected from his cell for induction.[14] An ACCT assessment was completed in the afternoon with the suggestion that FG "remains on ACCT for now as appear quite suicidal at

[9] FG Cell Sharing Risk Assessment. At Annex E
"NOC" is likely to stand for Nature of Charge. VP stands for Vulnerable Prisoner.
[10] Ibid
[11] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. At Annex F
[12] FG Consultation Information Sheet. Specific Consultations. At Annex F
[13] Interview with Nurse 1. At Annex B
[14] FG NOMIS Case Note History. At Annex E

present".[15] It is not clear at what point and by whom the ACCT was opened although the alert is made active at 00.00 hours on 11 February.

The following day, Wednesday 11 February, FG refused to attend Healthcare to discuss his mental health issues. FG is noted as saying he would kill somebody if he came out of his cell and that he was not coping.[16] An Intelligence Report was submitted.[17] It was decided that a nurse would see him in his cell the next day and a further ACCT review would be held after the appraisal by Healthcare.[18]

On 11 February, FG's mother called the prison stating that she was worried about her son and "is concerned about his mental state".[19] She is noted as saying that "he has a social disorder" and must be kept alone.[20] FG's mother suggested that FG's medical records should be checked from the time he was in HMP Ranby serving his previous sentence.

It seems likely that the communication from FG's mother was in the form of a voicemail message left on an answerphone. Admin 2, the collator in the Security department who made the entry on the NOMIS record, told us that "the protocol was, we didn't take calls from the general public in Security. We used to have an answerphone and it was like a helpline, you could say. So, we'd all be sat in the office and you'd hear that phone go in the corner and no one would answer, it would just go straight through to the answerphone and someone would leave a message and then we would act on that message".[21] The information from FG's mother was sent to the prison's Safer Custody department, although in what form is not clear.

On Thursday 12 February, a Mental Health Nurse in the Healthcare team, RMN 3, returned a call to FG's solicitor who said that there had been concerns about

[15] Ibid. ACCT stands for Assessment, Care in Custody and Teamwork and is the care planning process for prisoners identified as being at risk of suicide or self-harm.
[16] FG NOMIS Case Note History. At Annex E
[17] INED00603762 – 11/02/15 in Summary of Intelligence Reports – FG. At Annex E
[18] Ibid
[19] FG NOMIS Case Note History. At Annex E
[20] Ibid
[21] Interview with Admin 2. At Annex B

FG's mental state while he had been in police custody. The solicitor believed "he has a diagnosis of schizophrenia" and that FG presents "a significant risk to himself." [22] The solicitor said that a referral had been made to a psychiatrist for "an independent opinion as to whether FG should be in hospital."[23] (This opinion was provided by Dr 4, who saw FG on 3 March and 10 March and found no grounds for transfer to hospital in her report dated 18 May 2015.)

The Healthcare team obtained information from the police about FG's mental health during his four days in police custody prior to his remand to prison. FG had apparently been hearing voices but on 8 February – the day before his arrival at HMP Nottingham – FG had "appeared calm, relaxed interacting appropriately, no evidence of voices or distraction. Did say that if he were in prison may harm self or someone else".[24] The Healthcare team were informed that a handmade knife had been taken off FG "who was threatening to cut eyes out." [25]

After this information had been obtained from the police, FG's case was discussed in a Multi-Disciplinary Team meeting attended by the Consultant Psychiatrist, Dr 1. FG was seen as an emergency in the afternoon of 12 February by RMN 1, a Registered Mental Health Nurse. RMN 1 noted that wing staff were "very concerned stating that he is on the edge and making threats to kill".[26]

RMN 1 noted that FG engaged well, telling her that he started having auditory hallucinations at the age of 19. A voice had told him to attack his friend, who subsequently needed 36 stitches in his face; this was the 2011 offence for which FG received the three-year sentence. FG said the best support he received for his mental health issues was in prison, however "he was not honest for fear of being locked up in a mental hospital".[27] FG told RMN 1 that on the night of his

[22] FG Consultation Information Sheet. Specific Consultations. At Annex F
[23] Ibid
[24] Ibid
[25] Ibid
[26] Ibid
[27] Ibid

current offence – the alleged Murder of a woman with whom FG was in a sexual relationship and who he considered a girlfriend – "voices told him to strangle her, and she resisted, the voices then told him he would be in trouble so he should kill her".[28]

RMN 1 noted that FG had attempted self-strangulation that day, was in possession of a blade and wanted to take his eye out. "The voices are constant and telling him to take a prisoner's eye out with a plastic knife." [29] RMN 1 concluded that FG was a high risk and placed him on what she noted as constant watch. The correct term is constant supervision and means continuous visual observation by a staff member 24 hours a day.

FG was admitted to the Enhanced Care Area on the third landing in F wing at 16.15 hours on 12 February and placed in the gated cell 3-001.[30] The first available appointment was made with the psychiatrist – which took place on 17 February. FG was unsettled on the morning of Friday 13 February, "asking for medication as he is hearing voices".[31] He would not discuss what the voices were saying. FG's request for a razor was turned down because of the raised risk of self-harm. In the afternoon, FG was seen by Nurse RMN 2, a Registered Mental Health Nurse who remembered FG from his previous period on remand at HMP Nottingham in 2010. RMN 2 noted "nil psychotic symptoms"[32] but that FG does become anxious at times but "easily talked down and reassured".[33] RMN 2 also noted that FG "expresses extreme guilt regarding his offence"[34] and knows he will get a long sentence.

FG remained under constant supervision over the weekend of 14/15 February. A constant supervision review was held on Sunday 15 February where it was

[28] FG Consultation Information Sheet. Specific Consultations. At Annex F
[29] Ibid, page 3
[30] A gated cell is a single cell designed for one-to-one supervision of a prisoner, for example for a prisoner who requires constant supervision. The cell has an (inner) cell door and an additional outer gate instead of a full metal door. The inner cell door can be locked open, leaving the gate in place as a barrier. This is to provide the opportunity to observe and interact more closely with the prisoner.
[31] FG Consultation Information Sheet. Specific Consultations. At Annex F
[32] Ibid
[33] Ibid
[34] Ibid

decided that FG should remain under constant supervision at least until he was seen by the Consultant Psychiatrist, Dr 1, on Tuesday 17 February.

By Monday 16 February FG wanted to come off constant supervision, telling the Assistant Healthcare Practitioner assigned to the ECA, HCA 1, that "he feels more settled and wants to mix with people on the wing".[35] However, it is noted on NOMIS that FG stated, "I really want to be moved out of this cell into another for more privacy, but I'm not going to lie to you I WILL kill myself".[36]

It is also noted at 07.54 that FG's mother "has rang [sic] with concerns over her son's mental health"[37]. This was the second phone call she made to the prison since FG arrived there. The Safer Custody department were informed, although it does not seem to have been passed to the Healthcare team as there is no reference in the medical record. Later in the morning of 16 February, FG tried to call his mother but there was no reply. FG was told by staff that "we would try again later in the day" but it is not clear whether a further phone call was attempted or achieved.[38]

On 17 February, an administrator in Safer Custody, Admin 1, noted that a further email was received about FG from his mother on the confidential helpline. Admin 1 noted that "FG's mother did not leave a number for me to call her back. However due to confidentiality I could not call her and give her the information that she needs".[39] This email is likely to refer to the message left by FG's mother the day before. It does not seem that the concerns of FG's mother were passed on to the Consultant Psychiatrist, Dr 1, who had an appointment with FG on 17 February. During this consultation, Dr 1 talked to FG about the alleged offence that had led to his remand in custody. **REDACTION**

Since being in prison, FG said he was initially placed on a normal wing and told other prisoners what he had done. He felt he had made progress since moving

[35] Ibid
[36] FG NOMIS Case Note History. At Annex E
[37] Ibid
[38] Ibid
[39] Ibid

to F wing and wanted to stay there. FG said he did not want to kill himself but "keeps thinking he will get a life sentence and cannot cope with the thought of serving a life sentence".[40] FG told Dr 1 that when he first came to prison, he tried to make out he was mental to get into a hospital but "has thought against that now".[41] His threats to harm himself or others were "to blackmail them" in order to be sent to the blocks which is much quieter than the induction wing.[42] FG said that the report of the voice in his head was also to make out that he was mental. FG also said he was no longer suicidal or depressed and wanted to be moved from constant watch.

Dr 1 concluded that "following the crisis of coming on here after a very serious offence, he [FG] appears to have stabilised. Consideration needs to be now given if he can be taken off constant watch but remain on ACCT".[43]

After the meeting with Dr 1, FG told another member of the Healthcare team that he was fed up with constant supervision and wanted it sorted today. An ACCT review was however scheduled for the following day and the need for constant supervision would be addressed then.

Following that review, on the morning of 18 February 2019, FG was discharged from the ECA and moved initially to cell 3-005 further along the landing on the third floor of F wing.[44] A plan was made at the review that FG would be seen weekly by Mental Health Nurse, RMN 1, with psychiatric input; a therapeutic relationship was to be established to encourage FG to be honest. FG was to remain subject to the ACCT with hourly observations. The medical record notes that FG does not like to be around too many people due to anxiety and will be seen on the wing to provide a safe environment to encourage engagement.[45] There was no risk assessment undertaken at this point.

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[40] Ibid
[41] Ibid
[42] Ibid
[43] Ibid
[44] FG Cell history. At Annex E
[45] FG Consultation Information Sheet. Specific Consultations. At Annex F

RMN 1 noted that FG had anxiety and was receiving psychiatric input and support from her. RMN 1 was unsure if FG was suffering from auditory hallucinations "as he tells varying stories".[46] FG told her that he had said that he hears voices as he thought that this would result in hospital admission and "would be less than a prison sentence".[47] When he ascertained that if he was referred to hospital, he would return to prison to finish his sentence, FG "stated that he had not been telling the truth and that he does not hear voices."[48] RMN 1 noted that at the ACCT/constant supervision review held on the same day, 18 February, FG stated that "he had been telling untruths and that he **does** hear voices." (Emphasis added).[49]

A Probation Officer, PR 1, also saw FG on the morning of 18 February and had a lengthy discussion in which FG asked some questions about potential outcomes for his case. PR 1 noted that FG was pleased about having been removed from constant supervision.[50]

At lunchtime on 18 February, FG told Supervising Officer 2 that he wanted to die and kill himself. He said that he had manipulated coming off constant supervision as he thought there would be more ligature points in his new accommodation and was disappointed that there were not. FG said that he "couldn't spend any more time in prison and that he had lied about not hearing voices in his head so that he could get sentenced as soon as possible, kill another prisoner so he could go '…to a big boy jail' and ask a prisoner there who would never be released to kill him because he doesn't want to live."[51] FG said that he could not cope with the crime he had committed and wanted to be in a secure hospital.

This information was relayed to the Custodial Manager 1 who was in charge of F wing. Custodial Manager 1 told Supervising Officer 2 to contact the Duty

[46] Ibid
[47] Ibid
[48] Ibid
[49] Ibid
[50] Ibid
[51] FG NOMIS Case Note History, entry on 18 February. At Annex E

Governor, Governor 4, who had been at the ACCT review in the morning when the constant supervision had been closed. Governor 4 told Supervising Officer 2 that FG "was manipulative" and that she, (Governor 4), was not concerned enough to put him back on a constant supervision but said that another review should be conducted during the afternoon and that the Wing Senior Officer 1 should be notified of the information.[52]

After lunch, Senior Officer 1 and Custodial Manager 1 spoke at length to FG about his concerns and thought processes. It is noted that FG "maintains to them that he will continue to try and hang himself but doesn't see how he can in the cell he is in but said that he would get frustrated on normal location and "mentioned killing a prisoner because he just doesn't care".[53] FG said that he was grateful for the ongoing support from Mental Health. The Duty Governor, Governor 4, was informed about the discussion with FG and was happy with FG's current observation levels. It was noted that FG would return to cell F3-001 (within the ECA) until a suitable cell had been found for him on F wing.

Summary

During his first nine days at HMP Nottingham, FG was quickly identified to be a risk to himself and was placed on constant supervision and the suicide and self-harm prevention scheme. He made numerous threats to kill himself and others but did not act on these and came to be considered by staff to be manipulative.

FG was highly inconsistent about the state of his mental health but received regular attention from the Mental Health Team in the prison. His mother also expressed concerns to the prison about her son's mental health, but these do not seem to have been passed on to the Healthcare team.

[52] Ibid
[53] Ibid

Chapter 4

FG: 19 February – 1 June 2015

19 – 28 February 2015

On 19 February FG was moved to cell 3-003 where he remained until the 27 March. Although this cell does not seem to have been part of the ECA, it was very close to it. He referred himself to Substance Misuse services although it is not clear what prompted this.

On Friday 20 February, FG tried to self-harm by wrapping a bedsheet around his neck. Staff entered his cell and removed the item.[54] FG then stated he would kill someone and proceeded to advance towards Prison Officer 2 with a plastic knife. Prison Officer 2 drew his baton to control the situation. The Duty Governor discussed and noted in the Wing Occurrence book that use of force paperwork was completed and that FG should be placed on report.[55] An Intelligence Report (submitted two days later) confirms that FG was placed on report on 20 February for threatening to attack Prison Officer 2.[56]

A Violence Reduction Investigation was carried out and it was decided that as FG was awaiting a mental health appointment and on an open ACCT, it was not deemed appropriate to place him on Basic regime[57]. FG was warned that any repetition would have this result.[58]

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[54] FG Consultation Information Sheet. Specific Consultations. At Annex F;
FG NOMIS Case Note History. At Annex E;
In 'Extracts of Wing Occurrence Book entries – pages 1 – 5'. At Annex H; and
Intelligence Report INED00618850 – 21/02/15 in Summary of Intelligence Reports -- FG. At Annex E

The NOMIS Case Note is for 21 February and the medical record (in the Consultation Information Sheet) referring to the incident is dated 22 February. But an entry in the medical record on 23 February says, "Entry written yesterday was for events on Friday", i.e. 20 February. The entry in the Wing Occurrence Book makes clear it happened on 20 February.

[55] 'Placed on report' means that FG was liable for an adjudication and disciplinary sanctions.

[56] INED00620065 – 22/02/15 in Summary of Intelligence Reports - FG, page 1. At Annex E

[57] Basic regime was the lowest of four regime levels in the Incentives and Earned Privileges scheme (IEP).

[58] FG NOMIS Case Note History. At Annex E

An ACCT Review took place later that day. FG was seen by two healthcare staff and a Governor. The medical record says that FG told them that he had self-ligated earlier in the day because of auditory hallucinations, and he was requesting to go to psychiatric hospital. Mental Health Nurse RMN 1 noted that she discussed with FG that due to the untruths he has told her, she was having difficulties establishing what is factual and what is not. FG stated that he was hearing voices and wanted to be in hospital. FG was advised by RMN 1 that auditory hallucinations can respond well to medication, but FG was "not accepting of this and reiterated that he wishes to be in hospital".[59] The ACCT observations were increased to two per hour at irregular intervals. RMN 1 arranged to see FG two days later on 22 February.

According to an Intelligence Report, on Sunday 22 February FG stated "that he was having thoughts to cut himself or a member of staff. FG would like to speak to a member of healthcare regarding mental health issues".[60] The officer who submitted the report noted that he spoke with Mental Health Nurse RMN 2 and "they [Mental Health] are aware of his concerns and have assured FG they will be addressed".[61] The Intelligence Report notes that FG "is not happy his requests are not being attended to immediately. FG stated, 'you don't know what I am capable of'. FG's index offence is murder he states he has previously served a sentence for stabbing a friend".[62]

Later in the day on 22 February, RMN 1 went to see FG as she had told him she would. Wing staff informed her that due to threats to staff and others, FG would not be unlocked. RMN 1 spoke to FG through the cell door. FG was upset that he could not meet in a room. He continually spoke about going to hospital due to what was going on in his head but did not refer to auditory hallucinations. RMN 1 noted that FG "is a young man clearly distressed at the situation he is in, that relationship is slowly developing between them and at time the need to be firm is required as FG is not always truthful".[63]

[59] FG Consultation Information Sheet. Specific Consultations. At Annex F
[60] INED00620065 – 22/02/15 in Summary of Intelligence Reports - FG, page 1. At Annex E
[61] Ibid
[62] Ibid
[63] FG Consultation Information Sheet. Specific Consultations. At Annex F

FG was discussed at a Multi-Disciplinary Team meeting on Monday 23 February. Mental Health Nurse RMN 1 noted again her uncertainty as to whether FG is hearing voices or not. She planned to see him the following day and arranged for FG to see Dr 1, the Consultant Psychiatrist, again on Thursday 26 February "as he wants to be truthful this time".[64]

On Tuesday 24 February FG declined substance misuse treatment but was seen by Mental Health Nurse RMN 2 as he had become agitated at having to wait for Mental Health input. FG was preoccupied with medication, thinking that this will help remove feelings of guilt and images in his head resulting from his offence – about which FG talked very vividly. RMN 2 noted that throughout the hour's interaction, FG described no psychotic phenomena, only anxiety-related symptoms. FG also disclosed that "he tells a lot of lies to healthcare professionals in a bid to reach his own ends" and was advised to be honest in the future.[65]

When RMN 1 saw FG the next morning, he continued to ruminate on the night of the offence that had led to his remand in custody. His thoughts had shifted from his mental health towards the charge being reduced to Manslaughter and the sentence he might receive. **REDACTION** FG told Mental Health Nurse RMN 1 that if he got life "he may just as well go round killing people as he has nothing to live for".[66] FG said he did not want to see the psychiatrist again, nor want medication for anxiety. There was no mention of auditory hallucinations.

FG's ACCT was reviewed on Thursday 26 February. FG was worried about his court case, low in mood and upset about what he had done. The ACCT stayed open.

The following day, Friday 27 February, two Intelligence Reports were submitted, both concerning the same events.

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[64] Ibid
[65] Ibid
[66] Ibid

The first of these Intelligence Reports mentions numerous threats made by FG to stab staff. "He was put behind his door earlier as he was wandering the F1 landing earlier with a plastic knife stating he wanted to stab someone, at lunch when issued his meal he stated he had not chosen the meal he was being given he then made threats to an Officer to stab her".[67] When an officer responded to his emergency cell bell at lunch, FG queried some medication he believed he should be getting. When informed that inquiries could not be made until after lunch, "he became angry and accused me of not listening to him and stated that he would have to stab somebody to get what he wants which is a hospital placement".[68]

The second Intelligence Report also mentions FG becoming upset about the lack of medication.[69] FG stated that he needed to be transferred to a hospital. He informed staff that he had got a knife and was going to stab a member of staff or himself. Good work by an officer persuaded FG to hand over the knife. He was then persuaded to return to his cell. FG was seen at his cell door by a member of Healthcare staff who told him that the question of medication would be looked into. There is no further entry on his medical record until Tuesday 3 March, four days later.

1 – 31 March 2015

On Sunday 1 March, FG again demanded what he considered his medication from an officer who answered his cell bell. When told that he was not on any medication, FG stated "if I don't get any meds I will fucking stab one of you lot and enjoy it".[70] He smashed his kettle.[71] According to the Wing Occurrence Book, he was placed on report.

[67] INED00629104 – 27/02/15 in Summary of Intelligence Reports - FG. At Annex E
[68] Ibid
[69] INED00629147 – 27/02/15 in Summary of Intelligence Reports - FG. At Annex E
[70] INED00632557 – 02/03/15 in Summary of Intelligence Reports - FG. At Annex E
[71] FG NOMIS Case Note History. At Annex E

On Tuesday 3 March, Healthcare and prison staff discussed FG at an ACCT review and there was also a Mental Health review. His television had been removed due to his behaviour and he hoped Mental Health staff would get it back for him. This suggests that FG had been moved to the Basic level on the Incentives and Earned Privileges (IEP) scheme but there is no record of this.

An officer asked if someone from Mental Health could see FG. The nurse who FG normally saw, RMN 1, was off sick so he was seen by another nurse, RMN3, at his cell. His cell was bare, with no bedclothes – these had been removed because FG had threatened to kill himself.

FG said he thought Mental Health staff would get his television back because it was unfair to be alone with his mad thoughts. FG expressed thoughts to kill others, including Dr 1 (the Consultant Psychiatrist). He discussed his need for medication, how he had lied when he had seen Dr 1, how no-one likes him and how the officers are determined to make him suffer. He is noted as saying, "therefore he may as well kill himself or harm others to which he would not accept responsibility." [72]

On 3 March, FG was also interviewed by an outside Consultant Psychiatrist, Dr 4, who had been asked by FG's solicitors to prepare a psychiatric report for the Crown Court. The purpose of the report was to address FG's fitness to plead and stand trial in respect of the Murder charge and to assess FG's suitability to remain in custody as opposed to a hospital environment.[73] A follow-up interview with Dr 4 took place a week later on 10 March.

According to Dr 4's report, FG told her that for three weeks prior to her assessment on 3 March, he had been asking to be placed in hospital "or he would kill someone".[74] Dr 4 reports him as saying that "he would kill a prisoner…and that the officers were trying to make his life hell" by taking away his television and "messing his food up". FG told Dr 4 "that he was going to kill

[72] FG Consultation Information Sheet. Specific Consultations. At Annex F
[73] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. At Annex F
[74] Ibid

himself or someone else on the night of the 3 March if he did not get his television back. He also told Dr 4 that he was on group unlock – that he could only be unlocked from his cell by more than one officer; and that he was not allowed any Association. FG also told Dr 4 that he had been planning while in prison to kill his previous GP and the prison Consultant Psychiatrist, Dr 1. Dr 4's report notes that FG "also revealed to me that during the interview with him he had thoughts about killing me".[75]

On Wednesday 4 March, an Intelligence Report describes FG as "on his bell consistently all morning".[76] When an officer went to answer his bell, FG was talking to a female member of the Chaplaincy. FG told the Chaplain that it was the officer's fault he had had his medication stopped and stated that he would kill a member of staff to facilitate a move to a hospital. "He was very clear that he was already looking at a long time and this would not make any difference".[77] He was ordered to remain behind his door.[78]

There is an entry on NOMIS from a Chaplain on 5 March. It is possible that this is the same visit noted on 4 March, but the Chaplain, C1, is male so it likely to have been a separate pastoral visit. FG told C1 that he was angry and unhappy because he had no television, no medication for two weeks and that an appointment the day before had been cancelled. The Chaplain contacted Mental Health administrative staff who confirmed that the appointment had been cancelled but that a further appointment with a psychiatrist made for 19 March. They also confirmed that FG had not been prescribed any medication. There is no note in the medical record for a cancelled appointment. It is possible that FG was unable to attend the appointment on 4 March because he had been ordered to remain behind his door.

[75] Ibid
[76] INED00635991 – 04/03/15 in Summary of Intelligence Reports – FG. At Annex E
[77] Ibid
[78] In 'Extracts of Wing Occurrence Book entries - pages 1 - 5'. At Annex H

On Monday 9 March, a call was received from FG's mother who was concerned that she had not heard from her son for a while. The administrator in Safer Custody, Admin 1, noted that she told FG's mother that she would get a message to FG to call home. She was unable to get through to wing staff, so emailed the Wing Senior officer, Senior Officer 2.[79] It is not known whether the message was passed on to FG or whether he did phone his mother.

On Tuesday 10 March, FG was seen on the wing by Mental Health Nurse RMN 1, who found him more accepting of his situation although he again went over the events of the night of his offence in detail. RMN 1 noted that FG was trying to grasp the enormity of his situation and that it was a good session with a relationship developing. RMN 1 refused to recommend the return of FG's television on the basis that he "must take responsibility for his actions".[80]

FG also had his second interview with Dr 4 who was preparing a report for the court. Her report notes that in this second interview FG "revealed that he made up some of the things he had told me, such as hearing voices and having thoughts to kill people in order to get into hospital, but that he now believed that time in prison would be OK." "He later contradicted himself by saying that he did have thoughts telling him to kill people." [81]

A week later when RMN 1 saw FG on 17 March, he was still requesting a transfer to hospital but said he felt better. RMN 1 recorded that she had read through FG's notes which said that he never took medication and refused to attend appointments with a psychiatrist. FG had an appointment booked for 19 March with Dr 1, the prison Consultant Psychiatrist, but "refuses to attend so appointment has been cancelled".[82]

[79] FG NOMIS Case Note History. At Annex E
[80] FG Consultation Information Sheet. Specific Consultations. At Annex F
[81] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. Page 9, first paragraph. At Annex F
[82] FG Consultation Information Sheet. Specific Consultations. At Annex F

On 22 March, FG's mother rang again, concerned by a phone call she had received from FG stating that he wanted to kill somebody. FG's mother wanted FG hospitalised as soon as possible and said that he thrived better at HMP Ranby. FG had told her that he had been locked up for three weeks and had threatened an officer that day, although there is no record of this having taken place. The entry on NOMIS says that "Wing staff say he has been acting/playing like this since arrival at HMP Nottingham. He is seen regularly by mental health and a psychiatrist on behalf of the court." [83]

Two days later at the ACCT review on 24 March, the ACCT Plan book was closed. FG was noted in the medical record as being "very positive, no thoughts of self- harm, good eye contact and mixing well on the wing now".[84] It is not clear whether the call made by his mother two days earlier was considered before closing the ACCT.

