

Independent Review into the Delivery of Forensic Mental Health Services

TERMS OF REFERENCE

Context

Forensic mental health services specialise in the assessment, treatment and risk management of people with a mental disorder who are currently undergoing, or have previously undergone, legal or court proceedings. Some other people are managed by forensic mental health services because they are deemed to be at a high risk of harming others or, rarely, themselves under civil legislation.

The level of secure service a person is accessing (high, medium, low, or community) is determined by the level of risk a person is thought to pose. Although a large majority of forensic mental health services are run by NHS Health Boards, Scotland also has a few independent sector secure inpatient forensic mental health services.

In recent years there has been a significant adjustment in the delivery of forensic mental health services. The annual ministerial review of the State Hospital in January 2019 examined a number of issues, not least how the board responds to a decline in the number of patients detained in high security, and the development of medium secure services elsewhere. There has also been the introduction of excessive security appeals for patients detained in medium security and a continuing move towards community services. More recently, there have been further developments such as a planned new Child and Adolescent Mental Health Service (CAHMS) secure unit and an ongoing review of the needs of women who require secure care, particularly high security.

In order to enable forensic mental health services to be delivered as effectively as possible the Scottish Government is instigating a review more widely into the delivery of these services in recognition of these changes and new developments.

The principal aim is to review the delivery of forensic mental health services in hospitals, prisons and the community, including:

- The demand for forensic mental health services, including bed availability and use in hospitals across the levels of security and in the community across Scotland;
- The delivery of forensic mental health services in prison;
- The delivery of high secure forensic services in hospital, given the decline in the number of patients at the State Hospital;
- The capacity of medium secure services to deliver forensic mental health services for all patients who require such services;
- The impact of excessive security appeals at medium security on low security;
- The availability of specialist open i.e. unlocked forensic rehabilitation services; and,
- The movement of patients from low or medium security into the community.

The Review will include the make-up of the forensic estate and the patient flow for male and female patients, as well as those with additional intellectual support needs. The Review will include representation from:

- people with lived experience of forensic mental health services, their relatives, carers and representatives;
- organisations commissioning, delivering and monitoring forensic mental health services as well as those providing support services;
- staff-side and professional organisations; and,
- organisations involved in legal and court proceedings.

The Review will take a human rights-based approach to its work. It will use the PANEL principles of Participation, Accountability, Non-discrimination, Equality, Empowerment, and Legality to support this approach.

Scope and Terms of Reference

The specific methodology of the Review is at the discretion of the chair but will involve consideration of:

Strategic Direction for the delivery of forensic mental health services

- The arrangements for the strategic direction and ongoing oversight and governance of the delivery of forensic services across Scotland, including the roles of the Scottish Government, Integration Authorities and Health Boards as well as the role, functions and reporting structures of the Forensic Network.

Demand, capacity and availability across the forensic secure estate

- An evidence review of bed availability and capacity at high, medium and low security hospitals, in intensive psychiatric care units, and at open forensic rehabilitation inpatient facilities;
- Any evidence of people being unable to move between hospitals and its causes, taking into account patients' human rights and the principles in section 1 of the Mental Health (Care and Protection) (Scotland) Act 2003;
- The demand for medium secure services from across Scotland and the deliverability of such services in the current forensic estate;
- The ease of movement of patients both down and up through levels of security
- The impact of appeals against conditions of excessive security across the mental health system, including demand for low secure services and the extent to which this can be met by the current forensic estate; and,
- Alternatives to cross-border transfers to specialist services far from patients' home areas and families.

High secure provision

- The arrangements for the governance and delivery of high secure services, given the decline in patient numbers, and whether there are alternatives to more efficiently deliver such services including:
 - Any options for the re-provision of unused bed capacity at State Hospital for care of other patients;
- The appropriateness of continuing to provide high secure care for patients on behalf of Northern Ireland and any recommendations for future service delivery.

Forensic mental health services to client groups with particular needs

- The delivery of services for intellectual impairment / learning disability and neurodevelopmental disorder / autistic spectrum disorder;
- The availability, demand and delivery of forensic mental health services to women;
- The availability, demand and delivery of forensic mental health services to children and young people; and,
- The availability, demand and delivery of providing forensic mental health services to elderly people.

Community forensic mental health services

- The movement of people from low or medium secure services to the community; any delays and the causes of them;
- The support and services that are needed to successfully treat people in the community and any difficulties providing or accessing such services;
- The provision of forensic mental health services to support the ongoing assessment and management of high risk offenders (violent and sexual) managed under MAPPA in the community; and,
- Processes by which people can resettle in a different territorial health board areas within Scotland e.g. for victim sensitivity reason.

Forensic mental health services and the justice system

- An evidence review of the delivery of forensic mental health services in prisons;
- The ease of movement of people between prison and hospital;
- The impact any lack of provision has on sentencing decisions, for example for women requiring high secure care;
- The provision of professional and expert witness psychiatric and psychological reports to Scottish Courts and the impact any delays may have on people awaiting sentencing; and,
- The availability and provision of forensic mental health services generally, in the context of the investigation and prosecution of crime, including, in particular, to persons accused of crime.

How the Review is undertaken is a matter for the Chair, but the views of people receiving forensic mental health services, their families and representatives will be central to the work of the Review.

Definitions of key terms

Forensic Mental Health Services: Services that provide assessment, care, treatment and support* to:

- people in high, medium and low secure hospitals or hospital units;
- people accused of offending or who have offended and are in intensive psychiatric care hospital units or open rehabilitation inpatient facilities; and,
- people not in hospital who are at risk of offending, accused of offending or who have offended and have a mental illness, personality disorder or learning disability.**

* 'Support' includes all forms of support, including reintegration into the community.

** This includes people who develop a mental illness while in prison.

Previous and ongoing work around forensic mental health services

The Review should consider previous and ongoing work around forensic mental health services, including:

- The findings of the Forensic Estate Review group;
- The Mental Welfare Commission's Visiting and Monitoring Report relating to medium and low secure forensic wards (August 2017), including actions planned by Health Boards in response to its findings
- 'Coming home: complex care needs and out of area placements 2018', Scottish Government, November 2018;
- The findings of the short life working group on female pathways in forensic mental health;
- The (emerging) findings of the review of learning disability and autism under the Mental Health (Care and Treatment) (Scotland) Act 2003;
- The findings of the review of Mental Health Services at HMP YOI Polmont; and,
- The inquiry by the Equalities and Human Rights Commission into the question of whether people with mental health conditions, cognitive impairments and conditions including autism are experiencing discrimination in the criminal justice system.

Review outcomes

The Review is expected to:

- Make recommendations for changes or improvements to the Scottish Government and delivery bodies;
- Should anything of immediate concern be identified these should be escalated to the respective Chief Executive and/or Scottish Government;
- Suggest any legislative issues that arise out of the enquiry; and
- Suggest any further reviews that arise out of the enquiry.

This Review will be presented to the Cabinet Secretary for Health and Sport and the Minister for Mental Health and be published by the end of June 2020. Quarterly updates on progress and any emerging findings are required.