



Ministry  
of Justice

**Lucy Frazer QC MP**  
Minister of State for Justice

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Dear Sue,

**PRISONS AND PROBATION OMBUDSMAN ANNUAL REPORT 2019-2020**

Thank you for your second annual report as Ombudsman, published on 29 October 2020. The independent scrutiny provided by your office is essential to maintain the transparency of the prison and probation services. This has been a challenging year and I appreciate and recognise the importance of ongoing scrutiny that you have provided during COVID-19 pandemic.

You raise a number of important issues in your submission which I have considered and responded to in the Annex to this letter. I was pleased to note that your report recognised much of the good progress made during the past year, but it is clear that there is much still to be done. I hope my annexed response provides you with a helpful indication of the steps we are currently taking in these areas.

Thank you again for your annual report and please accept my warm thanks for the ongoing work of your office in providing valuable independent scrutiny of prison and probation services.

Yours sincerely,

**LUCY FRAZER QC MP**

## **ANNEX**

### ***Implementation of recommendations from fatal incident reports***

I appreciate the significant effort that goes into conducting a fatal incident investigation and appreciate the value of the resulting recommendations. These recommendations provide an important opportunity to learn from the circumstances of deaths and to improve the care and support that offered to prisoners. HMPPS have contributed to the research commissioned by the PPO to identify ways to improve the impact of the recommendations and we look forward to seeing the results of that work.

We are doing more to address the recommendations made in fatal incident reports and are increasingly accepting and actioning more of your recommendations. We will continue to do more to address the more challenging recommendations that have multiple dependencies and I will ask officials to work with you on this.

In the light of the continuing issue of repeat recommendations, we are introducing an additional three stage assurance process which will be overseen by the Operational and System Assurance Group (OSAG), beginning this autumn. Stage one of the process will involve the establishment providing a self-assessment report on progress on each recommendation, if there are any concerns about progress, a challenge meeting with the Governor will be held. If concerns persist, a follow-up audit visit will be arranged, tailored to local circumstances and agreed with the relevant PGD and Executive Director. We are confident that this process will ensure that action to address recommendations is embedded and has an ongoing impact, reducing the need for repeat recommendations.

I am also glad to report that the recommendations you make continue to inform policy development. We will be announcing changes to ACCT in particular the design of the form and updating guidance in 2021 informed by your recommendations.

### ***Use of PAVA (Pelargonic Acid Vanillylamide)***

We note that your report refers to the extension of the provision of PAVA in adult closed male establishments. We would like to clarify that these are exceptional arrangements that were put in place during COVID-19 and that PAVA has only been provided to staff in establishments who have been trained in both PAVA and SPEAR (personal safety training) which is an important criteria of the exceptional arrangements. These arrangements are also subject to review.

### ***Prisoner Property***

We recognise that the handling of prisoners' property is a recurring and serious issue and considerable work has been undertaken on the drafting of a new policy framework to replace PSI 2011/12. To improve the situation a project was undertaken involving 14 prisons, consultation with staff and prisoners, and engagement with stakeholders, including the PPO and IMBs.

I know HMPPS officials met with you earlier this year following the conclusion of the project to discuss proposed changes to the policy. Follow up discussions with other stakeholders and prison staff were delayed due to the pressures which arose from COVID-19. I am pleased to note that the consultation has now restarted and a meeting with IMB representatives took place at the end of August and we expect consultation with prison staff to take place in the coming weeks. The feedback received will be considered alongside the PPO's comments and we will aim to circulate the draft policy framework for wider consultation, including the PPO, at the end of 2020.

## **Healthcare**

I note your report found some instances of prison healthcare not meeting the required standard and was not equivalent to that in the community. Health and justice partners have committed to providing a standard of health care in prisons equivalent to that available in the community. We are working closely with other departments on improving outcomes for people who have a substance misuse need and testing innovative approaches to improve their chance of recovery.

MoJ and NHS England and Improvement (NHSE/I) are leading a £9 million Drug Recovery Prison pilot at HMP Holme House to provide an innovative, whole system approach to tackling substance misuse. The pilot aims to reduce the supply and demand for illicit substances in prisons, whilst supporting recovery. In addition, we will continue to share good practice from the Drug Recovery Prison pilot at HMP Holme House, which takes a whole prison approach to tackling the supply of drugs into prisons and supporting prisoners to lead a drug free life both in custody and following their release into the community. The process evaluation of the pilot is due to be published by the end of the year, with the impact and economic evaluations due to be published in 2023.

Incentivised Substance Free Living (ISFL) units have been introduced in ten prisons, with plans to roll out to further nine prisons. ISFLs are supportive wings for people who are actively engaging in substance misuse treatment and who are voluntarily drug tested on a regular basis. These multi-disciplined units provide a range of intensive support to better meet the needs of drug/alcohol misusing offenders. ISFL units cement a positive relationship between the prisoner, the prison, substance misuse provider, Security and Healthcare. ISFL units bring all parties together for the benefit of the prison and supports the reducing re-offending pathways.

I am aware that there are higher rates of dementia in prison compared with the general population; 7% of the prison population have possible dementia or cognitive impairment compared to about 1% in the community. We are developing an older offenders' strategy, which will specifically address the needs of this group by ensuring that they are placed in appropriate provision, can access a meaningful regime and the health and social care support they need so that they are prepared for their return to the community on release. We have seen areas of good practice for example HMP Wandsworth has appointed a dementia nurse and in the recently launched service has specifically requested a pathway for older patients to improve care for patients with Alzheimer's and dementia.

The Ministry of Justice will be launching a national 'Call for Evidence' to obtain a clearer picture of prevalence of neurodivergent conditions amongst offenders and provision of support. We will be also improving awareness, understanding and training on neurodiversity through a toolkit to upskill frontline staff, including Speech, Language and Communication Needs. Health Education England (HEE) is responsible for the education and training of the national healthcare workforce (both clinical and non-clinical) in England. However, it is the responsibility of individual healthcare providers to ensure they have the right number of suitably qualified and experienced members of staff available to ensure they are able to provide safe services for their patients. The NHS Standard Contract 2020/21 sets out requirements to ensure that there are sufficient appropriately registered, qualified and experienced medical, nursing and other clinical and non-clinical staff to enable the services to be provided in all respects and at all times in accordance with their contract.

### ***Drug related deaths at Approved Premises (AP)***

We share your concerns with regards to drug related deaths at Approved Premises. Dr Debra Baldwin joined the Residential Accommodation Support Services Division several months ago to lead on the development of an Approved Premises Drug Strategy and Policy.

There is now a comprehensive overview setting out our strategic approach to support residents to change their lives to become drug free and to reduce the number of drug related deaths. The strategy includes the introduction of urine testing, which will allow us to test for a wider range of drugs including psychoactive substances. This will require primary legislation and we are seeking approval to move forward. With regards to opioid antidotes, we are piloting the administration of naloxone at an AP in the North West and about to complete the first phase roll out to 40% of AP during October. We anticipate this will be followed by Phase Two later this year and early 2021. However, COVID-19 has impacted on the progression of this work and we will keep the proposal under review.

### ***Statutory powers***

We are committed to legislating to put the PPO on a statutory footing when Parliamentary time allows. Our consultation on strengthening the scrutiny bodies through legislation, includes providing statutory status for the PPO. The consultation closed on 30 September and we will begin analysing consultation responses shortly. We would like to thank the PPO for their response and we will keep the PPO updated on next steps.