On 27 March FG moved to the ground floor into cell F1-023, where he remained until the day after the assault on AE.

1 – 30 April 2015

During April there are no entries on NOMIS relating to FG.

As for the medical record, on 1 April FG is noted as engaging well, quietly spoken, looking well. He told RMN 1 he will not attend work or education as he does not want extra money **REDACTION**. On 2 April, wing staff raised concerns about FG's behaviour. It is noted in the Wing Occurrence book that FG "mentioned that if mental health don't sort him out, he will kick off again with no worries".[85] Mental Health were contacted and FG was seen by RMN 2 on the following day, 3 April. FG expressed frustration at what he felt was nothing being

[83] FG NOMIS Case Note History. At Annex E
[84] FG Consultation Information Sheet. Specific Consultations. At Annex F
[85] In 'Extracts of Wing Occurrence Book entries – pages 6 – 10'. At Annex H

done. He was advised to engage fully with his psychiatric nurse and psychiatrist to move on and get more from the Mental Health service.

FG was not seen by Mental Health on 8 April because the wing was on lockdown due to numerous patients going to hospital as a result of consumption of the psychoactive substance 'Mamba'.[86] When Mental Health Nurse RMN 1 next saw FG on 14 April, although engagement was poor, FG said he was feeling better, had no concerns and was observed engaging with others on the wing. Healthcare Assistant HCA 1 saw FG on 22 April when his mental state was good.

FG was not collected for an appointment with RMN 1 on 29 April, although it is not clear why.

RMN 1 completed a risk assessment questionnaire about FG which rated him, inter alia, as being a low apparent risk of violence.[87]

1 May to 2 June 2015

In RMN 1's absence on leave, Healthcare Assistant Practitioner HCA 1 took over responsibility for supporting FG. HCA 1 saw FG on 6 May when his mental state was good, and he was mixing well on the wing. PR 1, the Probation Officer, saw FG to get him to sign authority for solicitors to obtain his medical records. FG spoke about visits from his mother and told PR 1 that he was coping better but was anxious about the sentence he was likely to receive in August 2015.

The following day, 7 May, FG did not attend an appointment at Dr 1's Psychiatry Clinic. FG told Assistant Practitioner HCA 1 at their next regular weekly meeting on 13 May that he could not remember why he had not attended the appointment with Dr 1. FG did not want to talk to HCA 1 as he was busy talking to his friends. But HCA 1 had no concerns about FG.

[86] Mamba is a synthetic drug with similar effects to cannabis but much stronger. See Glossary.
[87] Risk Assessment (Level 1) of FG. 29.04.2015. At Annex F

The next day, 14 May, FG was one of three prisoners running around the exercise yard, collecting parcels which had been thrown over the wall.[88] Two days later, FG was observed collecting another throw-over in the yard. Only rub-down searches could be conducted due to the large number of prisoners on the yard and nothing was found.[89]

HCA 1 had no concerns on 22 May, the last recorded contact by Healthcare with FG before the assault. RMN 1 was unable to see FG on 26 May due to a stand-fast roll check, a security measure which prevents movement by prisoners.

Although there are no prison records about it, on Friday 28 May, FG refused to attend a court hearing relating to the charge of Murder. Newspapers reported that FG did not leave his prison cell because of anxiety.[90]

On 1 June, the day before the assault on AE, FG was involved in a raised-voice match with another prisoner. Both were placed behind doors on orders. It was noted that prisoners known to be involved in a particular gang "approached the situation and then were seen to visit both doors of the prisoners who had the altercation".[91] On the same day, FG informed an officer that he owes money and thinks he should move wing.[92]

Summary

During the second half of February and March 2015, FG continued to threaten violence, making threats to kill himself, staff and other prisoners on numerous occasions. He was placed on report on two occasions. FG's mother expressed her concerns about her son on at least two occasions in this period.

[88] INED00747264 – 14/05/15 in Summary of Intelligence Reports – FG, page 1. At Annex E
[89] INED00750747 – 17/05/15 in Summary of Intelligence Reports - FG. At Annex E
[90] The Mirror, 31 May 2015. At Annex L
[91] INED00774015 – 01/06/15 in Summary of Intelligence Reports – FG. At Annex E
[92] In 'Extracts of Wing Occurrence Book entries - pages 11 – 14'. At Annex H

FG continued to contradict himself to healthcare professionals about whether he was hearing voices or whether he was fabricating symptoms. He was also inconsistent about his needs for medication and hospitalisation. He received regular attention from Mental Healthcare staff but was not prescribed any medication. FG was taken off the ACCT scheme on 24 March.

In April and May, FG appears to have settled down following a move to a ground-floor cell. In the weeks before the assault on AE, FG was involved in collecting parcels thrown into the exercise yard from outside the prison and appears to have got into debt. He refused to attend court four days before the assault and was involved in a shouting match with another prisoner.

Chapter 5

AE's Reception and Stay on F Wing, 1 April – 1 June 2015

1 – 30 April 2015

AE arrived at HMP Nottingham on 1 April 2015 having been remanded by Nottingham Crown Court for Common Assault, Breach of a Restraining Order and Possession of an Offensive Weapon.[93] He was a 44-year-old man with a range of physical and mental health care needs who had been in prison several times before. The Cell Sharing Risk Assessment (CSRA) records AE as standard risk on reception. AE is noted as having been in prison before and was feeling "a bit unsteady. No drink/drug issues".[94] AE was assessed as not significantly vulnerable to assault. The CSRA circles "yes" to "PER [Person Escort Form] (violent behaviour in police, Court, PECS custody)" but does not specify what this entailed.[95]

A health reception screening was carried out which notes that AE had suffered a stroke in 2012 and two heart attacks in 2004/5. AE had brought with him a variety of prescribed medication. The record of the screening also notes that AE stated that he is known to the Community Mental Health Team in Town 2 and suffers with schizophrenia and depression and had been admitted to hospital in the past. AE said that he had self-harmed three months earlier by cutting his wrist, neck and arms; had tried to hang himself with a bed sheet the previous October; and overdosed on prescribed medication two months earlier. But AE said he was not thinking of suicide/self-harm at present. AE was admitted to the Enhanced Care Area (ECA) on F wing and located in cell 3-001.[96] He was referred to Mental Health services.[97]

[93] AE Patient Record, entry on 9 April 2015. At Annex D
[94] AE Cell Sharing Risk Assessment. At Annex C
[95] Ibid. PECS stands for Prisoner Escort and Custody Service.
[96] Housing Location History. AE. 01-04-2015-06.02.2015. At Annex C
[97] AE Patient Record. At Annex D

A first-night interview was conducted by a prison officer which noted that the last time AE was in custody was in 2009. AE stated he had self-harmed in 2014 but did not have any current thoughts of self-harm.[98] AE was noted as seeming "very stressed and does not know if he will harm himself'.[99] The person who completed the form says that they e-mailed it to Safer Custody the following day.[100]

On 2 April, his second day in prison, AE was visited by a Chaplain, C1 – the first of several regular visits during the following two months. The Chaplain noted that AE did not have a kettle or television and that staff were going to try and source them for him.[101]

On 3 April AE told HCA 2, a Healthcare Assistant Practitioner, that he had had no water in his cell since his arrival, which was confirmed by staff. The water was switched on so that AE had drinking water and a flushing toilet. AE was distressed, tearful, pacing his cell because he had not had a phone call home. He had no kettle to make a hot drink. AE requested to speak to a particular member of Healthcare staff, Nurse 3, "as she knows me from my last sentence".[102] Mental Health Nurse RMN 2 requested that AE's mental health assessment be brought forward "as in on the ECA." [103]

It is noted in the medical record that AE was being bullied for cigarettes by "numerous prisoners walking up to his cell".[104] HCA 2 told AE to put his tobacco in his sock and say he has run out and not give them any. It is not clear if she told prison officers about the bullying.

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98 AE NOMIS Case Note History. At Annex C
99 AE Suicide / Self-Harm Warning Form, 1 April 2015. At Annex C
100 Ibid
101 AE NOMIS Case Note History. At Annex C
102 AE Patient Record. At Annex D
103 Ibid
104 Ibid

On 5 April, Nurse 3, whom AE knew from a previous spell in prison, had a lengthy chat with him and found him presenting as "particularly vulnerable".[105] AE told her that a prisoner had tried to steal his watch and he had to lock himself back in his cell. AE had superficial scratch marks, said he was feeling down and was not eating food as he felt it was contaminated. AE said he was too frightened to mix on the wing and preferred to roam around on his own landing.

The nurse discussed with the wing senior prison officer where AE would be located, as remaining on the ECA was not a long-term option. The officer said it might be "wise for AE to remain on F Wing post discharge from ECA possibly in double cell with a prisoner who AE states 'looks after him' ''.[106] This might refer to Prisoner H who told us that he "used to nip up and see him for 10,15 minutes at a time whenever I was out, just to chat, give him his roll-ups".[107] It could alternatively have been a so-called "signpost' prisoner called J'" who is later noted as assisting AE with daily living and keeping AE's tobacco in a safe place for him.[108]

An ACCT was opened for AE due to recent self-harm. AE is noted as saying that "he is a habitual self- harmer specifically when under stress"[109]. A Self Harm and ACCT Alert was placed on the NOMIS system, but no explanation is given as to why, nor any ACCT number for reference.[110]

On 7 April, Mental Health Nurse RMN 1, who also knew AE from a previous sentence, noted that AE had not washed or shaved since entering the prison. She noted that AE thought he was in hospital but did not know which hospital and was unable to say what year it was. While RMN 1 was chatting with AE, another prisoner shouted his name. AE was physically scared and began shaking and

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[105] Ibid
[106] Ibid
[107] Interview with Prisoner 1
[108] AE Patient Record, entry on 22 April. At Annex D.
J seems to have been a trusted prisoner or peer supporter, known as signpost orderlies, who help other prisoners, particularly new arrivals. See https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/05/Nottingham-Web-2016.pdf
[109] AE Patient Record, entry on 5 April. At Annex D
[110] AE NOMIS Case Note History. At Annex C

crying.[111] It was agreed that an agency carer who was already working in the ECA would also assist AE.

A formal assessment of AE's care needs was made by RMN 1 the following day, 8 April, and someone described as a support nurse was introduced to help AE with daily living.[112] This seems to be the agency carer who would prompt him and assist him with getting dressed and washed.

Nurse RMN 1 also undertook a mental health assessment of AE on 8 April. While noting that AE was a poor historian with poor recall, RMN 1 found evidence of psychosis in the form of hearing voices and seeing visual hallucinations. The voices sometimes told AE to hurt himself. RMN 1 made a telephone call to K who was AE's carer in the community, but her recall was poor. RMN 1's assessment concluded that AE should be provided with a safe environment, currently the ECA, and a carer to prompt him and ensure his daily needs were met. AE should also be encouraged through regular one-to-one meetings with staff and a full mental health assessment should be completed.[113]

On 9 April the carer in the prison said that AE had not eaten the day before or breakfast/lunch on that day. Dr 1, the Consultant Psychiatrist, went onto F wing and was concerned at AE's presentation. Dr 1 asked for the GP to review him and an appointment was made for the following day.

On 10 April, AE was seen by a locum GP, Dr 3, who noted that he was told that AE was seen in hospital, but AE could not explain the reason. AE had in fact been to court earlier that day so may have been confused. The locum GP noted no overt psychosis and diagnosed "?acute on chronic confusion state".[114] The GP discussed the case with officers and advised that AE would need close monitoring and review with the regular GP. AE's case was also discussed at the

[111] AE Patient Record. At Annex D
[112] Ibid
[113] Ibid
[114] AE Patient Record. At Annex D

Mental Health Multi-Disciplinary Meeting where he was accepted on the caseload of the Secondary Mental Health Team.

On 11 April, AE experienced a weakness in his left side. Wing officers asked Nurse 4 to see him. She decided to monitor and review again if symptoms worsened. He was seen later in the day by Mental Health Nurse RMN 2 who noted that AE "presents as histrionic." [115] AE was able to move his arm. He had been brought over in a wheelchair although he later mobilised with crutches. RMN 2's impression was "something is bothering AE but he is unable or does not want to disclose this".[116] Later that afternoon, AE was transferred to City Hospital for further investigation after he was seen by a doctor who noted AE was unable to move his left hand and complained of tingling sensation in both arm and leg. The hospital contains the stroke medicine service.

AE spent the next three days in hospital returning to prison on 14 April. He was still complaining of left-sided discomfort, but the diagnosis appears to have been one of functional weakness. The hospital let the prison know that they intended to have an Early Discharge and Support team come into the prison to support AE; however, it is not clear from the records we have seen if this was followed through. AE does not seem to have had a magnetic resonance imaging (MRI) scan while in hospital although a letter from the hospital to AE, dated 15 April, says that the appointment was made for 12 April – three days earlier.[117]

On 15 April, the prison's regular GP, Dr 2, updated the medication being taken by AE and AE was monitored during the day by Healthcare staff. At an ACCT review, although AE had no thoughts of self-harm or suicide, it was decided that the ACCT should stay open.

The next day, 16 April, Nurse 2, who was the emergency nurse for the day in the prison – Hotel 9, noted that an officer reported before lunch that AE looked

[115] Ibid
[116] Ibid
[117] Letter of 15 April 2015 from Nottingham City MRI Centre to AE. At Annex D

unwell like he did the previous week. He was checked over by Nurse 2. She found him sitting up in his cell, about to have a smoke with another prisoner. He asked for pain relief for a pain in his left thigh "which is normal to him".[118] Paracetamol was issued.

Later in the day, Mental Health Nurse RMN 1 had a face-to-face meeting with AE and found him to be disorientated and saying that voices and visions were still present. He started crying, was walking slowly and finding it difficult to move his left arm. She noted that AE has a prisoner to collect meals and help him on a daily basis – we think this was possibly prisoner H or J.

On 16 April, AE told a Chaplain, C1, that he did not like his medication. The Chaplain advised AE to keep taking it as AE said that he had spoken to Healthcare about it.[119]

The next day, 17 April, AE was recorded as forgetting to collect his medication, and walking very slowly with a limp and his arm hanging down by his side. He was seen mid-morning by the emergency nurse, who found him pale, vague, unable to stand with the left-side weakness. An ambulance was called, and he was taken to hospital.

On his return from hospital at 16.30 on the same day, Nurse 5 noted that AE "walked through healthcare with no issues. Taking in full sentences…appears to be stable, alert, orientated and ready for his tea".[120]

The next day AE had a settled morning and was seen out on the landing speaking to other prisoners. Two days later, on 20 April, it was noted by Healthcare Assistant HCA 4 that AE was "escorted down to the meds hatch as he doesn't want to queue as he is fearful of the other prisoners".[121]

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[118] AE Patient Record. At Annex D
[119] AE NOMIS Case Note History. At Annex C
[120] AE Patient Record. At Annex D
[121] AE Patient Record. At Annex D

Over the following days, AE continued to give some cause for concern. On 21 April, when a nurse went in to see him with an officer, AE was sitting in a chair slapping his right knee continuously. He did not answer back to verbal communication. On 22 April, Nurse 3 found AE tearful and agitated. Auditory hallucinations were telling AE not to engage with Nurse 3 and to harm himself. A senior officer told Nurse 3 that razor blades with which AE planned to harm himself had been taken away the day before. The notes state in capitals TO REMAIN ON THE ECA'.[122] But a Chaplain, C2, noted that, when he visited him, AE said he had no issues or concerns and was feeling well.[123]

On Thursday 23 April, Consultant Psychiatrist Dr 1 conducted a psychiatric assessment of AE. Dr 1 noted that AE was agitated and distressed with second- and third-person auditory hallucinations.[124] There were blood scabs on his forehead where he tried to cut them out of his head. AE was not fully orientated and did not recognize Dr 1 from before – Dr 1 had seen AE two weeks earlier on 9 April. Because of the weakness in AE's left-hand side, Dr 1 wondered if AE had had another stroke but was aware that he had been to hospital the previous week and that doctors there did not think so and had recommended an MRI scan. Dr 1 planned to start AE on antipsychotic medication and review him in two weeks.

An ACCT review was held on Saturday 25 April, but without the multidisciplinary team as it was the weekend. AE engaged well and, although he was concerned about a forthcoming court appearance in July, he had no thoughts of self-harming. It was decided to review him again on 27 April, with a member of mental health to attend.[125]

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[122] Ibid

[123] NOMIS Case Note History. At Annex C

[124] Second-person auditory hallucinations are when a patient hears voices talking to them directly. Third-person auditory hallucinations are when a patient hears one or more voices talking about them – the patient – in the third person.

[125] NOMIS Case Note History. At Annex C

On 26 April, AE was reported to be in the cell with a fellow prisoner "who is looking after him" and that AE appears well, settled and untroubled.[126] The rearranged review on 27 April decided to keep AE subject to ACCT as he was still getting low in mood. The MRI appointment is noted as having been made but no date is recorded on the medical record.[127] An appointment letter says that it was for 28 April. He does not appear to have attended. Later that day, AE was noted as saying he felt dizzy and was walked back to his cell but a set observations were normal.[128]

AE was noted as talking and smoking with other prisoners in his cell on 28, 29 and 30 April and seemed to be doing well, although on 29 April, a Chaplain, C2, reported that AE was "a little worried" when he went to see him in his cell as he had spilled some water.[129] An Intelligence Report for 29 April suggested that prisoners have been entering the cell of AE and stealing his tobacco. It has also been alleged that {redacted name} wants a watch which AE has.[130] There is no record of any action being taken to protect AE.

1 May – June 2 2015

The improvement in AE's wellbeing continued into the first week of May, with no concerns reported, and positive entries on his mood and mental state and his mixing with other prisoners.[131] On 6 May, Mental Health Nurse RMN 1 noted that AE was still having auditory and visual hallucinations and felt his medication was not making a difference.[132] The physiotherapy appointment, which was promised after his hospital discharge on April 14, was chased up (and eventually made for 2 July 2015).[133]

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[126] AE Patient Record. At Annex D

[127] A letter from the hospital to AE says the appointment was to be on 28 April. Letter of 23 April 2015 from Nottingham City MRI Centre to AE. At Annex D

[128] Ibid

[129] NOMIS Case Note History. At Annex C

[130] 29/04/2015 INRR02293239 in Mercury Intelligence System. Intelligence Reports, page 8. At Annex C

[131] E.g. AE Patient Record. Entries for 30 April, 1 May, 2 May, 4 May, 5 May, 6 May. At Annex D

[132] AE Patient Record. At Annex D

[133] Letter of 27 May 2015 to AE from Neuro Rehabilitation Outpatient Team. At Annex D

AE was a little low first thing in the morning of 8 May but improved once he had eaten his dinner and taken medication. On the evening of 10 May, a nurse reported that AE's ankle was swollen, painful and hardly weight-bearing. A wheelchair was acquired the following day because of what AE reported to be gout.[134] This condition required mobility help to be provided when AE needed to get to the toilet.

An ACCT review on 12 May identified no thoughts of self-harm and proposed that the next review in two weeks should consider closing the ACCT.[135]

Over the next few days the pain in his leg seemed to get AE down. He told Chaplain C3 on 12 May that he was concerned about being asked to work because he cannot walk with one leg and cannot move one arm but was in a "calm frame of mind".[136] On 13 May AE's mental state was low because of pain in his leg. It was noted by Assistant Healthcare Practitioner HCA 1 that AE "likes people to sit in his cell and talk to him".[137]

The following week saw few concerns expressed – either by the chaplains who visited AE regularly or the nursing staff.[138] AE's foot seemed to be getting better. He was a little upset on 14 May when his wife did not come for a visit. However, when the Psychiatrist Dr 1 reviewed AE on that day, he found him still to be psychotic, with hallucinations telling him not to eat certain foods as they are poisoned and to cut his head open to remove hallucinations. AE's medication was increased.[139]

On 20 May, Health Care Assistant Practitioner H1 noted that AE's leg was improving but that he still found it hard to walk on it. His mental state had been

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[134] AE Patient Record. At Annex D
Gout is a type of arthritis that causes inflammation of joints, with sudden severe joint pain.
[135] AE Patient Record. At Annex D
[136] Entry on 12/05/2015 in NOMIS Case Note History, page 4. At Annex C
[137] AE Patient Record. At Annex D
[138] NOMIS Case Note History. At Annex C
[139] AE Patient Record. At Annex D

good over the week and “AE likes friends in his cell talking to him”.[140] HCA 1 reported that AE was a little upset on 21 May as he missed his visit because a wheelchair could not be found.

On 23 May, Prison Officer 4 noted that AE fell while trying to go to toilet. (The word “collapsed” is crossed out in the entry.) [141] Healthcare Manager H1 noted that AE was unable to bear weight on his right leg.[142]

Despite the relative lack of concerns about AE during the previous week, an ECA Assessment on 25 May was more worrying. Health Care Assistant Practitioner HCA 3 noted that AE’s personal hygiene was noted as unkempt, his mood anxious, and he was not able to get around with a foot swollen and painful. The note also says “not on ACCT”, but it seems that in fact the ACCT was not closed until 29 May.[143]

AE’s problems increased later on 25 May when he reported to staff that he felt unwell. Supervising Officer 1 noted that other prisoners reported to staff that AE had been “spiked” possibly by New Psychoactive Substance (NPS) to enable his watch to be stolen.[144] An intelligence report was submitted.[145] The watch was returned anonymously.[146] He was noted by Nurse 6 as feeling under the weather, having smoked an ‘NPS’ from another prisoner.[147] According to the Wing Occurrence Book entry made by Supervising Officer 1, the Orderly Officer was informed “to check CCTV” – presumably to identify the prisoners who had entered AE’s cell.[148] It is not clear whether this was done and if so what action was taken.

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[140] Ibid

[141] In ‘Extracts of Wing Occurrence Book entries – pages 6 – 10’. At Annex H

[142] AE Patient Record. At Annex D

[143] Ibid

[144] In ‘Extracts of Wing Occurrence Book entries – pages 11 – 14’. At Annex H.
The Orderly Officer is the senior officer responsible for the day-to-day running of a prison on a particular day and for the management of incidents which occur on that day.

[145] Mercury Intelligence System. Intelligence Reports, page 8. At Annex C

[146] In ‘Extracts of Wing Occurrence Book entries – pages 11 – 14’. At Annex H

[147] AE Patient Record. At Annex D

[148] In ‘Extracts of Wing Occurrence Book entries – pages 11 – 14’. At Annex H

On 26 May, a further risk assessment was completed by Nurse RMN 1, but, as with the risk assessment completed on 22 April, this document could not be located.[149] This would have included a section considering AE's risk of exploitation.

On 27 May AE's engagement with RMN 1 was poor. He complained that medication was not working, and hallucinations were bothering him. Nurse 7 noted that he needed to see the doctor about his physical problems and that he required an Occupational Therapy assessment, because he might require walking aids and he should be allocated a named nurse. There is no evidence that this happened. AE was also noted as needing assessment and care planning and to have a falls assessment.[150] An appointment was made for 2 July (and subsequently cancelled following the assault on 2 June).[151] AE saw the GP who confirmed an appointment at a hospital Deep Vein Thrombosis (DVT) clinic the next day.

On 28 May AE attended the outpatient appointment where DVT above the knee was confirmed. He returned to prison in good spirits. On 29 May, staff reported no concerns with AE and the ACCT and Self Harm alert were made inactive on NOMIS.[152]

An ECA Assessment on 30 May noted that AE was unable to shower and that he might need a Zimmer frame. His mood was anxious, but he had been seen sitting in his cell "with cell mate" smoking, although AE was in a single cell.[153] That night it was noted that AE struggled to get up from his bed to collect his medicine as he was in pain.

[149] AE Patient Record. At Annex D
[150] Ibid
[151] Letter. Entry on 27 May in AE Patient Record, page 98. At Annex D
[152] NOMIS Case Note History. At Annex C
[153] AE Patient Record. At Annex D

On 31 May, AE said he was struggling to walk as his leg was too painful. No Zimmer frame was available. AE was reliant on other prisoners to escort him to the toilet and take his meals.[154]

On 1 June, AE was taken to Healthcare in a wheelchair. He was finding it difficult to stand without help. But he was sitting with friends in his cell watching TV.

Summary

AE was a very vulnerable prisoner with complex healthcare needs who was subject to an ACCT for almost all the time he was on F wing. His physical and mental healthcare needs were addressed by staff in the Enhanced Care Area, by the wider Mental Health Team and through visits to outside hospital. AE also had problems with mobility which were only partially addressed. In the period prior to the assault, AE relied on other prisoners for some of his activities of daily living. AE was victimised on a number of occasions by other prisoners who took his tobacco and tried to steal his watch. No measures were taken to protect him from exploitation although AE seems to have had a number of friends who sat with him in his cell.

[154] AE Patient Record. At Annex D

Chapter 6

The Day of the Assault, 2 June 2015

What Happened

According to a document from July 2015, the morning routine at HMP Nottingham was: “07:45 staff briefing and unlock 08:00 – 08:15 domestics 08:15 – 08:30 – movement to activities.” [155]

On the morning of Tuesday 2 June 2015, FG was unlocked in order to go to a workshop. FG said in his interview with the police on 5 June 2015 that he did not go to the workshop because he suffered from anxiety. Because he was on the list, his door was opened. FG’s cell was left open for ten minutes while other prisoners went off to work. During this period FG left his cell.

The timing of what happened in respect of FG is not certain. According to the Control Room Log, the route was called at 8.30, commenced at 8.38 and completed at 9.00.[156] The route refers to the period when most prisoners would have gone off their wings to work, education or other activities. It is possible that FG was unlocked at some time before 8.30 and his cell remained open continuously until the time he assaulted AE shortly after 10.00.

However, the prison’s Control Room Log also notes a work party leaving F wing at 9.51. It is possible that FG remained behind his door until he was unlocked for this later working party. This makes more sense in terms of the chronology as FG implied in his interview with the police that he went up to the third landing directly after being unlocked and spent only a relatively short time there before assaulting AE.

[155] Benchmarking Core Day Options. At Annex J
[156] Control Room Log. At Annex H

It is not clear which officer unlocked FG. According to the staffing schedule provided by the prison to the investigation, on the morning of 2 June 2015 three Prison Officers, namely 3, 4 and 5, and one supervising officer, 1, were on duty on F wing.[157] None of those who were scheduled to be on duty remember the day in question. It is possible that other staff were cross-deployed to F wing from elsewhere in the prison, but no records are available of who actually worked on F wing on 2 June 2015.

Prison Officer 5 told the investigation that he was not physically present during or after the incident. He said it was commonplace for staff to be redeployed around the establishment, so there is a question about whether he was actually on duty on F wing that day.[158]

Prison Officer 3 told us that he has no memory at all of the incident.[159] Prison Officer 4 told us that he was aware of the incident but "didn't see the incident or didn't deal with the incident." [160] He agreed he might have been cross-deployed or in another part of the wing.

Supervising Officer 1 told us that she did not think she was on duty that day. She told us she may have been but has no recollection of the events.[161] The F wing Occurrence Book includes an entry from her on 2 June although it is not clear at what time it was made. This shows that she was in fact on duty, but it does not include the time of her shift.[162]

FG told police that he was unlocked every day for work but told staff that he could not go because he had anxiety and he'll "end up killing someone".[163] (It is recorded in the medical record on 1 April that FG told RMN 1 he will not attend work or education as he does not want extra money **REDACTION**.)[164]

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[157] Daily Schedule V ('Schedule Level'): 02.0/06/2015 - 02/06/2015. At Annex H
[158] Interview with Prison Officer 5. At Annex B
[159] Note of Telephone Conversation with Prison Officer 3. At Annex B
[160] Interview with Prison Officer 4. At Annex B
[161] Interview with Supervising Officer 1. At Annex B
[162] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14'. At Annex H
[163] Record of interview with FG, 05.06.2015. Page 50. At Annex H
[164] FG Consultation Information Sheet. Specific Consultations. At Annex F

On leaving his cell, FG went up to the third landing where the prisoners were out on Association. FG told police that "the threes are let out in the morning. The twos and ones are let out in the afternoon".[165]

FG talked to another prisoner and shared a cigarette with him. FG said to police that at this stage he was not thinking about attacking AE.

FG told police that an officer saw him and told him to return to his cell. We have been unable to identify this officer. FG told police the officer was a white man with "baby blue eyes" and "brunette" hair.[166]

FG did not go back downstairs to his cell but instead went into the shower area which is located on the opposite side of the landing from AE's cell. FG told police that it was while he was in the shower area that he had "an intrusive thought" and decided to attack AE.

While he was in the shower area, FG told police that another prisoner came along to use it but would not do so because FG was there. FG said that a healthcare worker called "HCA 1" told him to leave the shower.[167] The Healthcare Assistant Practitioner, HCA 1, told this Article 2 investigation that she had not seen FG and would not have gone into the showers.

FG told police that when he came out of the shower, he saw the officer who had challenged him earlier and thought that he might be in trouble for not heeding the officer's instruction to go back to his cell. But according to FG, the officer "walked straight past" him, saying "Dude" to him as he went by.[168]

FG then hung around on the third-floor landing, waiting until two prisoners came out of AE's cell. FG saw that AE's cell door was open and went in at 10.08.[169]

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[165] Record of interview with FG. 05.06.2015. Page 6. At Annex G
[166] Record of interview with FG. 05.06.2015. Page 39. At Annex G
[167] FG used the first name of HCA 1. Record of interview with FG. 05.06.2015. Page 37. At Annex G
[168] Record of interview with FG. 05.06.2015. Page 39. At Annex G
[169] Police Report. Director's Guidance Streamlined Process. 7.06.2015. At Annex G

FG told police that “I’ve seen him in there by himself and I thought logically if I try to kill someone on the wing the officers are gonna come and intervene and pull me off him so I lock myself in the cell with him. I knew exactly how I was gonna do it”.[170]

AE had been seen by HCA 1 earlier that morning. She noted at 9.28 that AE had taken his medication and was still not wanting to walk “as it hurts him”. His mental state was good, he had his cell cleaned and there were “no concerns at the time of entry”.[171]

According to Prison Officer 1, on the day after the incident, FG told him that that he had asked AE to share a cigarette and that when AE had turned his back on him, he attacked him and pulled him to the floor and then started to stamp on his head.[172] In his own police interview, FG explained that he had told AE that he had a brought a mobile phone into the cell and that was why he was locking the door.

After that, FG sat down on the bed next to AE. He then strangled AE until he passed out. AE dropped to the floor, banging his head. FG then jumped on AE’s head. FG told Prison Officer 1 he did this three times but told the police it was about ten times.

When AE was on the floor, FG took AE’s wedding ring, using soap to remove the ring from AE’s finger. FG told police that he took the ring so that he could “get rid of it for drugs or something”.[173]

FG said to the police that he had been using weed and Mamba while in prison but was sober when he tried to kill AE.[174]

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[170] Ibid
[171] AE Patient Record. At Annex D
[172] Witness Statement Prison Officer 1. At Annex G
[173] Record of interview with FG. 05.06.2015. Page 20. At Annex G
[174] Weed refers to cannabis. For Mamba, see Glossary

At 10.15, FG left AE's cell[175] and returned to his own cell on the ground floor.

AE is Discovered

A few minutes later, Prisoner H entered cell 3-01 and saw AE lying on the floor. Prisoner H told police it was after 11.00 but the police report to the Crown Prosecution Service puts the time at approximately 10.30.

Prisoner H, whose cell was on the second level, was a regular visitor to AE's cell, helping him with everyday tasks and rolling his tobacco. Prisoner H had already been to see AE at about 9.00 when AE "appeared to be his normal self and was sitting on the end of his bed".[176]

When Prisoner H returned 90 minutes later, he saw AE lying face-down on the floor of his cell, not moving. Prisoner H tried to rouse AE but he did not respond. Prisoner H ran quickly to the nurses' office and told Healthcare Assistant Practitioner HCA 1. According to Prisoner H, HCA 1 immediately went to AE's assistance. HCA 1 told us that an officer was already there, and that Prisoner H had shouted for assistance. Prisoner H told us he could not remember whether he shouted. The officer to whom HCA 1 referred is likely to have been the officer whom FG told police he had seen on the third landing, but we do not know who this was.

Healthcare Assistant Practitioner HCA 1 told us that she "phoned, I says, "Oh, I need the Hotel 9 over here," and "went to run to get the bag. I was talking to him all the time while I was there".[177]

HCA 1 said she did not call a Code Blue; calling a Code Blue would have meant an ambulance would have been called immediately.

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[175] Police Report. Director's Guidance Streamlined Process. 7.06.2015. At Annex G

[176] Witness statement Prisoner H, 4 June 2015. At Annex G

[177] Interview with HCA 1. At Annex B.
The 'bag' refers to an Ambu bag, a hand-held device used to provide positive pressure ventilation to a patient who is not breathing or who is breathing inadequately.

Hotel 9 is the call sign of the member of Healthcare staff who is on duty to respond to medical emergencies in the prison. On 2 June, Hotel 9 was Nurse 2. She noted in the medical record that "Hotel 9 call to F wing- Unconscious. On arrival to the cell. AE was laid on the floor on his left side. Non responsive to voice or pain, Breathing, pulse present strong. HCA 1 went to fetch the response bag when I arrived. Blood present on bed sheet. AE's right sleeve and around his mouth".[178]

Nurse 1 was also called to the wing and noted that AE was "laying on the floor in cell, blood evident on clothes, right ear noticeably bruised swollen non responsive".[179] Nurse 1 told us that he "would have heard the call over the radio and I would have gone, just really to assist, to see ... you know, possibly just as a runner or just, you know, maybe, I don't know, assist in any way".[180] He could not remember the particular incident.

The Radio Log from the prison shows that the ambulance was called at 10.37.[181] The Control Room at the prison told the call handler at East Midlands Ambulance Service NHS Trust, "He is collapsed on the floor and he's suffering from deep vein thrombosis".[182]

The ambulance arrived at 11.24 at the prison, 47 minutes after it was called at 10.37.[183] The ambulance paramedics got to the wing at "approx 11.35".[184] The ambulance departed at 12.15, taking AE to the Queen's Medical Centre in Nottingham.[185]

In the period before the ambulance arrived, Healthcare Assistant Practitioner HCA 1 told us that she was talking to AE and the two nurses present "took like

[178] AE Patient Record. At Annex D
[179] AE Patient Record. At Annex D
[180] Interview with Nurse 1. At Annex B
[181] The Radio Log forms part of the Control Room Log. Control Room Log PDF, page 5. At Annex H
[182] Transcript of 999 Call on 2 June 2015 from HMP Nottingham to East Midlands Ambulance NHS Trust (EMAS). At Annex L
[183] Radio Log. Control Room Log PDF, page 7. At Annex H
[184] AE Patient Record. At Annex D
[185] Radio Log. Control Room Log PDF, page 7. At Annex H

times, observations, saturations, his reps, BP, and timed it, so for when the ambulance persons come".[186] AE seems to have been unconscious throughout this period.

Custodial Manager 1, who was responsible for F and G wing, told us that he had been showing the Prison Service Area Manager around when "staff made me aware that we'd had someone who we thought had fallen over, we thought that they'd had …collapsed and banged his head. So, staff alerted me and I went to the incident".[187] Although Custodial Manager 1's memory is vague, he said that "We called….a Code Blue because he was unresponsive. And we called an ambulance".[188] Custodial Manager 1 recalled that "there was one member of staff there that … and maybe myself, and others maybe came as we called the Code in."[189] He could not recall who the member of staff was. Nurse 1, who was on the scene, did not think that a Code Blue had been called.

After the incident

According to the interview he gave to the police on 5 June 2015, after the incident, FG left AE's cell with the door slightly open, but no-one would be able to see that AE was on the floor. FG made his way down to the ground floor. On the way down one prisoner asked him if he had been in a fight because he was breathing heavily and had a mark on his face. FG said he asked another prisoner if they wanted to buy a ring. The other prisoner said that he would "have it off" him but did not have anything to offer him at that stage.[190]

Once he got to the ground floor, FG went into his friend's cell (F1-15). He told this person that he had done something bad and that he had hit AE but only twice. FG showed his friend and another prisoner the ring and said that he

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[186] Interview with HCA 1. At Annex B.
Saturations refers to oxygen saturation – the fraction of oxygen-saturated haemoglobin relative to total haemoglobin (i.e. unsaturated and saturated) in the blood. BP is blood pressure. Reps refers to respiratory rates (numbers of breaths per minute).

[187] Interview with Custodial Manager 1. At Annex B

[188] Ibid

[189] Ibid

[190] Record of interview with FG. 05.06.2015. Page 24. At Annex G

thought he had killed another prisoner; his friend looked scared and told him not to tell anyone. FG told police that he spoke to about five prisoners about what had happened but would not name any of them to police.[191]

After the incident, the wing was then locked up until 14.00. FG told police that he was let out until five when he was locked up for the night.

An Intelligence Report created at 14.04 on 2 June 2015 noted that AE had been found unconscious and had been taken to hospital with a cut to the back of his head. "Later that morning a member of the healthcare MH [Mental Health] team informed me that she had been advised AE had been assaulted in his cell" [192] It is not clear who submitted this Intelligence Report, but the member of the Healthcare team is likely to have been Healthcare Assistant Practitioner HCA 1. She told us that initially she thought AE had fallen. "But when he was lying on the floor,.. it was as if someone stood on his face, 'cause there was like a mark coming; and I kept saying, 'Are you sure no-one's been in here?' I said, 'Because his face is … obviously … going marked here.'" [193] HCA 1 told us that she said to the officers that AE's ring was missing and that another person might have been involved.

HMP Nottingham's Daily Operational Report for 2 June contains an entry about the incident, including under 'Actions Taken' "IR by CM 2". Custodial Manager 2 had no recollection of the incident, telling us that "I don't recall completing any IRs in relation to that matter".[194]

Under 'Occurrences', the entry in the Daily Operational Report states that AE was "found unresponsive in his cell by staff. CCTV to be viewed to establish if this was an assault. No indication incident was anything other than accident." [195]

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[191] Record of interview with FG. 05.06.2015. Pages 28 and 32. At Annex G

[192] Intelligence Report INED00776359 on 02/06/2015. Mercury Intelligence System. Intelligence Reports, page 5. At Annex C

[193] Interview with HCA 1. At Annex B

[194] Interview with Custodial Manager 2. At Annex B

[195] Daily Operational Report 2 June 2015. At Annex H

The CCTV does not seem to have been viewed on the day of the incident, however. The Daily Operational Report for the next day, 3 June, also says "CCTV to be viewed to establish if this was an assault." [196]

The Wing Occurrence Book has an entry for 2 June which says that AE's cell "may become a crime scene." [197]

[196] Daily Operational Report 3 June 2015. At Annex H
[197] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14'. At Annex H

Chapter 7

The Days after the Assault

On the morning of Wednesday 3 June, FG was unlocked by Prison Officer 1 to enable Mental Health Nurse RMN 1 to see him for a routine appointment. RMN 1 had been unable to see FG the previous week because of a stand-fast roll check which prevented any movement by prisoners or staff.

In his witness statement to the police, FG said that when RMN 1 came into his cell he told her that "I need to be in hospital or I'm gonna end up killing someone".[198] According to FG, RMN 1 replied that "we've had this conversation many times" and that she did not think FG was mad, had not got mental health problems but was bad.[199] FG then said that RMN 1 had told him that she knew he had problems but cannot just go to hospital.

FG told police that he then asked RMN 1 if he could move to a different wing because he owed someone £70 and his mother had already forked out hundreds and it was not fair on her. According to FG's statement, RMN 1 told him that he would have to take responsibility "and started being proper bitchy" with him.[200] FG told police that he did not feel like he was getting any care and RMN 1 did not try to get the doctors to come and see him.

According to FG's police statement, RMN 1 then left the cell and Prison Officer 1, who had been standing by the door, came in. It was at this point that FG told Prison Officer 1 that AE did not collapse the previous morning but that he, FG, had assaulted him." FG told police that he said to Prison Officer 1, "boss man she don't believe me. If I'm not mad go check number one. He didn't collapse. It was me".[201]

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[198] Record of interview with FG. 05.06.2015. Page 50. At Annex G
[199] Ibid
[200] Record of interview with FG. 05.06.2015. Page 52. At Annex G
[201] Record of interview with FG. 05.06.2015. Page 52. At Annex G

Nurse RMN 1's police witness statement accords with much of FG's, although she added that FG requested a change of nurse. RMN 1 noted this in the record and also noted that FG's suitability for secondary care would be discussed at the Multi-Disciplinary team meeting.

Prison Officer 1 told police that after RMN 1 left, FG tried to get her back as he had something to tell her. Prison Officer 1 said she had gone to a meeting and it was after this that FG told him about the assault.

FG told police that when he told Prison Officer 1 about the assault, Prison Officer 1 initially thought FG might have been making it up in order to get a cell move. FG then described in more detail what he had done, after which Prison Officer 1 went off to talk to more senior staff and subsequently to check the CCTV. FG told Prison Officer 1, "I need some help because if I don't get it, someone else will get hurt, I am afraid of that".[202]

Prison Officer 1 informed Custodial Manager 1 of what FG had told him. Custodial Manager 1 informed the Head of Security, Governor 3. They arranged for Prison Officer 1 to view the CCTV at approximately 12.15 pm in the Security department.

The CCTV footage confirmed that FG had entered AE's cell (3-01) at 10.08 and left at 10.15 on the previous day. After he left the cell, FG appeared to walk back down the landing on the opposite side of the wing to AE's cell and to look across to AE's cell – something which Prison Officer 1 "thought was very telling".[203]

FG was moved to another cell where he was searched, and his clothing was removed. The cell FG had been in was padlocked and FG was moved to cell 1-21. Governor 3 telephoned the police at 13.50 to report what had happened.[204]

[202] Witness statement Prison Officer 1. At Annex G
[203] Ibid
[204] Police Schedule of Non-sensitive unused Material. At Annex G

Two Intelligence Reports were submitted on 3 June. The first stated that FG advised an officer whilst the officer was locking him up that he owes money to people as has been buying drugs on the wing and that he needs to now move wing.[205] It is not clear at what point in the day or by whom the Intelligence Report was submitted. However, an Intelligence Report submitted four days later stated that on 3 June at approximately 14:00 hours FG asked numerous staff for a move to another wing. He told staff he would go anywhere, and he just wanted moving off F wing.[206]

The second Intelligence Report on 3 June notes that it had been reported by prisoners on F wing that FG was trying to sell AE's wedding ring.[207] As a result of this, at 17.57, Custodial Manager 1 went to see FG and asked if FG had any jewellery from anyone else on him. FG removed a ring from under his pillow and placed it into an evidence bag. Custodial Manager 1 told police that FG had then said, "This wasn't the motivation for it". Custodial Manager 1 said he replied to FG, "Now is not the time to discuss that".[208]

FG was seen by a police doctor on 4 June and interviewed by the police on 5 June. It is not clear why there was a delay in interviewing him.

On 5 June Governor 4 saw FG in Reception following his police production for the assault on AE. FG stated that he needed to be in hospital so that he could get help otherwise he would kill a prisoner.[209]

During the conversation Governor 4 says that she found FG to be very manipulative. FG told Governor 4 that he would not be able to manage doing 30 years in prison and wanted to do it in a hospital, asking how quickly he could be transferred to one. He was told that the prison does not do this. He asked: once he had been assessed by Mental Health, how quickly could a transfer be made. He was informed that there was no certainty that he would be assessed as

[205] INED00778181 – 03/06/15 in Summary of Intelligence Reports – FG, page 2. At Annex E
[206] INED00784177 – 07/06/15 in Summary of Intelligence Reports – FG, page 2. At Annex E
[207] INED00778960 – 03/06/15 in Summary of Intelligence Reports - FG. At Annex E
[208] Witness Statement Custodial Manager 1. At Annex G
[209] FG NOMIS Case Note History, page 7. At Annex E

needing to go to hospital but that he would be referred to the Mental Health Team.

On 7 June FG was located in the Segregation Unit, where he remained until he was transferred to a prison in the High Security Estate on 18 June 2015.

An Intelligence Report submitted on 10 June notes certain comments made by FG while being questioned by the police about the assault on 2 June: "At 0913 hours on 05/06/2015 he said 'I need help, I need to go to hospital for this. I have asked for help in Prison and not got it. I will keep doing this. I will kill someone and I will keep killing people until I get help. It was an accident with the girl I killed but this was deliberate'".

"At 1013 hours 05/06/2015 he admitted that he killed his girlfriend and that he had killed the old guy in prison and if they didn't sort his head out by sending him to the hospital, he would continue to kill people as he is never going to get out of jail anyway. If he was going past an open cell with someone in it he would go in and lock the door and kill them both." [210]

On 12th October 2015, at Nottingham Crown Court, FG pleaded guilty to the Murder of his ex-girlfriend and to the Attempted Murder of AE. He received two life sentences, with a tariff of 21 years for the Murder and 7 years for the Attempted Murder.[211]

[210] INED00789452 – 10/06/15 in Summary of Intelligence Reports – FG, page 2. At Annex E

[211] Extract from The Law Pages https://www.thelawpages.com/court-cases/James-McCarthy-16222-1.law. At Annex L

Part Three Issues Examined in the investigation

Chapter 8

Were AE and FG appropriately placed at HMP Nottingham?

i) AE

AE was remanded in custody for three alleged offences: Possession of an Offensive Weapon in a Public Place; Breach of a Restraining Order and Common Assault. We have not looked into the grounds for the remand or why bail was not granted as these matters fall outside the terms of reference for this investigation.

Given AE's large number of complex physical and mental health care needs, including psychosis, there is a question of whether he should have been held in a healthcare rather than a prison setting.

Dr 1, the Consultant Psychiatrist in the prison, was clear that "in any week we see at least 20 people like him. Should I have been sending him to hospital at the point when I saw him, the answer is no".[212]

On arrival at HMP Nottingham AE was placed in the Enhanced Care Area, which was able to provide additional support to him. According to the ECA Protocol, this area was designed to provide 24-hour support, supervision and observation in the short term to do the following:

- stabilise patients with acute psychiatric crisis although not as a substitute for patients who require assessment and treatment in hospital
- provide extra support to patients recovering from significant self-harm or suicide attempt
- monitor and enhance the safety of patients experiencing significant alcohol or drug withdrawal

[212] Interview with Dr 1. At Annex B

- stabilise patients with unstable physical conditions that require a period of monitoring and extra input. [213]

Conclusion about Location of AE

AE was appropriately placed at HMP Nottingham and met the criteria for the ECA, particularly in relation to acute psychiatric crisis and unstable physical conditions and was appropriately placed in the ECA.

Finding 1
AE was appropriately placed at HMP Nottingham and his location in the Enhanced Care Area was appropriate.

ii) FG

a) Security Categorisation

HMP Nottingham is a Category B prison which is not suitable for holding Category A prisoners who require maximum security. 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 FG, who had been charged with Murder of his girlfriend, should have been considered for Category A status.

The relevant Prison Service Instruction in force at the time that FG was received at HMP Nottingham on 9 February 2015 was PSI 05/2013 The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners. This states that Governors must have arrangements in place for identifying prisoners who may

[213] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft version 01.0, 14.01.2015. Page 4. The ECA Protocol is within the draft 'Enhanced Care Provision: HMP Nottingham'. At Annex K

meet the criteria for Category A and who therefore need to be reported to the Category A Team in Prison Service Headquarters.[214]

PSI 05/2013 requires prison staff to 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). The purpose of contacting the police is to obtain a case summary with information about the offence charged, including such issues as whether the victim was known to the prisoner; possible motives; the extent of violence and injuries received; whether a weapon was carried or used; the prisoner's dangerousness or whether they were under the influence of alcohol or drugs.[215]

In FG's case, there is no record of the police being contacted at this point. PSI 05/2013 contains a list of factors "indicative of consideration for Category A". The first factor is where the victim is unknown to the perpetrator. Because FG's victim was known to him, it may be that the offence was immediately judged not to be sufficiently serious for Category A.

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*

[214] PSI 05/2013 The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners, section 3.1, page 6. At Annex J

[215] Ibid. Section 3.2, on page 6

decide if sufficient criteria have been met then the case MUST be reported to the Category A Team".[216]

Governor 4, who was Head of Reducing Re-Offending in 2015 and is now Head of Residence, told us, "So as soon as we get prisoners booked in to Reception – that's normally done through the Reception OSG, and they'll be told the name of the person being booked in and the charge.[217] At that point, the Reception OSG will flag it up to the Duty Governor and say, "Yeah, we've got this guy coming in, booked in for", say, "murder" or if it's a Section 18 or 20 – GBH , and then we'll try and find out as much information as we can.[218] They'll normally send it to Security, so Security can get more information from the police – for example, the MG5 [219], which will say what the circumstances of the offence were. 'Cause then we'll work our way down the flow chart to say whether or not that's of a known person. 'Cause if it's a known person, then they're very unlikely to make the Category A.[220] There's a sheet we complete, which is the Category A submission form. However, we still do that whether or not they are successful or not – you know, a submission to Category A section. So, as soon as they come in …. the OSG takes their name, they start off that form. So that's whether or not they are in the end found to be Category A or not." [221]

Governor 3, who was the Head of Security at that time, told us that "nine times out of ten, the fact that the victim was known to him, that she'd lived with him – you know, my experience tells me the majority of people aren't made Cat A.

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[216] Ibid. Section 3.4, page 7

[217] OSG stands for Operational Support Grade.

[218] Section 18 GBH refers to the offence of causing grievous bodily harm with intent to do grievous bodily harm / Wounding with intent to do GBH under the Offences Against the Person Act 1861, s.18. https://www.legislation.gov.uk/ukpga/Vict/24-25/100/section/20

Section 20 GBH refers to the offence of inflicting grievous bodily harm or unlawful wounding under the Offences Against the Person Act 1861, s.20. https://www.legislation.gov.uk/ukpga/Vict/24-25/section/18

[219] MG5 is a police form whose purpose is to provide an objective, fair and balanced case and interview summary for a first hearing at court.

[220] "Known person" refers to whether the victim of the crime is known to the defendant, not whether the defendant is known to the prison.

[221] Interview with Governor 4. At Annex B

But the algorithm should still have been completed, and we would still have asked the information from the police".[222]

Governor 4 also said that when the form is completed, "there should be an alert put on NOMIS, and then we close the alert down when we consider that they're not suitable for Cat A". [223] Governor 1 told us that what should have happened is, as it's Murder, he should have been assessed for Pot Cat A and … he should have been then re-located in a more secure accommodation, which is Segregation, pending a decision by the Cat A section. We missed a lot at Nottingham even when we tightened up considerably in the last few years I was there. But they missed it. You would expect anybody who comes in murder would get assessed, quite frankly".[224]

Conclusion on Security Categorisation

In FG's case, the auditable system required by PSI 05/2013 to demonstrate that consideration had been given to categorising him as a high security prisoner was not applied. We have been unable to locate any record of consideration being given to his Categorisation as a Potential Category A prisoner. There is no entry relating to it on FG's NOMIS record.

Finding 2

When FG arrived at HMP Nottingham on 9 February 2015, consideration should have been given to his security categorisation in accordance with PSI 05/2013: The Identification, Initial Categorisation and Management of Potential and Provisional Category A / Restricted Status Prisoners.

Governor 4 told us that a Security Audit undertaken in 2018 found that HMP Nottingham was not always following the categorisation process properly. A new system has been introduced in which the Duty Governor "reports to Reception to sign the Reception book that says all processes have been

[222] Interview with Governor 3. At Annex B
[223] Interview with Governor 4. At Annex B
[224] Ibid

followed correctly and checks that all the prisoners and what their offences are. So we'd pick up from there if there was anyone who come in that was a potential Cat A prisoner. And we didn't use to have to do that".[225]

We consider this to be a good practice which should be followed in all local prisons which receive detainees from the courts.

Recommendation A
For Her Majesty's Prison and Probation Service (HMPPS)

The practice of the Duty Governor checking daily that reception processes have been properly applied should be introduced in all local prisons.

b) Hospital Transfer

As for whether FG might have been better accommodated in a psychiatric hospital setting, Consultant Psychiatrist Dr 1 told us that he did not think that FG was psychotic: "he had never previously been thought to have any psychiatric problem, let alone a psychotic illness".[226] This is not strictly accurate, as FG had been documented as having "chronic anxiety and generalised anxiety disorder" by his GP and he was referred for a mental health assessment shortly before he committed the offence which brought him to HMP Nottingham.[227]

However, while FG from time to time complained that he was hearing voices and suffering from intrusive thoughts, he was very inconsistent in his presentation. He admitted that he had fabricated symptoms and although he made his wish to be in hospital known from time to time, he frequently contradicted himself when talking to Healthcare staff.[228]

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[225] Interview with Governor 4. At Annex B
[226] Interview with Dr 1. At Annex B
[227] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. 14.2, page 11. At Annex F
[228] FG's healthcare needs and the response to them are discussed fully in Chapter 10.

The Consultant Psychiatrist, Dr 4, who prepared a psychiatric report on FG for the court while he was in HMP Nottingham, concluded that there did not appear to be grounds for seeking to transfer him to hospital under the Mental Health Act.[229]

Conclusion on Hospital Transfer

The Clinical Review conducted for this investigation has concluded that while at HMP Nottingham, over time it became apparent FG was not suffering from a mental illness, although reasonable efforts were made to elicit what was wrong.[230]

Finding 3
There were no grounds for transferring FG to psychiatric hospital from HMP Nottingham.

[229] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. Para 16.4, page 13. At Annex F
[230] Clinical Review by Dr Carol Rooney. At Annex A

Chapter 9

Did AE receive appropriate healthcare and personal and social care while at HMP Nottingham?

AE spent almost all of his time at HMP Nottingham in the Enhanced Care Area and his physical and mental healthcare needs were subject to regular monitoring. He was seen every day by nursing staff and had regular appointments with the GP and psychiatrist.

i) Physical Health

On the physical healthcare side, AE had a history of illness, suffering two heart attacks in 2004/5 and a stroke in 2012. He also suffered from angina and asthma. After his arrival at HMP Nottingham on 1 April 2015, AE experienced a range of symptoms – some of which proved difficult to diagnose. AE was taken to hospital with a suspected stroke when he complained about weakness in his left side on 11 April – and spent three days there; he returned to hospital on 17 April when he was feeling unwell; and attended an outpatient appointment on 28 May when deep vein thrombosis (DVT) was diagnosed. By 2 June, it looks as if AE was still waiting for the MRI scan for which an appointment was first made on 12 April. It is not clear whether physiotherapy follow-up promised after his stay in hospital ever materialised.

Conclusion on Physical Health

The Clinical Review conducted for this investigation has found that the level of physical healthcare provided to AE was generally adequate, although improvements could have been made in three areas:

a) There was no care plan in place for regular monitoring of physical observations.

b) There were instances of concern which did not lead to action, such as the MRI scan and physiotherapy appointments.

c) Physical observations were not always recorded properly.

Finding 4

The physical health care AE received at HMP Nottingham was generally adequate although there were weaknesses in the way it was monitored and the extent to which certain appointments were followed up.

ii) Personal and Social Care

There were some weaknesses in the response to AE's personal care needs resulting from his mobility problems. On 21 May, AE missed a visit because a wheelchair could not be found. On 31 May, AE was struggling to walk because no Zimmer frame was available.

Although a carer was assigned to help AE with his daily living activities in the early part of his period in the ECA, AE was later reportedly reliant on other prisoners to escort him to the toilet and take him his meals. On 23 May AE fell while trying to go to the toilet.

PSI 17/2015 Prisoners Assisting Other Prisoners permits prisoners to provide some personal care to other prisoners, although the provision of intimate care is not allowed.[231] We cannot be sure whether the type of care provided by prisoners was compliant with the policy, but AE's fall while going to the toilet on 23 May suggests that he needed more help than was always available.

[231] PSI 17/2015 Prisoners Assisting Other Prisoners, section 3.5 on page 6. At Annex J

Conclusion on personal and social care

The Clinical Review conducted for this investigation identified three shortcomings:

a) Because of AE's lack of mobility, it would have been better for him to have been placed in a ground-floor cell.

b) Mobility aids such as a wheelchair or Zimmer frame were not always available.

c) No assessment was carried out into AE's ability to care for himself or move around.

Finding 5
There were weaknesses in how AE's personal and social care needs were assessed and met, particularly in respect of his mobility.

Recommendation B
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

NHCFT must ensure there are clear plans of care that describe each prisoner's healthcare needs and associated interventions by healthcare professionals. Where there is evidence of physical disability, an evidence-based assessment should be carried out and it should include information from previous support services. Clear plans of care should be established, including the provision of aids.

Recommendation C
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) should ensure that all physical health recordings are documented and recorded

consistently, and that there are clear triggers for action if measurements fall outside of normal limits.

iii) Mental Health

In terms of mental health, AE was often agitated and distressed by voices in his head telling him to hurt himself. He was seen twice by the Consultant Psychiatrist, Dr 1 – on 23 April when anti-psychotic medication was prescribed and on 14 May when the dosage was doubled. The Clinical Review conducted for this investigation considers there to have been a timely assessment of AE's mental health needs.

Despite the treatment he received, AE's mental state fluctuated during his time in Nottingham Prison. He complained that the medication was not working. But the close monitoring by nurses meant that these fluctuations were generally picked up.

Healthcare staff also regularly contributed to the ACCT reviews about AE which were held while he was subject to the scheme from 5 April to 29 May. In its response in June 2022 to the draft report of this Article 2 Investigation, Nottinghamshire Healthcare NHS Foundation Trust said that it does not have its own policy relating to the ACCT review process, drawing instead on HMPPS guidance for clarity around recording and expectations of healthcare staff when participating in an ACCT review.[232]

Conclusion on Mental Health

The Clinical Review carried out for this investigation found that the level of mental healthcare was generally adequate, although improvements could have been made in two areas:

[232] Letter from Area Manager - Offender Health, Nottinghamshire Healthcare NHS Foundation Trust, to Rob Allen, 28 June 2022. section 8 on pages and 3. At Annex O

a) While AE was seen regularly by mental health staff, more regular and systematic recordings of his mental state and effects of the anti-psychotic medication could have been made by healthcare staff.

b) There was no standard approach to what level of healthcare staff should attend ACCT reviews and notes of any input were not recorded in the patient medical record.

Finding 6

The mental health care AE received at HMP Nottingham was generally adequate although improvements could have been made to its monitoring and recording.

Recommendation D

For NHS England and NHS Improvement (NHSE & NHSI)

There should be explicit guidance in healthcare provider policies regarding the type of professional input to be made to the ACCT process; and clear standards for recording when healthcare staff participate in ACCT reviews.

Chapter 10

Did FG receive appropriate healthcare at HMP Nottingham?

Physical Health

FG does not appear to have had any physical healthcare needs but diagnosing the state of his mental health presented a major challenge to staff.

Mental Health

When FG was interviewed by the police following the assault on AE, he told them, “I’ve been asking for ages in the prison. I need to be put into a hospital or psychiatric unit because I can’t deal with my thoughts. If I don’t get some help I will seriously hurt.” [233]

He repeatedly told police during that interview that the staff did not listen to him. He said he had recurring thoughts of wanting to kill. He added, “I can’t handle them and when I get these thoughts I end up killing someone until they put me in a hospital and get rid of these thoughts”.[234] He said, “I’ve got psychological problems. I’ve been stressing to every, I don’t know who I need to speak to. I’m saying someone needs to help me”. [235]

In fact, the records and our evidence show that FG received a great deal of attention while he was in HMP Nottingham and that he seems to have been a very unreliable narrator about the state of his mental health.

In his first few days at the prison, Healthcare staff quickly identified that FG had mental healthcare needs and he was appropriately placed in the ECA when he arrived to try to stabilise a crisis. He was subject to constant supervision for the first nine days and referred to secondary mental health services. He was seen

[233] Record of interview with FG. 05.06.2015. Page 3. At Annex G
[234] Record of interview with FG. 05.06.2015. Page 8. At Annex G
[235] Record of interview with FG. 05.06.2015. Page 10. At Annex G

by a Consultant Psychiatrist, Dr 1, eight days after reception. Dr 1 formed the view that FG was suffering from a serious adjustment reaction following the offence he had committed.

The difficulty for healthcare staff was that FG told varying stories about his state of mind – one day telling them that he was hearing voices, the next that he was not and that he was simply fabricating symptoms to try to effect a transfer to hospital.

An appropriate plan was made after FG's discharge from the constant supervision cell on the ECA. He would be seen weekly by Mental Health Nurse RMN 1, with psychiatric input; a therapeutic relationship would be established to encourage FG to be honest. FG would remain subject to the ACCT, with hourly observations.

By and large the plan was carried out, although the Prison and Probation Service has been unable to provide any ACCT documentation and it is not entirely clear from the records when the ACCT was closed.

As discussed in the following chapter, FG's behaviour was frequently difficult during February and March 2015 and his engagement and cooperation with Mental Health services fluctuated during the four months leading up to the assault on AE.

On 24 February FG declined substance misuse services, having referred himself for them five days before. It is noted, "No concerns presently, is aware of routes of referral should he wish to engage in the future". This is likely to refer to an absence of concern about substance misuse on the part of FG rather than any assessment by the Healthcare team that FG did not have a problem.

FG had previously admitted to a "massive problem with alcohol since the age of 18" [236]; and subsequently told the police that he had consumed drugs such as weed and Mamba while at HMP Nottingham because "they're [Mental Health services] not giving me any medication or sorting me out so I've been having to do it myself."[237] However, without FG's willingness to accept substance misuse services, there is little that could have been done to address this.

On 25 February, FG said he did not want to see the psychiatrist again, nor want medication for anxiety. On March 19, FG declined to attend an appointment with the Consultant Psychiatrist, Dr 1.

Dr 1 told us, "from what I was reading, there was nothing that struck me that somehow there was an urgency for me to go onto the wing and see him. So I think all that I was reading, that did not give me any indication, and we have a Multi-Disciplinary Team on the day after anyway, and we discuss routinely any of the urgent issues that might be arising. So if there were any concerns that any of the staff had, they would have raised it, and we would have discussed and then … and thought of a plan to how to act on it".[238]

It is clear from the medical notes that FG continued to ask for medication and transfer to hospital. These demands were frequently coupled with threats to harm or even kill other prisoners or staff. But as the Mental Health care staff got to know FG, they reached the view that, apart from having anxiety, FG was not mentally unwell. Mental Health Nurse RMN 1 told us that FG's "stories changed, and he didn't present to me with somebody that was hearing voices".[239] She also told us that "he was harping on about going to hospital and that's what I was led to believe, that he thought he might get a little bit of an easier time.[240]

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[236] In an entry on 17 February 2015 in FG Consultation Information Sheet. Specific Consultations. On page 5. At Annex F

[237] Record of interview with FG. 05.06.2015. Page 22. At Annex G

[238] Interview with Dr 1. At Annex B

[239] Interview with RMN 1. At Annex B

[240] Interview with RMN 1. At Annex B

Contact with FG's Mother

While FG received regular and frequent attention from Healthcare staff, they do not seem to have made any efforts to contact FG's mother. She contacted the prison on at least four occasions between FG's admission and 22 March. These are noted on FG's NOMIS Case Note History.[241] There is no evidence that Healthcare staff were told that FG's mother was ringing the prison, but, given that the Mental Health Team were experiencing so much difficulty in determining whether FG's reports of auditory hallucinations were genuine or fabricated, his mother's views might have had an important bearing on their diagnosis. She was not only expressing concern about her son's wellbeing, but potentially giving important information about his risks and needs. Indeed, her call to the prison on 16 February was specifically about his mental health. Healthcare staff could have made their own efforts to contact FG's mother to hear concerns she had about her son's mental health. In its response in June 2022 to the draft report of this Article 2 Investigation, Nottinghamshire Healthcare NHS Foundation Trust accepts that "it would have been helpful to have a conversation with mother to hear her voice in her son's care and consider any information shared to inform future care and risk assessment decisions".[242]

Conclusions about FG's mental healthcare

The Clinical Review found that the level of mental healthcare was generally good. FG initially presented as agitated and distressed and was given time and support by mental healthcare staff.

While no medication was prescribed for FG – something about which he frequently complained, the clinicians who saw him properly concluded that he did not have a need for anti-psychotic drugs. As Dr 4, the Consultant Psychiatrist

[241] On 11 February, 16 February, 9 March and 22 March. FG NOMIS Case Note History. At Annex E

[242] Letter from Area Manager - Offender Health, Nottinghamshire Healthcare NHS Foundation Trust, to Rob Allen, 28 June 2022, page 12, section 52. At Annex O

who prepared a court report on FG, put it, "with respect to voices and thoughts of killing other people, there may be deliberate exaggeration of his symptoms in order to obtain secondary gain via mental health services and/or the reduction of his offence".[243]

As for FG's anxiety, his records showed that while he had previously been prescribed medication, he did not take it. On the 25 February, FG told Mental Health Nurse RMN 1 that he did not want to see the psychiatrist again, nor want medication for anxiety.

While FG appears to have settled down in April and May, he was apparently too anxious to attend a court appearance on 28 May. This should have been communicated by the discipline staff to the Healthcare team. So too should the telephone call made by FG's mother about his mental health on 16 February.

Finding 7

The level of mental healthcare provided to FG was generally good. The apparently high level of anxiety which led to FG refusing to attend court should have been communicated to the Healthcare staff.

Finding 8

Prison staff should have told Healthcare staff that FG's mother had been in communication; but in the absence of this, Healthcare staff could have made their own efforts to contact FG's mother to hear concerns she had about her son's mental health.

Recommendation E

For NHS England and NHS Improvement (NHSE & NHSI)

Guidance for Healthcare staff in prisons should encourage contact with families where this may assist in assessment and treatment.

[243] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. At Annex F

Chapter 11

Were the risks that FG might harm others properly assessed and managed?

FG's threats of harm

From his first arrival at HMP Nottingham, FG was frequently recorded as making generalised threats to kill or harm other prisoners or staff. The Head of Security, Governor 3, told us that he did not think "that there were anything emerging to say that... somebody with AE's nature would have been at threat from FG; so there was no named threat to him".[244] But the issue arises as to whether the more generalised threats made by FG were properly assessed and mitigated by staff.

On 9 February, FG said would kill someone if made to share a cell. Two days later he was noted as saying he would kill somebody if he came out of his cell. On 12 February wing staff were very concerned that FG "is on the edge and making threats to kill." [245]

Immediately after his discharge from constant supervision on 18 February, FG said that wanted to kill another prisoner and go to a "big boy jail".[246] Two days later, before advancing towards an officer with a plastic knife, he stated he would kill someone. On 25 February FG told a nurse that if he gets life he may just as well go round killing people as he has nothing to live for. On 27 February FG made numerous threats to stab staff and was put behind his door after wandering around the landing with a plastic knife, stating he wanted to stab someone, but was not placed on report or made subject to any monitoring.

[244] Interview with Governor 3. At Annex B
[245] FG Consultation Information Sheet. Specific Consultations. At Annex F
[246] In an entry on 18 February in FG NOMIS Case Note History. At Annex E

On 3 March, FG expressed thoughts about killing others including Consultant Psychiatrist Dr 1 and that he may as well kill himself or harm others – for which he would not accept responsibility. He also told Clinical Psychiatrist Dr 4, who was preparing a court report on him, that "he would kill a prisoner…" and had been planning to kill his previous GP, Dr 1 and Dr 4 herself.

On 4 March he also stated that he would kill a member of staff to facilitate a move to a hospital. On 22 March, FG's mother rang the prison concerned at a phone call she had received from FG stating that he wanted to kill somebody.

After that, there are no further records of FG making threats – although it is possible that he did so and these were not recorded. Three days after the assault, on 5 June 2015, FG told police that he had said to prison officers, "I'm not going to but recently I've been having thoughts about killing one of these lot on ECA".[247] FG told police that he had threatened to kill Prison Officer 1.[248] We have not been able to interview Prison Officer 1 about the truth of this claim.

It is not clear whether FG was accurately reporting what he had said to staff and, if he was, at what point in time. There are no entries at all from prison staff on FG's NOMIS case notes between 24 March, when the closure of his ACCT is recorded, until 4 June, two days after the assault on AE.[249]

The Response to FG's Threats by Discipline Staff

How discipline staff responded to FG's threats is discussed in four subsections as follows:

i) Assessment, Care in Custody and Teamwork (ACCT) Plan
ii) Intelligence Reports
iii) Violence Reduction Monitoring
iv) HMPPS Staff's Overall Approach to FG

[247] Record of interview with FG. 05.06.2015. Page 11. At Annex G
[248] Record of interview with FG. 05.06.2015. Page 48. At Annex G
[249] There is one entry from Probation Officer PR 1 on 6 May 2015.

i) Assessment, Care in Custody and Teamwork (ACCT) Plan

In terms of risk assessments, we have not been able to see any documentation relating to FG's ACCT plan which was opened on 11 February and closed on 24 March. While the ACCT is primarily about identifying and caring for prisoners at risk of self-harm or suicide, it is possible that overt threats to harm other prisoners or staff might have been discussed during FG's ACCT reviews.

The evidence we have seen suggests that discipline staff were more concerned that FG might harm himself than harm others – and in FG's case the two sets of risks were closely linked.

In February 2015, when FG threatened to kill another prisoner in order to go to a higher security prison so he, FG, could himself be killed, the resulting concern by staff was about FG harming himself. Supervising Officer 2 who talked to FG on that day told us, "my concern at this time was that he wanted to die. So if you actually look into what he's saying, that seems very unrealistic that that would happen; however, it's very relevant because he's saying he wants to die and this is his plan of how he wants to die: he wants to hurt somebody so that he can speak to somebody who will never get out of prison to kill him. That seems really far-fetched, but my concern would have been because he'd just come off a constant watch, so, for me, the immediate threat there is: is FG going to try and kill himself?" [250]

Similarly, Governor 1 told us that he was "fairly confident there won't be anything that gives you an indication that he was liable to commit this level of violence against another person in the prison environment. He came across as vulnerable, from memory".[251]

[250] Interview with Supervising Officer 2. At Annex B
[251] Interview with Governor 1. At Annex B

Senior Officer 2 told us that she remembered FG "being quite a provocative character, in that he would do or say things and often get quite a strong reaction from that, i.e. being placed on constant watch. He would constantly try and, and take, steps to show that he was either going to take his own life or similar; but also he did say, on many occasions, 'I just don't care, I don't care.' He knew that he was in there for murder anyway and doing quite a long sentence, and I think, in his mind, he just didn't care about anything or anyone".[252]

The ACCT book was closed on 24 March, two days after FG's mother's call about her son stating that he wanted to kill somebody. The report for court prepared by Consultant Psychiatrist Dr 4 following her meetings with FG on 3 and 10 March concluded that with respect to the risk to himself, "he needs close monitoring by the prison system".[253]

Conclusion on ACCT

As we have not seen the ACCT Plan records relating to FG, we cannot assess how appropriate the planning and management were and whether the ACCT was closed appropriately.

Finding 9
The failure of the Prison and Probation Service to provide FG's ACCT Plan records means that we are unable to assess the adequacy of the measures taken as a result.

ii) Intelligence Reports

In the period 9 February to 2 June 2015, ten Security intelligence reports (SIRs) were submitted about FG. These are listed in Table 1. An Intelligence

[252] Interview with Senior Officer 1. At Annex B
[253] Confidential Psychiatric Report. FG. By Dr 4. 18 May 2015. At Annex F

Report is a report that any member of staff can submit to a prison's Security department.

Table 1. SIRs

DATE OF SIR	REASON	ACTION
11 February	Threat to kill somebody	Healthcare visit and ACCT review
21 February	Attempted Self-harm	Bedsheet removed
22 February	Thoughts to cut himself or a member of staff.	Healthcare contacted
27 February	Numerous threats to stab staff. Wandering F1 landing with plastic knife States he would have to stab somebody to get a hospital placement.	Put behind his door Enquire with relevant person re medication
27 February	Informed staff he had a knife and was going to stab a member of staff or himself.	Returned to cell ASCCT [sic] updated
2 March (incident on 1 March)	States "if I don't get any meds I will fucking stab one of you lot and enjoy it".	Placed on report Medical record refers to TV being removed
4 March	States "HE WOULD KILL A MEMBER OF STAFF to facilitate a move to a hospital.	None noted
14 May	Collecting parcel thrown over	Exercise cancelled

17 May (incident on 16 May)	Collecting parcel thrown over	Rub-down search nothing found
1 June	Raised-voice match with another prisoner and visited by known gang members	Placed behind doors

Six of the reports relate to threats of different kinds made by FG. In addition, the IR on 22 February mentions that FG was "placed on report on 20/02/15 for threatening to attack Prison Officer 2".[254]

There are no records of any kind of FG making any threats after 22 March, although on 2 April FG mentioned that if Mental Health don't sort him out, he will "kick off again with no worries".[255] Neither FG's mother's call on 22 March nor FG's comment on 2 April resulted in Intelligence Reports being submitted. Both of these could have done so and in our view the call from FG's mother should have done so.

Senior Officer 2 told us that whether staff decide to submit a report "it's quite personal: what you would consider to be sort of being, you know, a security issue, may not be deemed the same to someone else. So I'd say no, there aren't specific criteria".[256]

The actions taken as a result of some of the Intelligence Reports responded to the immediate risks but in others little action was taken.

In particular, what looks like FG's growing involvement in drugs in the period leading up to the incident on 2 June does not seem to have led to any intervention beyond an immediate response to the incidents. No entries on NOMIS were made recording FG's involvement in collecting throw-overs in the exercise yard on 14 and 16 May; neither was FG's verbal altercation with a

[254] Intelligence Report INED00620065 – 22/02/15 in Summary of Intelligence Reports – FG, page 1. At Annex E
[255] In 'Extracts of Wing Occurrence Book entries – pages 6 – 10'. At Annex H
[256] Interview with Senior Officer 1. At Annex B

fellow prisoner on 1 June recorded on NOMIS, nor the visit he received from known gang members. This behaviour by FG suggests that he might have been becoming more involved in illicit drugs in the period leading up to the assault on AE.

The significance of these omissions is suggested by Supervising Officer 2's comment to us that "you can't keep somebody under lock and key for one thing that they might have said four months ago unless there's more intelligence behind it".[257] While it is true that FG's behaviour generally improved during April and May, his growing involvement with drugs and possibly gangs in the days leading up to the assault should have alerted staff to a heightened risk that he might harm others.

Conclusion on Intelligence Reports

Intelligence Reports are an important way of building up a picture of the risks posed by prisoners. FG's behaviour should have led to more reports being submitted and more systematic action taken in response to them.

Finding 10
An Intelligence Report should have been submitted on 22 March after FG's mother informed the prison that her son had told her that he wanted to kill someone.

Recommendation F
For HMP Nottingham and Her Majesty's Prison and Probation Service (HMPPS)

Consideration should be given to clarifying the circumstances in which an Intelligence Report should be submitted and ensuring staff are fully aware of these, at HMP Nottingham and across the Prison Estate.

[257] Interview with Supervising Officer 2. At Annex B

Finding 11

Intelligence Reports submitted following FG's involvement in incidents on 14 May, 16 May and 1 June 2015 should have been followed up (and recorded on NOMIS).

iii) Violence Reduction Monitoring

Two incidents in February and March involving FG were recorded as part of the prison's Violence Reduction (VR) Monitoring scheme. This formed part of the Violence Reduction Process which was introduced at HMP Nottingham in January 2015.

A VR investigation into the threats to Prison Officer 2 on 20 February resulted in a warning being given to FG. A NOMIS entry makes clear that as FG was awaiting a mental health appointment and on an open ACCT, it was not deemed appropriate to place him on Basic regime[258]. FG was warned that any repetition would have this result.[259] This seems to be a reasonable decision to have made.

None of the other threats made by FG during February 2015 were either recorded in the violence reduction data or subject to a VR investigation. FG had already made generalised threats to kill a person or persons on 9, 11, 12 and 18 February, before he was warned for threatening Prison Officer 2 on 20 February.

Two days later, on 22 February, FG was not unlocked because of threats he was making to staff; on 25 February he said he may just as well go round killing people; and on 27 February he threatened to stab staff. Should these incidents have been recorded and made subject to a VR Investigation?

[258] Basic regime was the lowest of four regime levels in the Incentives and Earned privileges (IEP) scheme.
[259] FG NOMIS Case Note History. At Annex E

It might be argued that as the threats made by FG were generalised in nature, they did not qualify as violence. However, the threats FG made to staff on 4 March *were* recorded as part of the violence reduction data, albeit leading to "Nil action".[260] This suggests a lack of clarity about whether a prisoner making threats to harm staff or prisoners fell within the definition of violence at the time – and whether they do so currently.

The Violence Reduction Process in place at the time when FG made the threats includes not only fighting or assault but also "bullying, intimidating or inappropriate behaviour." [261]

HMP Nottingham's Violence Reduction Strategy (which was implemented after the assault on AE) defines a violent incident as any incident in which a person is assaulted, abused or threatened. This includes an explicit or implicit challenge to their safety, wellbeing or health and the resulting harm may be physical, emotional or psychological.[262]

The strategy aims to promote a consistent approach which ensures staff and prisoners are aware of the clear behavioural standards expected and the sanctions which will be imposed if they are not adhered to. Further clarification is needed about whether making non-specific threats to staff or prisoners falls inside the definition of violence or not. We think that it should.

Conclusion on Violence Reduction Monitoring

FG's frequent threats to harm others were not recorded as violent incidents and therefore were not investigated more thoroughly. This weakened the ability of prison staff to understand the risks posed by FG.

[260] Minutes of Safer Prisons Meeting 14 April 2015. At Annex H
[261] Violence Reduction Process. HMP Nottingham. January 2015. At Annex J
[262] Violence Reduction Strategy. HMP Nottingham. June 2015. At Annex J

Finding 12
FG's frequent threats to harm others should have been recorded as violent incidents and investigated more thoroughly.

Recommendation G
For HMP Nottingham

The Violence Reduction Strategy should be amended to clarify that the kind of generalised threats to prisoners and staff made by FG should be recorded as incidents and where appropriate be subject to a Violence Reduction Investigation.

iv) HMPPS Staff's Overall Approach to FG

Although FG was the subject of the ACCT scheme, various Intelligence Reports and, to a small degree, Violence Reduction Monitoring, a more comprehensive and thorough recording and investigation of his behaviour and risks might have had an impact on how he was monitored and supervised. FG was never subject to any formal sanctions, monitoring or supervision as a result of the numerous threats he made, although the fact that his access to television was removed on 2 March suggests his IEP level was reduced to Basic.

A more thoroughgoing, coherent and continuing approach to assessing and managing FG's risk of harm to others should have been informed by the information provided to the prison by FG's mother. She made several efforts to share with the prison concerns she had about the risks her son posed but these do not seem to have been followed up.

PSI 64/2011 Management of prisoners at risk of harm to self, to others and from others (Safer Custody) says that, "*Where appropriate, procedures must be in place to encourage family engagement in managing and reducing the*

risk of prisoners who harm themselves and/or others".[263] Such procedures were not adopted in FG's case.

Finding 13
Prison staff should have done more to engage with FG's mother when she expressed concerns about her son.

A more comprehensive and coherent approach to FG might have modified the response made to him in two ways.

First, discipline staff appear to have formed the view that FG was to some extent acting or playing and, by extension, that the threats that he was making did not need to be taken particularly seriously. A note in the Wing Occurrence book made after FG's mother informed the prison on 22 March that her son had told her that he wanted to kill somebody says, "Wing staff say he has been acting/playing like this since arrival at HMP Nottingham. He is seen regularly by mental health and a psychiatrist on behalf of the court." [264]

It is true that FG had not actually harmed anyone in Nottingham as a consequence of his threats; but, given that he was on remand for Murder and had a previous conviction for serious violence against a teenage friend, there was a case for taking a cautious approach to his assessment and management.

Second, more complete recording and investigation of FG's behaviour might have led staff to keep a closer watch on FG than they did.

Custodial Manager 1, who was responsible for F wing, told us that FG "absolutely was not on my radar and was not someone of note that I needed to keep an eye on or actually give support or help to".[265] Custodial Manager 1

[263] PSI 64/2011 Management of prisoners at risk of harm to self, to others and from others (Safer Custody), para 15, on page 5. At Annex J
[264] FG NOMIS Case Note History. At Annex E
[265] Interview with Custodial Manager 1. At Annex B

thought that “normally someone like that would be on my radar. So that’s interesting, and a bit unusual really for me not to have sort of a follow-up from that. So, yeah, interesting. He must have been doing OK. Really must have been quite settled”.[266]

Prison Officer 4, who worked on F wing for two months or so before the incident, told us that FG was quiet and withdrawn and stayed in his cell. Prison Officer 4 said “he was obviously a nasty piece of work, but obviously, in my eyes he was never no bother in the sense that he never came out”.[267]

The lower level of attention paid by staff to FG in part reflected his more settled behaviour on the wing from April onwards. Governor 2, who was Head of the Offender Management Unit at the time, told us that decisions about whether prisoners need any higher level of supervision or control “would very much depend on how they behave once they got here. So if they arrived here and were then becoming disruptive and difficult, then we’d have to reassess and then when we decide whether he’s going into the Seg or how we’re going to manage him; but, if you arrive here and, you know, you follow the regime, you have good days and bad days, the likelihood is you would just be treated as everybody else is”.[268]

FG’s refusal to attend court on 28 May should have raised concerns among staff and at the very least been entered on NOMIS. This is a relatively unusual occurrence and likely to reflect stress and anxiety on the part of FG. FG’s Probation Officer, PRI, told us that she remembered that FG “did express some anxiety about the Court process.” [269]

The lack of attention given to FG was also likely to have been the result of the pressure of work facing staff. Custodial Manager 1 told us that it was a demanding time, with “lots of incidents, lots of things going off and… probably

[266] Interview with Custodial Manager 1. At Annex B
[267] Interview with Prison Officer 4. At Annex B
[268] Interview with Governor 2. At Annex B
[269] Interview with PR 1. At Annex B

people more worthy of my focus and people I was dealing with at that time". [270] The Head of Security, Governor 3, told us that "there were lots of dangerous people in Nottingham, as there are in most local prisons. So, unless there was anything that was brought up by his pre convictions, anything that suggested that he'd got a real history of things – and any police warnings or anything about it that came would go to, would go on his mental health, then I don't think he would have been flagged up *'cause there were just so many of them*". [Emphasis added] [271]

Conclusions on overall approach to FG's risk

While Governor 1 may have been correct in telling us that there was not anything "glaringly obvious that said that FG shouldn't have been on normal location and [was] a risk to other prisoners",[272] given FG's behaviour during the first few weeks on F wing, closer attention should have been paid to him by staff.

FG's collection of throw-overs of drugs on 14 and 16 May and his shouting match with another prisoner on 1 June should have been noted.

While FG did become more settled in April and May, his Murder charge and the threats he had made in February and March should have led to a more proactive approach to his management. No NOMIS entries by were made by prison staff in April and May although it seems clear that FG was becoming involved with drugs and gang members who visited him after he had an argument with another prisoner on 1 June, the day before the assault on AE.

[270] Interview with Custodial Manager 1. At Annex B
[271] Interview with Governor 3. At Annex B
[272] Interview with Governor 1. At Annex B

Finding 14

While threats to harm others made by FG diminished after the beginning of April 2015, the ongoing risk that FG might cause harm was not fully kept under review by discipline staff.

Finding 15

More NOMIS entries should have been made about FG during April and May, including, but not limited to, notes of his involvement in the collection of throw-overs on 14 and 16 May; failure to attend court on 28 May; and the raised-voice argument with another prisoner and subsequent visit from known gang members on 1 June.

Recommendation H

For HM Prison and Probation Service (HMPPS)

Guidance should be reviewed about the type of information which should be entered on NOMIS case notes in the context of the other records available to staff.

The Response by Healthcare Staff

i) Healthcare Risk Assessment

A formal Risk Assessment about FG was prepared on 29 April by Mental Health Nurse RMN 1, five weeks before the assault on AE.[273] RMN 1 know FG well, having had regular contact with him since his arrival at HMP Nottingham in February 2015. RMN 1 told us that a risk assessment should have been completed when FG was first received onto the caseload of the Mental Health Team; but there is no record of this having been done.

[273] Risk Assessment (Level 1) of FG. 29.04.2015. At Annex F

The Risk Assessment assesses risk across ten dimensions[274] and requires a rating of:

No Apparent Risk
Low Apparent Risk
Significant Risk
Serious Apparent Risk
Serious and Imminent Risk

FG was assessed as having a 'Low Apparent Risk' of violence. According to the guidance accompanying the risk template, this means that there are "no current behaviour characteristics of risk, but client history and/or warning signs suggest possible presence of risk." FG was assessed as having 'No Apparent Risk' of drug/alcohol abuse but a 'Significant Risk' of offending behaviour.[275]

The medical record suggests that during April and May 2015 FG became much more settled than he had been when he first arrived. He was mixing with other prisoners without any apparent problems. Mental Health Nurse RMN 1 told us that in completing the risk assessment "you have to go on what you see in front of you" and the rating of 'Low Apparent Risk' of violence reflects FG's improved behaviour and more positive relations with healthcare staff at the time it was completed.

Given the threats which FG had made to staff in February and March, a 'Significant Risk' would probably have been a more appropriate rating in respect of violence. Guidance on the completion of the form says 'Significant Risk' means that "Client history and condition indicate the presence of risk and it is considered to be a notable issues [sic] at present i.e a risk management plan is to be completed as part of the clients care plan."

[274] The dimensions are: 1. Self-Harm, 2. Violence, 3. Self-Neglect, 4. Pronounced Psychotic Symptoms, 5. Medication Problems, 6. Exploitation by Others, 7. Social Isolation, 8. Lack of Insight, 9. Drug/Alcohol abuse, and 10. Offending Behaviour.

[275] The assessment additionally recorded a low apparent risk of self-harm, of self-neglect and of psychotic symptoms; and no risk of medication problems, social isolation, lack of insight or exploitation by others.

A risk management plan should, in any event, have been completed as a result of FG's risk of offending behaviour being assessed by RMN 1 as 'Significant'. There is no record of a plan being compiled.

This may reflect a lack of clarity about what the risk form was actually intended to achieve. Consultant Psychiatrist Dr 1 said, "it's just collecting all the risk information that is available in order to then come to a view as to what are the risks and how this can be managed, both in terms of risk within the prison and outside".[276] The current Head of Healthcare, H2, told us that the Risk Assessment is around the "safety, wellbeing, the management of that patient as opposed to his risk to others".[277] This is clearly not the case.

RMN 1, who completed the risk assessment on FG, told us that it would not have made any difference to FG's management if the risk of violence was rated as 'Serious' or even 'Serious and Imminent'.[278]

Conclusion about Risk Assessment

The Clinical Review carried out for this investigation found that the assessment did not fully reflect the risks to self or others which were noted in FG's clinical records since his arrival at HMP Nottingham in February 2015. Moreover, there was a lack of understanding among staff about what the risk assessment was intended to achieve and the kind of actions it should trigger. In its response in June 2022 to the draft report of this Article 2 Investigation, Nottinghamshire Healthcare NHS Foundation Trust "accepts that the risk assessment" of FG "was not undertaken within the timescales expected and that the appropriate risk management plan was not completed."[279]

[276] Interview with Dr 1. At Annex B
[277] Interview with H2. At Annex B
[278] Interview with RMN 1. At Annex B
[279] Letter from Area Manager - Offender Health, Nottinghamshire Healthcare NHS Foundation Trust, to Rob Allen, 28 June 2022, page 11, 47. At Annex O

Finding 16
FG's risk of violence should have been assessed as significant rather than low in the Healthcare Risk Assessment completed on 29 April 201

Finding 17
There is a lack of clarity about what the Healthcare Risk Assessment is for, how it should be completed and what action should follow.

Recommendation I
For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT)

Guidance and Training are needed on the purpose of the Healthcare Risk Assessment, how it should be completed and what actions should follow. NHCFT must ensure that Healthcare Risk Assessments are accurate and reflect the degree of risk presented, and that threats to harm staff members should be recorded and discussed with the individuals, and risk management plans instigated.

ii) Management of Risk

FG had less contact with the Mental Health Team during the four weeks leading up to the assault on 2 June than he had in the preceding period. He did not attend an appointment with Consultant Psychiatrist Dr 1 on 7 May 2015. Dr 1 was not unduly concerned, telling us that he did not pick up in what he read from the notes that "this was a man who was likely to be violent. So, yes, in March he was saying these things- threats to kill; but by the time I was due to see him in May, he had settled down." [280] Dr 1 took the view that "apart from the fact that he had committed a homicide, the other information in

[280] Interview with Dr 1. At Annex B

terms of his background risk is probably not significantly any different to many, many people that we see".[281]

FG's mental health did appear to improve in April and May and the assault on AE "certainly came as a surprise" to Dr 1 and the rest of the staff.

FG was asked by Healthcare Assistant Practitioner HCA 1 on 13 May why he had missed the appointment on 7 May. FG told HCA 1 that he could not remember why he did not go. No concerns were noted by HCA 1 when she saw FG on 13 and 22 May. It is unfortunate that Mental Health Nurse RMN 1 was unable to see FG on 26 May. This was two days before FG was due to appear in court, something about which FG had previously expressed anxiety. The Mental Health Team do not appear to have been alerted by prison staff when FG refused to attend court on 28 May. His refusal to attend was reportedly because of his anxiety. Had the Mental Health Team been informed about it, it is possible that they might have made an assessment of whether FG's mental health was deteriorating.

FG told the police that he was not satisfied with the care that he received from the mental healthcare team. He said "you dont understand how many times I have ses to her [the mental health nurse] I'm gonna end up killing someone if you don't help me" and that they [Mental Health] "could've stopped this".[282] From the evidence we have seen, there is no good reason to think that this was the case.

Finding 18

There is no strong reason to think that additional or different mental health treatment would have prevented FG from attacking AE on 2 June. However, as stated in Finding 7, the Mental Health team should have been alerted by prison staff when FG failed to attend court on 28 May

[281] Ibid

[282] Record of interview with FG. 05.06.2015. The quotations are on pages 12 and 11 respectively. At Annex G

2015 due to his anxiety. This might have prompted the Mental Health team to assess whether FG's mental health was deteriorating.

Chapter 12

Was the safety of AE and other prisoners in the Enhanced Care Area properly ensured?

i) AE's experience of victimisation prior to the assault

The serious assault on AE was by no means the first time that AE was victimised by other prisoners while at HMP Nottingham.

Shortly after he arrived and was placed in the ECA, AE was being bullied for cigarettes by "numerous prisoners walking up to his cell".[283] A nurse told AE to put his tobacco in his sock and say he has run out and not give them any. Prisoner H, who helped AE, also told us that "people were going into his cell, because he had plenty of tobacco, making out they was doing him a favour and rolling tobacco for rolling roll-ups for him – and people were thieving off him, taking his tobacco".[284] Prisoner H told us that other prisoners were coming from all over to AE's cell and were never challenged. Prisoner H did not think the staff were aware of it.[285]

A prisoner tried to steal AE's watch on 5 April and a prisoner – it is not clear if it is the same one – was noted as wanting AE's watch on 29 April. On 25 May AE's tobacco was "spiked" – it was laced with some sort of psychoactive substance – and his watch was stolen, although it was later anonymously returned.[286]

It is not known whether FG was involved in any of these incidents as they do not seem to have been investigated. The Orderly Officer – the manager in charge of the day-to-day running of the prison – was informed about the spiking of AE's tobacco on 25 May. The Orderly Officer was "to check CCTV" presumably to

[283] AE Patient Record, entry on 3 April. At Annex D, page 12
[284] Interview with Prisoner 1. At Annex B
[285] Interview with Prisoner 1. At Annex B
[286] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14'. At Annex H; and Intelligence Report INRR02334158 on 25/05/2015. Mercury Intelligence System. Intelligence Reports. Page 8. At Annex C

identify the prisoners who had entered AE's cell.[287] It is not clear whether this was done.

FG told the police that he had heard prisoners talking about taking everything out of AE's cell: "His watch. His ring. Everything." They would tell him they had a mobile phone, getting him to have money paid into their account and then "skanking him off".[288] FG said that other prisoners treated AE "pretty bad".[289] He also said AE was definitely vulnerable and that he felt guilty about assaulting such a vulnerable person.[290]

Conclusion about AE's experience of victimisation prior to the assault

AE was known by staff to have been victimised in the ECA but little was done to investigate the incidents or take action to protect him.

Finding 19
AE had been victimised numerous times while in the Enhanced Care Area but none of the incidents seem to have been investigated and AE was not subject to any victim-monitoring by prison staff.

ii) Safety in the ECA

According to the Enhanced Care Area Protocol in place in 2015, the ECA was an area of six cells staffed by nurses and healthcare assistants 24 hours a day, 7 days a week in order to provide a higher level of observation and monitoring for patients than can be managed in their usual location.[291] The Protocol makes no specific mention of the need to ensure the physical safety of patients on the ECA.

[287] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14'. At Annex H
[288] I.e. swindling him. Record of interview with FG, 05.06.2015. Page 20. At Annex G
[289] Record of interview with FG, 05.06.2015, page 20. At Annex G
[290] Record of interview with FG, 05.06.2015, page 21. At Annex G
[291] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft Version 01.0, 14.01.2015 The ECA Protocol is within 'Enhanced Care Provision: HMP Nottingham'. At Annex K

The investigation has considered three aspects of safety in the ECA:

a) whether the ECA was separate from the rest of the wing;
b) whether there were adequate staffing levels; and
c) whether the vulnerability of the patients was properly recognised.

a) Separation of the ECA from the rest of the wing

The cells in the ECA were not physically separated in any way from the rest of the landing on F wing. According to Healthcare Assistant Practitioner H1 who worked there, when the ECA was first set up "it was going to be gated off, and it never happened".[292] By 2015, the Enhanced Area Protocol in place states that "other prisoners on the same landing have access to prisoners who are located in these cells".[293] Consultant Psychiatrist Dr 1 confirmed that "It was not secluded, it's not separated, it's not any of those sorts of things".[294] Governor 4 told us that "it had a different colour maybe lino on the floor which indicated which cells they were, but other than that it was no different to anywhere else. The cells were exactly the same inside, there was nothing different about them".[295]

For some of the staff we interviewed, this lack of separation was positive. Governor 2, who was Head of the Offender Management Unit, told us that the ECA "was deliberately not blocked off, so that the people in the ECA felt they were part of the wing and not isolated from somewhere else".[296] A prisoner like AE with mobility problems was at risk of social isolation.

For other members of staff, such as Governor 3 who Head of Security at the time of the incident, the idea was that the people who were on the Enhanced

[292] Interview with HCA 1. At Annex B
[293] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft Version 01.0, 14.01.2015 The ECA Protocol is within 'Enhanced Care Provision: HMP Nottingham'. At Annex K
[294] Interview with Dr 1. At Annex B
[295] Interview with Governor 4. At Annex B
[296] Interview with Governor 2. At Annex B

Care Unit were not just opened up with everybody else.[297] Prison Officer 5 also told us that the ECA was slightly different to a normal landing and prisoners would be actively discouraged from roaming around on that landing.[298]

b) The adequacy of staffing on the ECA

As well as dedicated healthcare staff, the ECA originally had an officer dedicated to it. Custodial Manager 1 told us that "everything was based on individual need and risk and that was the thought of having an officer for there and having the Healthcare member of staff so we could assess. Sometimes they integrated; sometimes they didn't. They were kept completely separate. That's the idea about having the officer and the member of Healthcare staff."[299]

By June 2015, there was no longer a dedicated officer for the ECA and prisoners, not only from the third landing but also from other parts of the wing, could freely visit the ECA and did so – with disastrous consequences in the case of FG's visit on the morning of 2 June. The original idea of having a discipline officer attached to the ECA was in part, according to Governor 2, to "make sure that nobody was being targeted by anybody else".[300] According to Prison Officer 5, "that was one of the first duties to be taken away from us. They used to say, 'Oh, well, if you're doing the 3s, you can do the ECA as well'".[301] Healthcare Assistant Practitioner HCA 1 agreed, saying with regard to the officers, that "it was just whoever's on the threes, and then when if they was short, whoever's on the twos. So the twos would be watching the threes".[302] For Prison Officer 5, "ultimately, that could have even altered what's happened" to AE.[303] Prison Officer 5 explained that "with experienced

[297] Interview with Governor 3. At Annex B
[298] Interview with Prison Officer 5. At Annex B
[299] Interview with Governor 3. At Annex B
[300] Interview with Governor 2. At Annex B
[301] Interview with Prison Officer 5. At Annex B
[302] "The twos" refers to the second-floor landing, "the threes" to the third-floor landing on which the ECA was located. Interview with HCA 1. At Annex B
[303] Interview with Prison Officer 5. At Annex B

member of staff, … if you were to see any prisoner roaming around, you would challenge 'em if you thought they were somewhere that they shouldn't be".[304]

c) Recognition of Vulnerability

The ECA accommodated prisoners at risk of, or experiencing, deterioration in mental or physical health, or as a result of substance misuse.[305] The ECA protocol in place in 2015 includes a section on risk management which says that a risk assessment will be completed on every patient on admission and regularly reviewed. The section elaborates ways of reducing risk of self-harm and poor concordance – that is whether patients take their prescribed medication. There is no explanation about reducing risk of exploitation or violence from other prisoners.

This may reflect an underestimation of the vulnerability of the ECA population. Governor 1 disagreed with the notion that the ECA was for vulnerable prisoners. He told us, "it wasn't a VP area at all." He told us that AE "was on the ECA for some of his additional medication or healthcare requirements, not for being vulnerable".[306]

While technically this is a correct view on why AE was referred to the ECA, there is no doubt that he was in fact highly vulnerable. On 5 April AE told Nurse 3 he was too frightened to mix on the wing. His physical ailments and psychotic symptoms made him easy prey. A much more systematic approach should have been taken to the protection of AE and vulnerable prisoners like him in the ECA.

[304] Ibid

[305] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft Version 01.0, 14.01.2015 The ECA Protocol is within 'Enhanced Care Provision: HMP Nottingham'. At Annex K

[306] Interview with Governor 1. At Annex B

Conclusions on Safety in the ECA

Prisoners from F wing had relatively unimpeded access to the ECA and, without a dedicated officer, ensuring the safety of the often-vulnerable prisoners located there was very difficult to achieve.

Finding 20
Given the lack of physical separation between the ECA and the rest of the wing, the safety of prisoners should have been secured by having a prison officer allocated to the unit.

iii) Assessing and Managing AE's risks of isolation and exploitation

a) Assessment

According to the medical record, a Healthcare Risk Assessment (Level1) was conducted on AE on 22 April 2015 by Mental Health Nurse RMN 1, but we have not been provided with the document. Risk Assessment Levels 1, 2 and 3 were also completed on 26 May by RMN 1, but we have not been provided with this document.

The risk assessments were undertaken in accordance with the ECA Protocol which states that they will be completed on admission, to identify risk and inform management and the care plan. The Protocol says that "the risk assessment will be reviewed in line with changes in the patient's presentation".[307]

The dimensions on the form include risk of social isolation and risk of exploitation by others. From the evidence we have seen, the risk of each of these in AE's case was significant as a result of his poor physical health,

[307] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft Version 01.0, 14.01.2015. The ECA Protocol is within 'Enhanced Care Provision: HMP Nottingham'. At Annex K

psychotic episodes and lack of mobility. If the assessment formed the same view, then a risk management plan should have been made by Healthcare staff. The risk assessment carried out on the 26 May should certainly have taken account of the incident the day before when AE's tobacco was spiked with drugs by prisoners intent on stealing his watch. The ECA Protocol states that "all staff in the patients care including health and discipline staff should be made aware of risk issues and appropriate interventions to minimise risk." [308] There is no record of whether staff were made aware of risk issues in AE's case and what if any interventions were planned to minimise risk.

b) Management of Risks to AE

Despite the lack of a formal plan resulting from the risk assessment, several of the staff we spoke to said they encouraged AE to have visitors in his cell. It is not clear what steps either healthcare or discipline staff took to protect a clearly vulnerable prisoner from exploitation.

Custodial Manager 1 told us that a lot of the prisoners in the ECA were not vulnerable but had complex care needs. "We supported that through the absolutely mixing. We made a point of getting some of our more sort of enhanced lads and certainly our cleaners on the wings, we encouraged them to speak to the people in the ECA cells, and encouraged them to interact, encouraged them. We used them almost as mentors to get them out of the rooms, associate and to sort of get them to go out onto exercise – and mix with the mainstream. It was almost encouraged, certainly not frowned on to integrate these guys." [309] For Governor 2, this provided "evidence of normality." [310]

[308] HMP Nottingham Enhanced Care Area Protocol, January 2015. Draft Version 01.0, 14.01.2015. The ECA Protocol is within 'Enhanced Care Provision: HMP Nottingham'. At Annex K

[309] Ibid. "Enhanced lads" refers to prisoners on the top level of the Incentives and Earned Privileges (IEP) scheme.

[310] Interview with Governor 2. At Annex B

Supervising Officer 2 said that "they used to play cards together – people on that area – and all sorts".[311] Supervising Officer 1 agreed that "we used to encourage like the cleaner – the prisoner who worked on the wing – to go and speak with them and … And so the people on the ECA not to isolate themselves, really".[312] According to Custodial Manager 1, AE "would have been someone we would have actively encouraged the cleaners to try and integrate 'cause he was somewhat withdrawn, from my recollection. He didn't mix particularly well." Prison Officer 5 told us AE was "very reclusive".[313]

Encouraging visits carried risks. Prison Officer 4 admitted there were "people that were probably pretending to be his friend and probably weren't".[314] Governor 2 told us that if visitors "started to bully or intimidate those in the ECA, they were quickly moved away".[315] Healthcare Assistant Practitioner HCA 1 told us that she used to keep AE's tobacco back because "I didn't trust people, like, you know, whether they'd take stuff off them." [316]

On a number of occasions, AE was noted to be sitting in his cell with other prisoners, chatting and smoking. On 13 May it was noted that AE "likes people to sit in his cell and talk to him".[317] Supervising Officer 2 told us that in-cell Association, at that time, was very popular and did happen. So FG going into AE's cell, "if they were friends, wouldn't have rung any alarm bells".[318]

HMP Nottingham's Violence Reduction Strategy, implemented after the assault on AE, contains arrangements for safeguarding adults at risk. It describes the safeguarding process as aiming "to identify those prisoners who may have difficulty adjusting to or managing to function within a prison

[311] Interview with Supervising Officer 2. At Annex B
[312] Interview with Supervising Officer 1. At Annex B
[313] Interview with Prison Officer 5. At Annex B
[314] Interview with Prison Officer 4. At Annex B
[315] Interview with Governor 2. At Annex B
[316] Interview with HCA 1. At Annex B
[317] AE Patient Record. At Annex D
[318] Interview with Supervising Officer 2. At Annex B

regime.[319] A multidisciplinary committee was to be established to consider safeguarding referrals from staff and prisoners.

Her Majesty's Chief Inspector of Prisons (HMCIP) reported in February 2016 that the safeguarding arrangements "had been in place for six months and were progressing well".[320] This suggests that they were not in place when AE was on the ECA. HMCIP reported that once the ECA was established referrals included "those at risk of violence, prisoners on ACCTs and prisoners with mental and physical health problems". AE would certainly have been a candidate for referral to the safeguarding committee, had it been in place. In its absence, much more should have been done to safeguard AE while he was on the ECA.

Conclusions on Assessment and Management of Risk

We have not been able to judge whether the risk assessment carried out on AE was adequate, nor whether any risk management plan was formulated as a result. Balancing the risks of social isolation and exploitation in AE's case would have required careful consideration and we are not convinced that sufficient steps were taken to protect him from harm.

Finding 21
AE's risks of social isolation and of exploitation were significant and formal plans should have been made and implemented to mitigate these.

iv) Wider Shortcomings on the ECA

We have seen the note of a meeting of healthcare staff held on 27 May 2015 – five days before the assault on AE – after a number of concerns had been raised

[319] Violence Reduction Strategy. HMP Nottingham. June 2015. At Annex J
[320] Report on an announced inspection of HMP Nottingham by HM Chief Inspector of Prisons 1–5 February 2016. At https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/05/Nottingham-Web-2016.pdf

about the ECA.[321] Among the actions listed as a start to improve the experience of all concerned, patients and staff are:

> "1. Healthcare to ensure the completed risk assessment (1;2;3 & Suicide) are fully up to date, regularly reviewed and available on system one [SystmOne] for any member of the care team, this will include the alert on the home page to encourage staff to read. Level 1 is completed at reception so the rest will need completing by the named nurse involved with the patient.
> 2. Custodial Manager 1 will ensure that the completed risk assessments are available for the prison service staff on NOMIS for their information and update. The staff within the prison service working in this area on F wing will be encouraged to read the risk assessments for their information".[322]

The shortcomings of the ECA were identified by staff we spoke to, as follows.

Dr 2, the GP in the prison, told us that "the reason that it doesn't exist now is, probably because it wasn't really achieving very much. The long-term conclusion was that people should be managed in a normal location, as they would in the community. If you don't require hospital, then you should be able to manage on a normal wing, and the Mental Health nurses can visit accordingly, I can visit accordingly."[323]

Consultant Psychiatrist Dr 1 felt that the ECA "gave everybody in the system – false sense of reassurance that 'Oh well, Nottingham Prison has got an Enhanced Care wing where all the vulnerable prisoners can be looked after'. No, it wasn't like that! It just was ticking a box – which I thought was in a way giving the prison and the rest of the system a false sense of security that should not be there".[324]

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[321] ECA meeting notes 27 May 2015. At Annex K
[322] ECA meeting notes 27 May 2015. At Annex K
[323] Interview with Dr 2. At Annex B
[324] Interview with Dr 1. At Annex B

Custodial Manager 1 told us that the ECA cells were decommissioned not long after the incident "because it was very difficult for us to give the support that we really wanted to give the men in those rooms".[325]

The current Head of Healthcare, H2, said there was "no form of therapeutic intervention, no form of purposeful activity, any form of regime – everything to the polar opposite as to what you expect enhanced care to be. It was something akin to Seg [Segregation][326] but without the regime".[327]

Mental Health Nurse RMN 2 was more critical still, telling us the ECA "degenerated into chaos and that's why it ended. It was like a dumping ground for difficult people. And it was completely inappropriate." [328]

As for discipline staff, there were mixed views about the ECA. Supervising Officer 2 did not feel it was a great loss when it closed because it was no longer adequately staffed.[329] Supervising Officer 1 thought it had "the potential to be somewhere to deal with prisoners who needed that extra level of care. I think it really did".[330] But the loss of a dedicated officer and full-time nurse led to it being disbanded. Prison Officer 5 was positive about the ECA, particularly when it was better staffed and felt "it was a sad loss when it was closed".[331]

The ECA closed in September or October 2015, shortly after the assault on AE on 2 June – although the assault does not seem to have played a part in the decision.

[325] Interview with Custodial Manager 1. At Annex B
[326] Segregation refers to the unit in a prison used to hold prisoners who need to be kept apart from other prisoners.
[327] Interview with H2. At Annex B
[328] Interview with RMN 2. At Annex B
[329] Interview with Supervising Officer 2. At Annex B
[330] Interview with Supervising Officer 1. At Annex B
[331] Interview with Prison Officer 5. At Annex B

Conclusions on Wider Shortcomings in the ECA

Staff at HMP Nottingham had very mixed views about the value of the ECA. Some – particularly prison staff – felt it met a need, particularly when fully-staffed, while most healthcare staff thought it achieved little and some felt it was inappropriate.

Finding 22

While the ECA had potential benefits for prisoners with healthcare needs, reductions in staffing reduced these to the point that it was rightly closed shortly after the assault on AE.

Chapter 13

Were AE and FG supervised appropriately by discipline staff on the morning of 2 June 2015?

i) AE

Most of the evidence we have about what happened on the morning of 2 June 2015 comes from FG's statement to the police three days later. Much of what FG said cannot be confirmed and, as someone who had previously admitted telling untruths to staff, his evidence must obviously be treated with caution.[332]

It seems that prisoners on the third landing where AE was located were on Association at the time of the assault.[333] The doors of the cells would therefore have been open and prisoners from the third landing would have been able to wander freely around the wing and receive visitors in their cells. HCA 1 noted at 9.28 that AE had taken his medication and was still not wanting to walk "as it hurts him."[334] HCA 1 had no concerns about him. It seems likely that AE did not leave his cell and that his medication was collected for him.AE was visited by at least three other prisoners in the period before FG went in and assaulted him. There was nothing unusual about these visits. As discussed above, both discipline and healthcare staff encouraged AE to have visitors and, although we have concerns about whether this may have exposed AE to unnecessary risks, staff had no reason to offer any additional level of supervision to AE on the day of the incident. There was no intelligence available to them that AE might have been targeted for assault by FG or anyone else on 2 June 2015.

[332] For example, FG is noted as saying that he lied about not hearing voices in his head on 18 February. NOMIS Case Note History. At Annex E

[333] Record of interview with FG. 05.06.2015. Page 5. At Annex G

[334] AE Patient Record. At Annex D

Finding 23

There was no specific intelligence to suggest AE might be at any particular risk on 2 June, so staff could not have been expected to take any special precautions in respect of him on that day.

ii) FG

There was no specific intelligence that FG might be about to commit an assault on 2 June. As we have seen, although he had frequently made threats to harm or kill other prisoners in the early part of his time on F wing, he had not acted on these. In April and May FG seems to have become more settled.

a) Should FG have been out of his cell?

As for what happened on the morning of 2 June, FG told police, "I wasn't supposed to be out. I was supposed to be locked behind my door".[335] FG had been unlocked to go to a workshop. It is not clear which of Nottingham's six workshops he was supposed to attend, but it would have involved him leaving F wing. As a remand prisoner, FG could not have been required to work; but if what he told police is to be believed, he had the opportunity to work – although he seldom if ever took it up. Back in April he had told RMN 1 that he did not work.[336]

For the majority of prisoners leaving the wing, the procedure at the time was that prisoners on an 'unlock list' were let out of their cells to go to work, attend medical appointments or collect medication. For about half an hour from 08.30 an officer would register those prisoners who had left the wing so that the number remaining would be known. After the so-called 'route to work' was closed, prisoners who had been unlocked for work but had not left the wing should have been returned to their cells. If FG was on the unlock list, but had

[335] Record of interview with FG. 05.06.2015. Page 5. At Annex G

[336] In an entry on 01 April 2015 in FG Consultation Information Sheet. Specific Consultations. Page 9. At Annex F

not left F wing, he should therefore have been locked up behind his door. The Control Room Log notes the route was complete at 9.00.[337] Presumably, the route was then closed.

As the Control Room Log notes a working party leaving F wing at 9.51, it is possible that FG was unlocked shortly before this time rather than at 8.30.[338]

In either case, according to most of the staff we have spoken to, if the regime had been operating as it should, at 10.08, when FG entered AE's cell, FG, having failed to leave F wing to work, should have been locked in his own cell on the ground floor.

Supervising Officer 1, who was on duty on 2 June but has no memory of the particular day, confirmed that the procedure was that after the route was closed: "They lock back in. Yeah, probably lock back in their cell." [339]

Prison Officer 2, who was not on duty on 2 June but regularly worked on F wing, explained, "I think the idea was you unlock them for Association, outside for work, and then they lock them back up, and then you unlock those that are supposed to be unlocked."[340] Supervising Officer 2, who also sometimes worked on F wing, was clear that if FG "were meant to be in the workshops, and he didn't go, he should have been back behind his door".[341]

Custodial Manager 1, who was responsible for F wing, had a different memory of the regime at the time telling us that "prisoners could basically go to work if they wanted; if not, then the rest of the wing was left unlocked for Association, and we would associate most of the morning. So it wouldn't be unusual for someone to be milling around and basically moving around the wing. The lads were left unlocked. Most of the … well, all of them were left unlocked to

[337] Control Room Log. At Annex H
[338] Ibid
[339] Interview with Supervising Officer 1. At Annex B
[340] Interview with Prison Officer 2. At Annex B
[341] Interview with Supervising Officer 2. At Annex B

associate and move around the wing as they wished, really".[342] There is some evidence that prisoners were left unlocked in FG's account to the police of what happened after the assault, in that he said that he visited prisoners in neighbouring cells on his own landing.

In reality, according to Prison Officer 2, even if the procedure was that prisoners not at work should be locked back up, there were not always the numbers of staff to ensure that this happened. He told us that "there was a space of time, if you like, where you'd leave them out so you could get the meds done … and other jobs that had to be done. So things just sort of lapped each other; and it was probably the … I won't say the lazy way, 'cause it was just the easiest way with the staff we had at the time".[343]

Prison Officer 4, who was detailed to work on F wing on the morning of 2 June but has no memory of the day, told us that prisoners "sneak about. Some don't do as they're told, you're in a prison. So, he shouldn't have done, he should have gone straight to work." [344] Prison Officer 5 also said that it would be quite commonplace "that prisoners will manipulate and avoid being secured behind their door at every opportunity." [345]

Conclusion on whether FG should have been let out of his cell

Notwithstanding the Custodial Manager's memory that in practice the whole of F wing was unlocked all morning, it seems likely that the correct procedure was that prisoners on the ground-floor landing who did not go to work should have been locked up.

[342] Interview with Custodial Manager 1. At Annex B
[343] Interview with Prison Officer 2. At Annex B
[344] Interview with Prison Officer 4. At Annex B
[345] Interview with Prison Officer 5. At Annex B

Finding 24

After refusing to go to work, FG should have been returned to his cell rather than allowed to wander freely around F wing on the morning of 2 June 2015.

b) Was the regime being implemented properly?

The de facto regime explained by Custodial Manager 1 may well have developed in practice as a result of the difficulty staff faced in implementing the planned regime. He told us that at the time of the incident, "our job was just simply to keep a lid on the jail. The jail was so unstable that I don't think work was particularly pushed hard. If the lads wanted to go to work, they were more than happy – we'd let them go; but there was no real push".[346]

The lax approach towards the regime "was just about keeping the jail running as best we could and keeping the jail from going up, to be honest".[347]

There was some logic to the approach. As Custodial Manager 1 put it, "On F wing at that time, and a couple of the other wings, everyone was just left unlocked during the day to associate and basically do what they wanted to do and just mix around and associate with other people, rather than have everyone locked up behind their door all day long, just causing a pressure pot for us to deal with later on. So it was a way of just defusing the situation".[348]

This approach must, however, have meant it was impossible for staff to know who was where on the wing and to exercise control. In such a situation, Supervising Officer 2 told us, "I would say that it's difficult for the prison officers to know exactly where everyone's meant to be. If you're unlocking half

[346] Interview with Custodial Manager 1. At Annex B
[347] Interview with Custodial Manager 1. At Annex B
[348] Interview with Custodial Manager 1. At Annex B

a wing, that can be a lot of prisoners".[349] It would be even more if staff were unlocking the whole wing of approximately 100 prisoners.

Conclusions on Regime

The pressures on staff seem to have led to a lax regime developing on F wing which meant that staff were unable to know where prisoners were supposed to be at any one time.

Finding 25
The lax way in which the regime was being run on F wing at the time of the incident made effective control impossible.

c) Should FG have been permitted to visit the third-floor landing?

Once FG had been unlocked, there seems to have been little to have stopped him going up to the third landing.

Supervising Officer 1 told us that prisoners who attended workshops would have to leave F wing via the second landing. "If he'd gone up the stairs, nobody would have thought anything of him going up …as the way to work would have been through the 2s." [350] As for going up to the third landing, Supervising Officer 1 agreed that a prisoner could have gone on up to the third landing without being challenged: "if asked, he could have just said, 'Oh, I'm taking something to a friend' or whatever, anyway. But it'd be quite normal, if you like".[351] Prison Officer 4 told us that "there's nothing to say, 'You can't go on the 3s' or 'You can't go on the 1s' or 'You can't go on the 2s'. There was no rules like that to say they couldn't go anywhere as such".[352] Senior Officer 1 agreed, telling us that "if there's a telephone on the 1s and it's being used, and there's one free on the 3s, or the same with the showers, the natural thing

[349] Interview with Supervising Officer 2. At Annex B
[350] Interview with Supervising Officer 1. At Annex B
[351] Ibid
[352] Interview with Prison Officer 4. At Annex B

to do would ... All landings are open, so they would have free-flow to use telephones or showers on any landing, regardless of where their cell was".[353]

Supervising Officer 2 also told us that at that time there would have been no way of stopping anybody going to a different landing.[354]

Possible Challenge by a Prison Officer

If FG is to be believed, he was in fact challenged on the morning of 2 June. FG told police that when he made his way up to the third landing, he saw a male prison officer who initially told him to return to his cell. FG did not comply with the instruction and when he saw the officer again, he expected to be in trouble. According to FG, when the officer saw him the second time, he simply greeted FG and did not follow up on his previous instruction.[355]

We have not been able to identify the officer in question to ask him if FG's account is true and, if so, why he failed to challenge FG the second time he saw him. He does not appear to have been any one of the three officers who were scheduled to be on duty on the morning of 2 June, namely Prisoner Officers 3, 4 and 5. It is possible that another member of staff was in fact on duty on F wing, but the records of which staff were actually deployed on F wing on 2 June 2015 are no longer available.

We spoke to another officer (who was not on duty on the 2 June 2015), Prison Officer 2, who told us that in such a situation whether a prisoner is challenged "depends on what officer was on duty that spotted him. 'Cause you will get some that challenge prisoners and some will just turn round – do something else, if you like. maybe they just don't want the hassle or they have got some lazy staff now".[356]

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[353] Interview with Senior Officer 1. At Annex B.
Free flow is the movement of prisoners between locations within a prison without escort by staff.

[354] Interview with Supervising Officer 2. At Annex B

[355] Record of interview with FG. 05.06.2015. Pages 37 and 39. At Annex G

[356] Interview with Prison Officer 2. At Annex B

Prison Officer 5 told us that the case for challenging a prisoner who was in the ECA was stronger because "they would be soft targets and that is something I don't approve of, personally, and I would definitely have challenged on and taken the appropriate action".[357]

Having challenged FG once and ordered him back to his cell, the officer should certainly have followed up his instruction. Supervising Officer 1 was clear to us that the officer "should have continued with that correct challenge and got him back to his cell. And if they couldn't do it on their own, they should have shouted for staff to assist them, really".[358]

Conclusion on whether FG should have been permitted to visit the third-floor landing

The practice in 2015 seems to have been that prisoners could wander freely between the landings on F wing and that there was no clarity about whether staff should challenge a prisoner who was not on their own landing. If an officer told FG to return to his cell, the officer should have followed through with the order if and when he saw FG a few minutes later.

Finding 26
If an officer told FG to return to his cell, as FG told police, the officer should have followed through with the order if and when he saw him a few minutes later.

Recommendation J
For HMP Nottingham

Each wing should develop a clear policy about prisoners' access to different landings.

[357] Interview with Prison Officer 5. At Annex B
[358] Interview with Supervising Officer 1. At Annex B

Possible Encounter with Healthcare Staff Member

FG also told police that when he had been loitering in the shower prior to entering AE's cell, he had seen Healthcare Assistant Practitioner HCA 1 who had said to him, "'What you doing, trouble?'- like being alright with me." [359] FG told police that he got kicked out of the showers by HCA 1 who had brought a prisoner (who was black) from the ECA over to wash. FG said, "He [the other prisoner] was a bit vulnerable and HCA 1's came in with him and says, 'Oh, I'll lock you in if you want,' to the black lad and the black lad's like, 'There's someone in the shower', and I was like, 'Oh, I'm sorry Miss'."

When we asked HCA 1 about this alleged encounter, she said, "Nothing to do with me" and explained she couldn't remember anything about seeing FG in the shower that morning. She told us that it could not have happened because the showers were locked at that time and "we wouldn't have nothing to do with the shower anyway." [360]

We did not find HCA 1's evidence on this point wholly convincing. Supervising Officer 2 told us that the showers were open during 'domestic periods'; the time in question – about 10 a.m. – is likely to have been a domestic period for prisoners on the third landing. Moreover, while Mental Health Nurse RMN 2 supported HCA 1's view that getting prisoners into the shower was not a healthcare responsibility, saying, "I'd refer them to a uniform"[361], HCA 1 herself earlier in her interview told us that "a lot of the ECA people, they used to sometimes have showers before they opened up. You know, I could get him in the shower … before their Association and whatever. You could get them things like that done for 'em."

Even if HCA 1 had seen FG as he alleges, as a healthcare staff member she would not have been expected to take any action to remove him from the

[359] Record of interview with FG. 05.06.2015. Page 37. At Annex G
[360] Interview with HCA 1. At Annex B
[361] Interview with RMN 2. At Annex B

landing. As discussed in Chapter 12, visitors to the ECA were not discouraged and healthcare staff were neither in a position to know whether a particular prisoner was out of his cell improperly nor to ensure that they returned to their cell if they were. Showers and telephones on the third landing were available for any prisoner on F wing to use (at the appropriate time). HCA 1 could have alerted an officer if she had concerns about FG's behaviour or intentions, but there was no reason for her to think that FG was preparing to assault AE.

Conclusions about FG's encounter with Assistant Healthcare Practitioner

It is not certain whether FG was seen by an Assistant Healthcare Practitioner, HCA 1, shortly before the assault. If such an encounter took place, she would have had no reason to suspect that he was preparing to assault AE and would not have been expected to take any action to remove him from the landing.

Finding 27

IF HCA 1 did see and talk to FG shortly before the assault, she would not necessarily have had any reason to suspect he was up to no good.

Chapter 14

Is there evidence that FG specifically targeted AE for attack?

FG told police that the assault he committed on AE was "nothing personal".[362] He said it could have been anyone on the wing. FG said that he had seen AE on the wing about ten times before the incident and knew that AE had not been on the wing as long as him. FG also said that he had experienced thoughts of killing a different person on the ECA since he arrived in prison.[363] It is not clear who this was. In his police statement, FG does not refer to AE by his correct name and says that he only learned his name afterwards.

FG told police that that he formed the intention to assault AE only when he saw his door open when loitering in the shower. FG had already shared a cigarette with another prisoner on the third landing but had not used that opportunity to commit an assault.

In the view of this investigation, it seems unlikely that FG decided to commit an assault and robbery only once he had arrived on the third landing. It is however possible that FG went up there knowing that there were vulnerable prisoners accommodated in the ECA, which was on the third landing, but selected AE as his specific victim only after having a look around.

Three months after the assault, FG was interviewed by a Consultant Psychiatrist, Dr 5, who had been asked to prepare a psychiatric report for FG's forthcoming court appearance.[364] In respect of the assault on AE, FG told Dr 5, "it could have been anybody. It was purely to get me out of the situation I was in. It was a way to get away from everybody, either to go to hospital or a Cat A prison".[365]

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[362] Record of interview with FG. 05.06.2015. Page 7. At Annex G

[363] Record of interview with FG. 05.06.2015. Page 11. At Annex G

[364] Confidential Psychiatric Report. FG. By Dr 5. 17 Sept. 2015. At Annex F.
This report was prepared in addition to the psychiatric report dated 18 May 2015 by Dr 4 which was prepared following two interviews with FG in March 2015 (at Annex F).

[365] Ibid

FG told the police that his intention was not to rob AE. FG said that he knew AE was vulnerable but that was not the reason why he selected him.

There seem to be two likely reasons why FG committed the assault on AE on 2 June 2015. The first is that FG thought that he would be transferred to a psychiatric hospital as a result of his assault on AE. The second is that the assault was motivated by the desire to steal from AE. There are also a number of other possibilities.

These are discussed in turn.

i) Transfer to Psychiatric Hospital

FG had made generalised threats on a number of occasions to harm prisoners or staff in the belief that this might bring about a move to a psychiatric hospital.[366]

On 5 June 2015, after FG returned having given his police statement about his assault on AE, Governor 4 noted on NOMIS that FG stated that he needed to go to hospital as he needed help; otherwise, he would kill a prisoner.[367] Governor 4 noted that she found him very manipulative. FG wanted to know how quickly he could be transferred to hospital.

Five days later, on 10 June, Governor 4 also submitted an Intelligence Report about what FG had said on 5 June.[368] This records FG as saying, “I need help, I need to go to hospital for this. I have asked for help in Prison and not got it. I will keep doing this. I will kill someone and I will keep killing people until I get help. It was an accident with the girl I killed but this was deliberate".[369]

[366] E.g. 20 February, 27 February, 4 March
[367] FG NOMIS Case Note History. At Annex E
[368] Intelligence Report INED00789452 – 10/06/15. In Summary of Intelligence Reports - FG, page 2. At Annex E
[369] Ibid

The Intelligence Report also says that FG "admitted that he killed his girlfriend and that he had killed the old guy in prison and if they didn't sort his head out by sending him to the hospital he would continue to kill people as he is never going to get out of jail anyway. If he was going past an open cell with someone in it he would go in and lock the door and kill them both".[370]

Governor 4 told this investigation that she felt FG "did what he did to try and get to a hospital, thinking that he did that for that purpose rather than thinking he'd get a further sentence for it. He just seemed quite calculated in what he had done, in order to try and facilitate a move to a hospital as an in-patient, rather than any other reason. Because he kept saying, 'I don't want to be in prison for, you know, the rest of my life or for a period of time.' It was as if he was saying that the reason he had committed the assault was to facilitate a move to a hospital. Very, very rarely do you see people as cool and calculated as that".[371]

If wanting a move to hospital was FG's motivation for the assault, one might have expected him to have talked about his perceived need for it in the period leading up to 2 June, as he had – albeit inconsistently – during February and March. In fact, FG was not noted by healthcare or discipline staff as saying that he wanted to go to hospital in the period immediately prior to the assault.

Four days before the assault, on 28 May, FG was due to attend a court hearing relating to his alleged Murder offence but refused to go. There are no prison or healthcare records about what happened on the day, although several newspapers reported his failure to attend and the remarks made by the Judge about it. 'The Times' quotes FG's lawyer as saying that "his client had refused to leave his prison cell because of his mental health".[372] 'The Mirror' quotes the lawyer as saying that FG had refused to leave prison "because his anxiety was too great." [373]

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[370] Ibid
[371] Interview with Governor 4. At Annex B
[372] The Times, 1 June 2015. At Annex L
[373] The Mirror, 31 May 2015. At Annex L

While this can only be speculation in the inexplicable absence of official documentation, it is possible that the prospect of appearing in court might have raised FG's anxieties about the length and nature of the prison sentence he was going to serve as a result of a Murder conviction. If this is the case, such anxieties are likely to have been increased by the remarks made by the Judge who reportedly said that FG would be forced to remain in Nottingham Prison permanently unless he appeared in court.[374] There is no way of knowing whether FG saw the report or was influenced by it directly or indirectly in the days before the assault.

ii) Theft

Although FG denied to police that stealing the ring was the motive for the assault, he admitted that he knew that AE had been victimised by other prisoners. FG mentioned in his police statement after the assault that he was in £70 debt. He had been visited by known gang members in his cell the day before the assault. FG tried to sell the ring immediately after the assault, without success.

As Governor 3, who was Head of Security at the time of the incident, told us, it was quite easy for prisoners to get into debt for psychoactive substances. "And they would literally do anything to get it. So whether the ring was a robbery that he intended to pay somebody and do it that went wrong, I honestly don't know. But people did get in debt, for the silliest little things".[375] Governor 3 said that most of the people who go and collect parcels thrown into the jail have drug issues themselves. "And when faced with a little handful of drugs that they've collected for somebody else, tend to use it".[376] It's plausible that FG's collection of "throwovers" on 14 and 16 May had led him into debt. Despite what he said to police, stealing a ring might have helped FG to pay off that debt. FG would have known that AE was unlikely to put up much

[374] The Mirror, 31 May 2015. At Annex L
[375] Interview with Governor 3. At Annex B
[376] Interview with Governor 3. At Annex B

resistance. As Supervising Officer 2 suggested to us in her interview, "it's almost like he picked somebody vulnerable to get the ring from".[377]

FG's debts might also have been a reason for him to want to be transferred from the wing and even from HMP Nottingham. The day before the assault, FG told an officer that that he owed money and thought he should move wing.[378] The officer's response is not recorded. Three weeks before, the minutes of a Security Meeting note that HMP Nottingham's Governing Governor had made the decision that prisoners should not manipulate transfers and wing moves through their disruptive behaviour or by getting into debt, and therefore these prisoners would be managed in their respective wings. As a result, an increase of incidents and IR submission was expected over the following weeks.[379] It is not possible to know whether FG was aware of this decision. But debt may have been what FG was referring to when he told Dr 5 that he assaulted AE "to get out of the situation" he was in.[380]

iii) Other Possible Motives

Other possible explanations were put to us during the investigation.

a) Custodial Manager 1 thought that FG had assaulted AE over some tea bags. "I think he'd asked for some tea bags and AE had said, "No", so FG assaulted him and took his wedding ring." [381]

b) Governor 3 told us that FG might have been abused as a child by an older man, and therefore that was why FG "took it out on AE because he looked like an old man".[382] Governor 3 told us that FG had been known to police as a victim of sexual assaults. We have not seen any evidence to support

[377] Interview with Supervising Officer 2. At Annex B
[378] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14'. At Annex H
[379] Minutes of Security Meeting 11 May 2015. At Annex H.
It is not clear whether IR refers to Intelligence Reports or Incident Reports.
[380] Confidential Psychiatric Report. FG. By Dr 5. 17 Sept. 2015. At Annex F
[381] Interview with Custodial Manager 1. At Annex B
[382] Interview with Governor 3. At Annex B

this. The two psychiatric reports on FG prepared for court mention concerns having been raised about sexual abuse after FG showed sexualised behaviour as a five-year-old, but these were not substantiated.[383]

c) It is also possible that FG was motivated by a wish to be moved to a high security prison. Back in February, FG had said that he could not spend any more time in prison and that he would kill another prisoner so he could go "…to a big boy jail" and ask a prisoner there who would never be released to kill him.[384] FG said this in his first nine days in prison, in February, when his thinking and behaviour were very disturbed. It seems unlikely that the wish to move to a Category A prison was motivating him in June, although such a move did in fact result from his assault on AE.

Conclusions about Motivations for the Assault

On balance, it seems most likely that FG assaulted AE for a combination of motives involving a desire to serve his forthcoming sentence in a psychiatric hospital rather than a prison and his need to pay off or escape from debts incurred in relation to drugs. FG may have been anxious about the prospect of a long term of imprisonment – he refused to attend a court hearing four days before the assault because of anxiety. AE was a vulnerable and accessible target.

Finding 28

It seems likely that FG assaulted AE for a combination of motives involving his desire to serve his forthcoming sentence in a psychiatric hospital rather than a prison and his need to pay off debts incurred in relation to drugs.

[383] Confidential Psychiatric Reports by Dr 4 and Dr 5, dated 18 May 2015 and 17 Sept. 2015 respectively. At Annex F

[384] Entry on 18 February in FG NOMIS Case Note History. At Annex E

Chapter 15

How effective was the medical response to AE after he was discovered on 2 June 2015?

Although the precise sequence of events is not entirely clear, the immediate response to the discovery of AE by Prisoner H appears to have been prompt and for the most part appropriate. We have not been able to interview the nurse who was Hotel 9 – the emergency responder within the prison on 2 June. This was Nurse 2 who no longer works for Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) and who did not respond when the Trust contacted her about participating in this investigation.

i) Immediate Care and Calling the Ambulance

It seems that the incident was not called as a Code Blue which would have triggered an instant call for an ambulance. Nurse 1 who was at the scene could not remember but thinks that if it had been called as a Code Blue, he would have documented that. Assistant Practitioner HCA 1 told us that she phoned for Hotel 9 to attend. The ambulance seems to have been called at Hotel 9's request a few minutes later. It is worth noting that according to an Operational Instruction in force at the time at HMP Nottingham, the correct procedure for calling a medical emergency states that a Code Blue should be used for prisoners who are unconscious.[385] In any event, the call for the ambulance was made very shortly afterwards.

The call to East Midland Ambulance Service (EMAS) was made from the prison's Control Room. The officer told the call handler that "He is collapsed on the floor and he's suffering from deep vein thrombosis".[386] The call handler asked a

[385] Operational Instruction 02 - 2014 Calling a Medical Emergency : Emergency Response Codes. Issued 11 February 2014. At Annex H

[386] Transcript of 999 Call on 2 June 2015 from HMP Nottingham to East Midlands Ambulance NHS Trust (EMAS). At Annex L

series of questions about whether AE was conscious, breathing or had infections. The officer making the call was unable to answer these questions, saying only that "he's got this deep vein thrombosis – whatever that is".[387]

The officer was able to confirm that a healthcare professional was with AE and that "they are requesting blue light as well." [388] The officer also gave the telephone extension of the wing but it is not clear whether there was any subsequent direct communication between the staff on the wing and the Ambulance Service.

The current Head of Healthcare, H2, told this investigation that the answers to these questions could have been provided over the radio from the staff on the wing to the Control Room while the telephone call was being made. But in this case that did not happen.

The ambulance arrived after 47 minutes and it is not clear whether this delay aggravated AE's symptoms. Quality standards in place at the time aimed for "all ambulance trusts to respond to 75 per cent of Category A (immediately life-threatening) calls within eight minutes and to respond to 95 per cent of Category A calls within 19 minutes of a request being made for a fully equipped ambulance vehicle (car or ambulance) able to transport the patient in a clinically safe manner".[389]

By coincidence, there was an ambulance already in the prison dealing with a prisoner who declined to go to hospital. It does not look like any consideration was given to whether the crew already in attendance might have come to see AE on F wing.

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[387] Ibid

[388] Ibid. Blue light means a vehicle is responding to an emergency situation.

[389] Ambulance Quality Indicators: Quality Statement, April 2015. NHS England https://www.england.nhs.uk/statistics/wp-content/uploads/sites/2/2013/04/AQI-Quality-Statement-2015-v1.2.pdf

Conclusions about the Medical Response

The Clinical Review conducted for this investigation found that the level of medical response was appropriate. An alert was made appropriately to the duty nurse (Hotel 9) when AE was found to be unconscious. Staff attended promptly and emergency equipment was utilised. It was a weakness that the staff member in the Prison Control Room who spoke to East Midlands Ambulance Service (EMAS) had no information other than AE's age and general medical background. This is unlikely to have had adverse consequences for AE.

As AE was unconscious but breathing, staff interventions in maintaining observations were appropriate while waiting for the ambulance.

Finding 29

The medical response to the incident was adequate although ideally the ambulance would have arrived sooner and the staff in proximity to AE would have spoken directly to the Ambulance Service or the ambulance crew.

ii) Recording the Incident

As part of the investigation, we requested records from EMAS but they were unable to provide a complete record relating to AE, in particular the Patient Report Form. Neither have we been able to ascertain whether a Form F213 Report of Injury to Prisoner was completed in this case.

F213 is a form completed by both healthcare and discipline staff which records injuries to prisoners including those arising from assaults, accidents and unexplained causes. We have been unable to identify a Prison Service Instruction or Prison Service Order which requires the completion of an F213 form and allocates responsibility for doing so. In personal injury litigation claims by prisoners, PSI 31/2015 Managing Litigation Claims requires prisons to produce completed F213s relating to an incident. According to Prison Officer

training materials publicly available online, “whenever a prisoner receives an injury, the member of staff who witnesses the incident, or to whom it is reported must complete a F213.” [390]

HMP Nottingham’s Daily Operational report for 3 June mentions an F213 in the ‘Action Taken’ column relating to the incident. The document has not been located. It may have been completed and then misplaced. Or it may not have been completed. Custodial Manager 1 told us that “For a 213 not to be done – an F213, that again is very unusual. For Healthcare to attend and not complete a 213, that’s … that is unusual”.[391] Supervising Officer 1, F wing’s supervising officer on 2 June, told us “maybe a 213 wasn’t done because he [AE] went straight from being found, being treated and then left the establishment straight away.[392]

Completing an F213 might have forced staff to address more closely the extent of AE’s injuries and their compatibility with a fall or collapse. On the day after the incident, it became clear that AE had not collapsed but that he had been assaulted. As discussed in the following chapter, a number of staff appear to have suspected that AE was a victim of foul play on the day of the incident. But there is there is no record that this information was conveyed to the hospital treating AE. It should have been.

Finding 30

Appropriate incident-recording forms do not appear to have been completed by East Midlands Ambulance Service NHS Trust or by prison and healthcare staff at HMP Nottingham.

390 http://a1538.g.akamai.net/7/1538/13355/v001/homeoffice.download.akamai.com/13355/Doc/1016/10160085.pdf

391 Interview with Custodial Manager 1. At Annex B

392 Interview with Supervising Officer 1. At Annex B

Recommendation K

For Her Majesty's Prison and Probation Service (HMPPS)

The Prison Service should make it clear in an instruction that an F213 should be completed in all cases of injury.

Finding 31

Once it was confirmed, on 3 June 2015, that AE had been assaulted, this information should have been passed to the hospital treating him.

Chapter 16

How effective was the wider response to the incident on 2 June 2015?

One troubling puzzle about this incident is the fact that it was not treated as a serious assault by the prison until more than 24 hours after it took place. No action was taken in respect of FG until he admitted what he had done to Prison Officer 1 in the morning of 3 June.

On 3 June, after CCTV was checked which showed FG entering AE's cell shortly before AE was discovered unconscious on 2 June, the police were informed, and staff took steps to provide an appropriate level of security for FG. In the period between 10.30 a.m. on 2 June and the morning of 3 June, prisoners on F wing were left at potential risk from FG. FG told police that he was unlocked between 14.00 and 17.00 hours on 2 June.

i) What Staff thought had happened

The reason for the delay in involving the police is that many staff seem to have assumed that AE had fallen or collapsed and hit his head either on the bed or the floor. The cause of the fall was assumed to be fainting due to a pre-existing medical condition or the effects of psychoactive substances.

Custodial Manager 1, who was responsible for F wing on 2 June, did not think there was any discussion on that day about whether it might have been an assault rather than a fall or collapse. Custodial Manager 1 recalled that "the cell was not disturbed in any way. It's not like normally when there's been some sort of assault or incident, you find that the room has been disturbed and it wasn't. The room was … as you would find a room. There was very little blood, very little disturbance in his cell, and it did fit with just someone who had just collapsed." [393]

[393] Ibid

Custodial Manager 1 also told us that the fact that AE's ring was missing was first raised by AE's family when they visited AE at the hospital.[394]

Given AE's medical history, thinking that he had fainted and collapsed was not entirely unreasonable on three grounds.

First, AE had been diagnosed with deep vein thrombosis (DVT) at a hospital appointment four days earlier. DVT can lead to a pulmonary embolism – a blocked blood vessel in the lungs which can lead to a patient passing out.[395] The ambulance service was told that AE had collapsed and was suffering from deep vein thrombosis.

Second, AE had experienced a fall on 23 May and was due to have a falls assessment. Dr 2, the GP who prescribed a wide range of medication to AE, told us that some of it could have the effect of lowering blood pressure. He told us "there are certain circumstances that would mean that a dizzy spell and falling over is not unheard of".[396]

Third, AE had his tobacco laced with psychoactive substances in the previous week which had left him weak and sleepy. Governor 1 who was Duty Manager on 2 June told us that given the prevalence of psychoactive substances such as Mamba and Spice, "you would be finding prisoners under the influence collapse in various states all the time".[397] Custodial Manager 2 agreed that Nottingham was facing "an awful lot of psychoactive substance issues …at the time", and wondered "if perhaps AE's presentation may have mimicked some of those effects and staff may have assumed, wrongly obviously, but may have assumed that he was under the influence of some substance and had taken ill in that way?" [398]

[394] Interview with Custodial Manager 1. At Annex B
[395] https://www.nhs.uk/conditions/deep-vein-thrombosis-dvt/
[396] Interview with Dr 2. At Annex B
[397] Interview with Governor 1. At Annex B
[398] Interview with Custodial Manager 2. At Annex B

It is clear, however, that some staff who dealt with the incident and its aftermath had suspicions at least that there was more to AE's injuries than could have been caused by a collapse.

Healthcare Assistant Practitioner HCA 1, who was present shortly after AE was found, told us that initially she thought AE had fallen. "But when he was lying on the floor, it was as if someone stood on his face", because "there was like a mark coming; and I kept saying, 'Are you sure no-one's been in here?' I said, 'Because his face is …obviously … going marked here.'" [399] She said she told an officer this but could not recall which officer. HCA 1 told us that she also said to the officers that AE's ring was missing and that another person might have been involved. HCA 1 did not document this.

Three pieces of evidence show that the possibility of foul play was at least considered by some HMPPS staff on the day of the incident.

First, the Wing Occurrence Book has an entry for 2 June which says that AE's cell "may become a crime scene. Cell door locked off and Oscar to padlock door shut".[400] It is not clear what time this entry was made but it suggests that, on the day of the incident, HMPPS staff, including the Orderly Officer in charge of the day-to-day running of the prison, were aware of the possibility that AE had been assaulted and that action was taken as a result.

Second, an Intelligence Report created at 14.04 on 2 June noted that AE had been found unconscious and had been taken to hospital with a cut to the back of his head. "Later that morning a member of the healthcare MH [Mental Health] team informed me that she had been advised AE had been assaulted in his cell".[401]

[399] Interview with HCA 1. At Annex B

[400] In 'Extracts of Wing Occurrence Book entries – pages 11 – 14', entry on 2 June. At Annex H. Oscar is the Orderly Officer.

[401] INED00776359 on 02/06/2015. Mercury Intelligence System. Intelligence Reports. page 5. At Annex C

It is not clear:

a) who submitted this Intelligence Report about AE being assaulted in his cell;[402]
b) which member of the healthcare team provided the information to the author of the IR; or
c) who advised the member of the healthcare team that AE had been assaulted.

It seems highly likely that HCA 1 either provided the information or the advice that AE had been the victim of the assault.

Third, an entry in the prison's Daily Operational Report for 2 June states that AE was "found unresponsive in his cell by staff. CCTV to be viewed to establish if this was an assault. No indication incident was anything other than accident." [403]

Custodial Manager 1, who was in charge of F wing on 2 June 2015, accepts that the way the Daily Operational Report was written suggests that, at the time, staff were considering viewing the CCTV on the day of the incident. But he told us "that was not my thoughts at the time." [404] The Head of Security, Governor 3, was not aware of anything on that day that pointed at a suspicion of foul play. This suggests that neither Custodial Manager 1 nor Governor 3 were made aware of the fact that the cell was to be secured as a potential crime scene or that an Intelligence Report suggesting AE had been assaulted had been submitted.

Senior staff were also insufficiently curious about what had happened. FG, although not necessarily the most reliable witness, said in his police statement on

[402] The Daily Operational Report for 2 June 2015 contains an entry about the incident, including under 'Actions Taken': "IR by CM 2". At Annex H.
Custodial Manager 2 had no recollection of the incident, telling us, "I don't recall completing any IRs in relation to that matter." Interview with Custodial Manager 2. At Annex B
[403] Daily Operational Report 2 June 2015. At Annex H
[404] Interview with Custodial Manager 1. At Annex B

5 June that when AE was brought down on his way to the ambulance there was a "Massive mark". "half the jail saying who's done that?" "And other half's looking at me smiling".[405] While his evidence should be treated with caution, it is clear that there were more than enough reasons to investigate the incident immediately.

ii) Why was the incident not immediately investigated?

Given that some staff seemed to suspect that AE might have been assaulted, steps should have been taken to investigate immediately.

Custodial Manager 1, who was responsible for F wing on 2 June 2015, told us that "our understanding was that he'd fallen over; and so we didn't do anything other than just close his cell off." [406] He said that "we wouldn't routinely check the CCTV if someone, for instance, had just collapsed – I say 'just' – had collapsed and banged their head. If we didn't suspect foul play or didn't suspect a third party involved, we wouldn't necessarily routinely check the CCTV anyway. We would only do that if we felt that there'd been something else had gone off – which would prompt us to view the CCTV".[407]

Governor 4, who was Head of Reducing Re-Offending at the time of the incident and is now Head of Residence, "couldn't possibly say why" CCTV was not checked on the day of the incident.[408] She told us that "these days, and seeing as there's a prisoner found with severe injuries like he did have, we straight away look at the CCTV".[409] Supervising Officer 2, who was not on duty on F wing on the day of the incident, suggested that CCTV may not have been checked because "they just didn't look <u>for</u> things like that, because I don't feel like things like that did happen at that time. Yes, there was fights, but <u>serious</u> things … at this time, incidents like this were <u>very</u> rare".[410]

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[405] Record of interview with FG. 05.06.2015. Page 29. At Annex G
[406] Interview with Custodial Manager 1. At Annex B
[407] Interview with Custodial Manager 1. At Annex B
[408] Interview with Governor 4. At Annex B
[409] Ibid
[410] Interview with Supervising Officer 2. At Annex B

Governor 1, who at that time was in charge of Operations and based in the Security department, took the opposite view – that failure to consult the CCTV may have reflected the fact that "Nottingham, along with the other local prisons, due to lots of reasons was barely functioning as an establishment. Nottingham was struggling and had a massive problem with, quite frankly, safety and security generally and just managing the prison on a day-to-day basis. The operation [sic] incidents were daily".[411]

Governor 1's view is supported by other evidence. Violence was a serious problem at HMP Nottingham during the period leading up to the incident. In September 2014, five months before FG arrived at the prison, HM Chief Inspector of Prisons (HMCIP) found that "Levels of violence, including assaults on staff and prisoners, were very high, and tensions in the prison were clearly evident". "Work to reduce violence and tackle bullying was not effective, although security and intelligence management was good." [412]

A disturbing picture was painted by Prison Officer 2 who told us that "in 2015 there was so many incidents going on around the jail. There was a lot of incidents. I won't say it happened on a daily basis, but we were being threatened – quite regular".[413] Prison Officer 2, who was threatened by FG with a plastic knife on 22 February 2015, said that "you get a bit cynical. There was lots of incidents that never went past the incident because we was firefighting, all the time. There was a lot of incidents going on around the jail. And it was always Groundhog Day; it was always: Get on; Just carry on. There was no time to write your reports or …, no time to reflect on anything or deal with anything. You just went from one incident to another at the time".[414] Governor 2, who was head of the Offender Management Unit, confirmed that "the place was not pleasant to be

[411] Interview with Governor 1. At Annex B
[412] Report on an unannounced inspection of HMP Nottingham by HM Chief Inspector of Prisons 8–19 September 2014. At https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/02/Nottingham-web-2014.pdf
[413] Interview with Prison Officer 2. At Annex B
[414] Ibid

at and some days there was violence. Daily, I would say almost daily. It was a very difficult time".[415]

HMCIP reported that almost 40% of prisoners said they had been victimised by other prisoners; violent incident investigations were often not carried out, and there was no formal support for victims.[416]

Conclusions on the HMPPS Response to the Incident

The delay in investigating what had happened to AE until FG admitted his role in it was a serious failure on the part of the management of HMP Nottingham, which reflects institutional problems at the time. The evidence of foul play which was recognised by healthcare staff and some prison staff on 2 June was ignored and it was fortunate that there were no serious adverse consequences as a result.

Finding 32

Failing to investigate what happened to AE on 2 June was a serious failure by the management of HMP Nottingham which placed other prisoners at potential risk from FG. CCTV should have been viewed immediately after the incident to see whether anyone had entered AE's cell before his injuries were sustained.

[415] Interview with Governor 2. At Annex B

[416] Report on an unannounced inspection of HMP Nottingham by HM Chief Inspector of Prisons 8–19 September 2014. At https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/02/Nottingham-web-2014.pdf

Chapter 17

Were the HMPPS staffing levels for F wing sufficient to manage the daily regime as well as providing care and support to prisoners?

The investigation has found (Finding 20) that the safety of prisoners on the ECA should have been secured by having a prison officer allocated to the unit. But there are broader questions about the adequacy of staff numbers on F wing. Two incidents prior to the day of the assault suggest that there were not sufficient staff on F wing. When FG was suspected of collecting a throw-over in the exercise yard on 14 May, the Intelligence Report notes that "only rub-down searches could be conducted due to the large number of prisoners on the yard and nothing was found".[417] Presumably additional staff would have enabled a more thorough search to have been undertaken.

On 28 May, FG refused to leave his cell to attend court. While there is no record of what happened – itself a serious shortcoming – it is at least possible that additional staff presence might have helped to ensure that FG attended the hearing.

On the morning of 2 June 2015, three Band 3 staff – prison officers – were scheduled to work on F wing, together with one Band 4 supervising officer. The supervising officer was additionally responsible for G wing.

Custodial Manager 1 told us that two of the Band 3 staff would have been allocated to the wing "and the third one would be what we call the cleaning officer, which is the one who'd make sure the cleaning gets sorted and the food is collected. So, you would have on there, at any one time, two members of staff. But they'd be to-ing and fro-ing from the office, dealing with queries".[418] The supervising officer would also have been moving between the two wings which they covered. In the opinion of Custodial Manager 1, "one per landing is more

[417] INED00750747 – 17/05/15 in Summary of Intelligence Reports – FG, page 1. At Annex E
[418] Interview with Custodial Manager 1. At Annex B

than enough". This opinion was not shared by other staff whom we interviewed and flies in the face of the evidence considered in this investigation.

The Head of Security, Governor 3, told us that if the assault on AE "happened during Association time, then there would have been 120 prisoners, probably three staff to supervise those; and it's not unusual for possibly things to happen or to go by unnoticed when you've got that amount of prisoners out at a very busy time".[419]

Prison Officer 4 told us that "for the amount of work an officer has to do, the staffing levels are horrendous".[420] Of the three officers on duty, one might be counting people off the wing, another supervising the queue for medication, leaving one who was "pulled from pillar to post".[421] "You could have to go to the office to take a phone call or, you know, there's 1,001 jobs going on. That's my biggest thing I come away with from the Prison Service is how short-staffed it was".[422]

Part of Custodial Manager 1's thinking that one officer per wing was adequate seems to relate to the fact that that at the time F wing was a "lifer and IPP and the over-50s unit".[423] "So that was, again, a motivation to run a more relaxed regime 'cause with the guys on there, the prisoners on there, you would expect to be the more trusted. They're longer-term – lifer and IPPs, who tend to be a more compliant demographic, and then the over-50s who are, again. So you have a compliant sort of population on there".[424]

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[419] Interview with Governor 3. At Annex B

[420] Interview with Prison Officer 4. At Annex B

[421] Ibid

[422] Ibid

[423] Interview with Custodial Manager 1. At Annex B.
IPP is an indeterminate sentence of imprisonment for public protection, mainly involving long periods in custody.

[424] Ibid

Prison Officer 4 agreed that F wing had been relatively settled and well-run but said that "at some stage they changed it; any Tom, Dick and Harry was coming, and it seemed to disrupt the whole regime".[425]

It is not clear at what point the composition of the population on F wing changed. As a young 24-year-old remand prisoner, it is hard to see how FG met the criteria for the "more compliant demographic" referred to by Custodial Manager 1. As Prison Officer 5 told us, "you had the over-45s and long-termers and wing-workers …on the same wing as the ECA, and they would be less likely to target a vulnerable prisoner. But obviously FG didn't tick that appropriate box, did he?" [426]

Custodial Manager 1 accepts that the prisoners in the ECA were quite demanding and told us that on F wing as a whole "we would take the odd sort of difficult individual – because we had the time to manage them. And obviously in this case that didn't happen, but we would take the odd difficult prisoner that we … 'cause we had more time to deal with the more challenging individuals".[427]

It is not certain whether FG was one of the "odd sort of difficult individuals" in an otherwise settled F wing or one of the wider variety of prisoners who reportedly disrupted the regime after the focus of the wing's population was diluted.

The fact that a Security Meeting on 11 May set as a security objective "to identify prisoners on F wing that are arranging for and receiving the throw overs onto F wing exercise yard", suggests that the wing was already taking a larger number of disruptive prisoners by then.[428]

In either case, it is not easy to share Custodial Manager 1's confidence that one officer per wing was adequate. Prison Officer 5 told us that "prior to benchmarking, we would have a co-ordinator who would keep a running roll of

[425] Interview with Prison Officer 4. At Annex B
[426] Interview with Prison Officer 5. At Annex B
[427] Ibid
[428] Minutes of Security Meeting 11 May 2015. At Annex H

how many prisoners are on the wing and where they are; if there's any cell moves or wing moves; anybody who's going in and out to court or on a transfer – you would have an officer who would be the wing co-ordinator".[429] This kind of role might have provided a more controlled environment on F wing on the morning of 2 June 2015.

Conclusions on Prison Staff Numbers on F wing

Although Custodial Manager 1 thought that one prison officer per wing was sufficient, this flies in the face of the evidence we have found and the views of his colleagues.

Finding 33
The number of staff allocated to F wing in June 2015 did not allow for safe supervision and control of prisoners.

Recommendation L
For HMP Nottingham

The number of staff allocated to different wings should be reviewed to ensure safety.

[429] Interview with Prison Officer 5. At Annex B.
Benchmarking was a process of streamlining what prisons do, which resulted in staff reductions in many establishments.

Chapter 18

Current Issues

i) Developments since 2015

In the period since June 2015, HMP Nottingham has seen a large number of serious incidents including homicides and self-inflicted deaths. In January 2018, the prison was subject to an Urgent Notification to the Secretary of State for Justice by the Chief Inspector of Prisons (HMCIP) who had significant concerns with regard to the treatment and conditions of those detained there. He wrote that "inspection findings at HMP Nottingham tell a story of dramatic decline since 2010. In 2014 our assessment of safety in Nottingham following an unannounced inspection was 'poor' our lowest grading. As a result of this we carried out an announced inspection in February 2016 and again found that outcomes for prisoners in the area of safety were poor. Our most recent inspection has yet again found safety to be at the lowest possible grading". The Chief Inspector considered that "the problems at Nottingham are intractable and that staff there are unable to improve safety".[430]

An action plan was drawn up by the prison in order to address the concerns raised by HMCIP, some of which overlap with the recommendations made in this report.

ii) Protection of Vulnerable Prisoners

While it goes far beyond the remit of this investigation to assess how HMP Nottingham is now dealing with the concerns raised by it, we feel it is important

[430] Re Urgent Notification: HMP Nottingham
At https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2018/01/17jan-sofs-nottingham-letter-and-debrief-pack-for-publication-1.pdf

to highlight a concern that was expressed by two witnesses about one of the key themes in the report – the protection of vulnerable prisoners.

One of the questions we asked of witnesses was whether what happened to AE was likely to happen today. While a number of witnesses mentioned improvements at HMP Nottingham, Mental Health Nurse RMN 2, who was interviewed on 3 December 2018, told us that things today are no different from the day of the assault. "Those people" [such as FG] are still wandering round and as a result, after that nothing's changed". In his opinion, matters were "Worse now, as in fearfulness of people being vulnerable".[431]

The Enhanced Care Area closed in 2015 and witnesses suggested that should a prisoner like AE be received nowadays he might either be placed either on normal location in one of the residential wings or on the Vulnerable Prisoners wing. This wing is largely designated for prisoners deemed vulnerable because of the nature of their offence.

Prison Officer 5, who was interviewed on 20 December 2019, had specific concerns about the mix of people held on the Vulnerable Prisoners wing at HMP Nottingham. He told us that "nowadays we've probably only 25, 30 per cent of the residents on there are actually sex offenders. It also houses vulnerable prisoners in the terms of elderly prisoners with dementia who are not necessarily sex offenders – some are, some aren't – but also young lads with mental health issues; some of them have got a sexual allegation against them, others haven't. But what is the main problem and the main danger is that they're also housing on that unit, the same unit, they are putting prisoners and who are described as OP – for their Own Protection; and these are quite often prisoners of FG's nature who are opportunist thieves, who go down there because they're in debt, for drugs ..and, to use a metaphor, you're putting a fox in the henhouse. Because we've got kids there who are vulnerable, you've got the elderly who are vulnerable, and you've got prisoners being put on that unit who would … who are quite happy – they would target and rob an hardened criminal who is likely to give

[431] Interview with RMN 2. At Annex B

‘em a good hiding. So to put ‘em in amongst vulnerable prisoners is – well, it’s just giving ‘em a licence to do as they please.” [432]

It is beyond the terms of reference for this investigation to assess the accuracy of these claims, but an important lesson from the incident on 2 June 2015 is the need to ensure that prisoners who may be vulnerable to bullying and exploitation are adequately protected. We therefore recommend that HMP Nottingham takes necessary measures to ensure this.

We also think that other local prisons which take detainees straight from court should review the arrangements for ensuring the safety of prisoners in specialist units or wings.

Recommendation M
For Her Majesty’s Prison and Probation Service (HMPPS)

Measures should be taken to provide adequate protection for prisoners in need of additional support who are located in specialist wings or areas such as the former Enhanced Care Area

a) at HMP Nottingham and

b) in all local prisons that receive detainees directly from court.

iii) Designation of Wings

A broader issue arose in the investigation relating to the mix of detainees and prisoners on F wing in 2015.

F wing was predominantly used to accommodate older and longer-serving prisoners, whose behaviour and attitude is generally considered to be more compliant than that of younger prisoners and those serving shorter sentences. As such, it was not unreasonable to locate the Enhanced Care Area there given

[432] Interview with Prison Officer 5. At Annex B

that some at least of the prisoners in the ECA were vulnerable. They should have been safer from exploitation and violence in a settled wing.

Yet a young remand prisoner such as FG continued to be held on F wing after being discharged from the ECA. In his case, this may have been to enable staff to keep an eye on him – although we have found shortcomings in the way his risks were kept under review by prison staff. We heard evidence too that during the period covered by the investigation, F wing began to accommodate more in the way of disruptive prisoners.

Deciding how best to utilise limited prison accommodation is no doubt a complex exercise which has to take account a range of factors, including, but not limited to, the safety of prisoners.

The mixing of remand and sentenced prisoners – as happens at HMP Nottingham – can cause problems. Remand prisoners are often "unknown quantities" who have different rights and entitlements to convicted prisoners. They cannot be required to work for example. International standards state that untried prisoners shall be kept separate from convicted prisoners.[433]

In the light of our findings about F wing, we recommend that HMPPS commissions research with a view to identifying a set of principles to guide the designation of particular wings for a type or types of prisoner; and to consider whether remand and sentenced prisoners should be accommodated separately.

Recommendation N
For Her Majesty's Prison and Probation Service (HMPPS)

HMPPS should commission research to identify the most effective ways of designating wings for different types of prisoner; and whether remand and sentenced prisoners should be accommodated separately.

[433] United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Rule 11b. At https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf

Part Four Observations about Inquiry Procedure

Chapter 19

Did the Prison Service and Nottinghamshire Health Care NHS Foundation Trust learn lessons from the incident?

During the course of this Article 2 investigation, we have become concerned about the failure to inquire into what happened on F wing on 2 June 2015 and to apply the necessary learning to reduce the risk of a similar event happening in the future.

i) Hot Debrief

Immediately after the incident, there was no 'hot debrief' for the staff involved in responding to it. Such a meeting can be 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. In this case, a hot debrief would have provided an opportunity to consider whether AE's injuries had been caused by him collapsing – as most staff thought – or as a result of an assault, as at least one staff member believed. PSI 09/2014, which concerns incident management, says that a hot debrief should take place after a serious incident with a record made although minutes will not normally be taken.[434]

Finding 34
No hot debrief took place after the incident.

[434] PSI 09/2014 Incident Management Manual, paras 8.42 and 8.45. Extracts at Annex J

Recommendation O

For HMP Nottingham and NHS England and NHS Improvement (NHSE & NHSI)

A hot debrief should be held and a short record made when a serious incident takes place, including all occasions when a prisoner is taken to hospital by ambulance as an emergency.

ii) Internal Prison Service 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*".[435]

PSI 09/2014 on Incident Management also says that there will always be an investigation at the conclusion of a serious incident. [436] PSO 1300 on Investigations says that a formal investigation will be necessary in cases of serious harm. [437]

No investigation into the assault on AE was carried out by the Prison Service, although of course a police investigation led to the conviction of FG for Attempted Murder on 12 October 2015. The incident was not even recorded on the Incident Reporting System on NOMIS.

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[435] PSI 64/2011 Management of prisoners at risk of harm to self, to others and from others (Safer Custody), para 30. Excerpts at Annex J

[436] PSI 09/2014 Incident Management Manual, para 8.42. Excerpts at Annex J

[437] PSO 1300 Investigations, para 1.6.1. Excerpt at Annex J

When asked by this investigation whether there had been any form of internal inquiry, Custodial Manager 1 told us "nothing has ever been mentioned to me about this – and, actually, it's completely gone out of my mind until I saw that brief that was sent to me, and then when I saw the brief I was like, "Ah, yeah, I remember this now." It was quite a significant event at the time to me, but it's completely gone out of my head until I read the notes that you very kindly sent me, so no".[438]

Governor 1, who was Head of Operations, thought that "you would expect to do an internal, fairly quick, fact-finding investigation around things you can learn. But what we try and do is not obviously get in the way of the police." [439]
Governor 4 thought that "normally we'd have a Prison Service inquiry running alongside a police inquiry".[440]

As for why there was no investigation, Governor 4 said "we'd had a lot of different Governors and we were in quite a state of flux with what had been going on. So I couldn't honestly say why it didn't happen. There was so much going on at that time here. Not that that's an excuse for why it didn't happen".[441]

For Custodial Manager 1, HMP Nottingham "was an extremely difficult and challenging place to work – and still is today. That … I don't want to play down what the guys are doing there now, but it's … it, at that time, it was very, very challenging and all our brief as a team of employees at Nottingham was – and that goes all the way up through the ranks up to the No. 1 Governor – is that we simply were just trying to keep the jail from … from losing the jail, to be honest. So we just did the day-to-day sort of fire-fighting and dealt with issues in front of us; and actually that finer detail, that I suppose should have been done, probably didn't get done".[442]

He continued, saying that "Nottingham was an extremely difficult place to work,

[438] Interview with Custodial Manager 1. At Annex B
[439] Interview with Governor 1. At Annex B
[440] Interview with Governor 4. At Annex B
[441] Ibid
[442] Interview with Custodial Manager 1. At Annex B

and there was lots and lots of incidents, and we didn't follow processes. Absolutely, we didn't. And that's not just with this. And there's a kind of … when we talk about the F213 not being done, part of me is surprised that we didn't do that, but then again, you know, we probably just moved on and carried on – just to probably another. It was just about keeping a lid on the place".[443]

For Governor 1, "the prison was overwhelmed, basically".[444]

Finding 35

No internal investigation into what happened was undertaken by the National Offender Management Service, so opportunities to learn lessons from the incident were missed by the Prison Service.

iii) Health Service Investigations

According to Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) policy, two forms should have been completed (in addition to the F213 injury to prisoner form).[445] These were an IR1, which is the healthcare reporting mechanism through a computerised system called Ulysses; and an IR2, which is the senior manager's review of the IR1.

None of these forms were available, and there was no explanation of their absence. In its response in June 2022 to the draft report, Nottinghamshire Healthcare NHS Foundation Trust told us that "it is not clear why this was the case and [it] certainly falls short of what is expected routinely within the Trust".[446]

[443] Ibid

[444] Interview with Governor 1. At Annex B

[445] Reporting of Accidents, Incidents & Near Miss Situations – 15.01 Implementation date: August 2017. Nottinghamshire NHS Foundation Trust. At Annex K

[446] Letter from Area Manager - Offender Health, Nottinghamshire Healthcare NHS Foundation Trust, to Rob Allen, 28 June 2022, page 9, section 41. At Annex O

Finding 36

No internal investigation was undertaken by Nottinghamshire Healthcare NHS Foundation Trust (NHCFT), so opportunities to learn lessons from the incident were missed by them.

Recommendation P

For Nottinghamshire Healthcare NHS Foundation Trust (NHCFT) and HMP Nottingham

Incidents in which prisoners sustain serious injuries should be recorded and investigated in line with policies.

Chapter 20

The Appropriate Level 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 while further scrutiny in the form of a public hearing may not be needed, there is a case for some form of public reassurance that the lessons from this investigation are being heeded. This could take the form of the publication of a regular review of the implementation of those recommendations which are accepted by the organisations to whom they are addressed, namely, HM Prison and Probation Service (including HMP Nottingham); NHS England and NHS Improvement; and Nottinghamshire Healthcare NHS Foundation Trust.

In reaching this view I have considered two main questions, relating first to 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; and second to whether the investigation uncovered convincing evidence of widespread or serious systemic failures, such that a public hearing might be warranted to maintain public confidence.

i) Conflicts in the Evidence

The investigation has revealed inconsistencies among witnesses' evidence about the way the regime on F wing was supposed to run and, in particular, about whether FG should have been locked back up in his cell after refusing to go to work on the morning of 2 June 2015. If he had been locked in his cell, he would have been unable to commit the assault on AE.

There are also inconsistencies in the evidence about FG's alleged contact with staff prior to entering AE's cell on the morning of 2 June 2015. FG told police that he had a conversation with Health Care Assistant Practitioner HCA 1 while he was loitering in the shower on the third landing; however, HCA 1 denied having had such a conversation.

FG also told police that he was challenged by a prison officer who took no action to return him to his cell. We have been unable to identify which prison officer this was.

Indeed, although the investigation has contacted all four members of prison staff scheduled to be on duty on the morning of 2 June 2015, none has a recollection of being involved in the incident. There are therefore shortcomings in the witness evidence, although I do not consider that on their own they are sufficiently serious to warrant further investigation. The investigation has been able to identify the key issues in the management of AE and FG by the prison, draw lessons from these and make recommendations.

ii) Widespread or serious systemic failures

There is no doubt that the investigation has found systemic failures in respect of the way HMP Nottingham was operating in 2015. These include the lack of protection afforded to AE in the Enhanced Care Area, which saw him victimised several times in the weeks before the assault on 2 June; the lax regime on F wing which allowed FG to roam around instead of going to work on 2 June; and the failure to investigate the circumstances leading to AE's injuries on 2 June until FG admitted the following day that he had caused them.

These examples all reflect the fact that, in the words of the then Head of Operations, "Nottingham, along with the other local prisons, due to lots of reasons was barely functioning as an establishment. Nottingham was struggling and had a massive problem with, quite frankly, safety and security generally and just managing the prison on a day-to-day basis". His views were echoed by the

Custodial Manager in charge of F wing who said that "our job was just simply to keep a lid on the jail."

There have of course been a number of developments since 2015 which are mentioned in Chapter 18. The Enhanced Care Area no longer exists and a wide-ranging series of efforts have been made to correct the prison's declining performance in respect of safety. Chief among these are the action plans made in response to HM Chief Inspector of Prisons' (HMCIP) Urgent Notification in 2018.

HM Prison and Probation Service's Initial Response Action Plan included the provision that "The Prison Safety Team will ensure recommendations from the investigations into deaths in custody made by the Prisons and Probation Ombudsman are implemented." [447]

It will be important that the recommendations made by this Article 2 investigation are implemented in a similar way and monitored.

Finding 37

While a public hearing may not be necessary, some public reassurance is needed that the systemic failings identified by this investigation are being addressed at HMP Nottingham.

Recommendation Q

HMP Nottingham, Her Majesty's Prison and Probation Service (HMPPS), Nottinghamshire Healthcare NHS Foundation Trust (NHCFT), and NHS England and NHS Improvement (NHSE & NHSI) should regularly review the implementation of those recommendations in this report which they accept and publish the outcomes.

[447] Nottingham Urgent Notification: Initial Response Action Plan
At https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2018/07/3.-SoSs-action-plan-Nottingham.pdf